

Section 553(d)(3) of the APA allows an effective date less than 30 days after publication “as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today’s rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today’s action merely corrects an error in paragraph (a) of a prior rulemaking by correcting the date as identified above in 40 CFR 62.2355 in a revision, which EPA approved on December 30, 2010. For these reasons, EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely corrects an error in paragraph (a) of a prior rulemaking by correcting the date as identified above in 40 CFR 62.2355, which EPA approved on December 30, 2010, and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely corrects an inadvertent error in paragraph (a) of a prior rule, and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This rule also does not have Federalism

implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule merely corrects an error in paragraph (a) of a prior rulemaking by correcting the date as identified above in 40 CFR 62.2355, in a revision which EPA approved on December 30, 2010, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant. In addition, this rule does not involve technical standards, thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 9, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules

section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Dated: December 9, 2011.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

- 1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart K—Florida

- 2. In § 62.2355, paragraph (a) is revised to read as follows:

§ 62.2355 Identification of sources.

(a) The plan applies to existing facilities with a municipal waste combustor (MWC) unit capacity greater than 250 tons per day of municipal solid waste (MSW), and for which construction, reconstruction, or modification was commenced on or before September 20, 1994.

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[FR Doc. 2012–2884 Filed 2–8–12; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 110781394–2048–02]

RIN 0648–BB09

Marine Mammals; Subsistence Taking of Northern Fur Seals; Harvest Estimates

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final estimates of annual fur seal subsistence needs.

SUMMARY: Pursuant to the regulations governing the subsistence taking of

northern fur seals, NMFS is publishing the annual fur seal subsistence harvests on St. George and St. Paul Islands (the Pribilof Islands) for 2008 to 2010, and the annual estimates for the fur seal subsistence needs for 2011 through 2013. Alaska Natives on St. Paul harvested 328, 341, and 357 fur seals from 2008, 2009 and 2010, respectively, and 170, 113, and 78 fur seals on St. George Island during the same period. NMFS estimates the annual subsistence needs are 1,645–2,000 seals on St. Paul and 300–500 seals on St. George.

DATES: Effective March 12, 2012.

FOR FURTHER INFORMATION CONTACT: Michael Williams, (907) 271–5117, email Michael.Williams@noaa.gov; Kim Rivera, (907) 586–7424, email Kim.Rivera@noaa.gov; or Shannon Bettridge, (301) 427–8402, email Shannon.Bettridge@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

A Final Environmental Impact Statement, harvest reports, and other relevant information are available on the Internet at the following address: <http://www.alaskafisheries.noaa.gov/protectedresources/seals/fur.htm>.

The subsistence harvest from the depleted stock of northern fur seals, *Callorhinus ursinus*, on the Pribilof Islands, Alaska, is governed by regulations found in 50 CFR part 216, subpart F, Taking for Subsistence Purposes. The regulations require NMFS to publish every 3 years a summary of the harvest in the preceding 3 years, and to discuss the number of fur seals expected to be taken over the next 3 years to satisfy the subsistence requirements of residents of the Pribilof Islands (St. Paul and St. George). After a 30-day comment period, NMFS must publish a final notification of the expected annual harvest levels for the next 3 years.

On July 29, 2011 (76 FR 45499), NMFS published the summary of the 2008–2010 fur seal harvests and provided a 30-day comment period on the estimates of subsistence needs for the 2011–2013. No comments were received. Based on past studies, NMFS estimates the annual subsistence needs for Alaskan Natives for the next 3 years are 1,645–2,000 juvenile male fur seals on St. Paul Island, and 300–500 juvenile male fur seals on St. George Island. Background information related to these estimates was included in the proposed harvest estimates published in the **Federal Register** on July 29, 2011.

Classification

National Environmental Policy Act

NMFS prepared an Environmental Impact Statement (EIS) evaluating the impacts on the human environment of the subsistence harvest of northern fur seals. The Final EIS, which is available on the NMFS Web site (see Electronic Access) was subjected to public review (69 FR 53915, September 3, 2004), and the comments were incorporated into the final EIS (May 2005). Therefore, no further environmental impact analyses are required.

Executive Order 12866 and Regulatory Flexibility Act

This action has been determined not to be a significant rule under Executive Order (E.O.) 12866.

The Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this action would not have a significant economic impact on a substantial number of small entities. The harvest of northern fur seals on the Pribilof Islands, Alaska, is for subsistence purposes only, and the estimate of subsistence need would not have an adverse economic impact on any small entities. Background information related to the certification was included in the proposed estimates published in the **Federal Register** on July 29, 2011. We received no comments on this certification; therefore a regulatory flexibility analysis is not required for this action, and none has been prepared.

Paperwork Reduction Act

This action does not require the collection of information.

Executive Order 13132—Federalism

This action does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 13132 because this action does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nonetheless, NMFS worked closely with local governments in the Pribilof Islands, and these estimates of subsistence needs were prepared by the local governments in St. Paul and St. George, with assistance from NMFS officials.

Executive Order 13175—Native Consultation

Executive Order 13175 of November 6, 2000 (25 U.S.C. 450 Note), the

executive Memorandum of April 29, 1994 (25 U.S.C. 450 note), and the American Indian Native Policy of the U.S. Department of Commerce (March 30, 1995) outline the responsibilities of the National Marine Fisheries Service in matters affecting tribal interests. Section 161 of Public Law 108–100 (188 Stat. 452) as amended by section 518 of Public Law 108–447 (118 Stat. 3267), extends the consultation requirements of E.O. 13175 to Alaska Native corporations. NMFS has contacted the tribal governments of St. Paul and St. George Islands and their respective local Native corporations (Tanadgusix and Tanaq) about setting the next three years harvest estimates and received their input.

Dated: February 3, 2012.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126522–0640–2]

RIN 0648–XA988

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Pot Gear in the Western Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2012 Pacific cod total allowable catch apportioned to vessels using pot gear in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 6, 2012, through 1200 hrs, A.l.t., September 1, 2012.

FOR FURTHER INFORMATION CONTACT: Obren Davis, (907) 586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of