Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: June 22, 1987.

Lee A. DeHihns III,

Acting Regional Administrator.

[FR Doc. 87-16002 Filed 7-14-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 799

[OPTS-47002H; FRL-3232-9]

Chlorinated Benzenes; Final Test Rule; Modification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In accordance with 40 CFR 790.55, EPA is modifying the test substance purity requirements for the health effects testing of 1,2,4,5-tetrachlorobenzene promulgated under section 4 of the Toxic Substances Control Act (TSCA). This modification changes the test substance purity requirements from 99 percent purity to 97 percent purity because of the present unavailability of the test substance at 99 percent purity and the uncertainty of whether 99 percent purity test material can be obtained within the time period necessary for the timely commencement and completion of the testing required under this rule.

EFFECTIVE DATE: This rule shall become effective on July 15, 1987.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St. SW., Washington, DC 20460, (202) 554-1404.

SUPPLEMENTARY INFORMATION: EPA promulgated a final test rule in the **Federal Register** of July 8, 1986 (51 FR 24657) requiring health effects testing of five chlorinated benzenes, including 1,2,4,5-tetrachlorobenzene (1,2,4,5-TCB). EPA is modifying the test substance purity requirements for 1,2,4,5,-TCB (40 CFR 799.1054).

I. Background

On the basis of public comments received in response to the proposed rule for chlorinated benzenes (45 FR 48524) and the National Toxicology Program's (NTP) use of a test material characterized as having a purity greater than 99 percent for its subchronic studies of 1,2,4,5-TCB, EPA established in the final test rule the minimum purity requirement for 1,2,4,5-TCB at 99 percent. The rationale for the 99 percent minimum purity was based on the assumed availability of a test material with the requisite degree of purity.

On March 20, 24, and April 12, 1987 (Refs. 1, 2, and 3) the Chemical Manufacturers Association (CMA) notified EPA that analyses by CMA of the test material provided by the only supplier of the research grade of this substance tested at 97.6 to 98.13 percent purity and therefore could not meet the 99 percent pure purity requirement of 40 CFR 799.1054(a)(2) if used in the test.

The inability to identify and to obtain test material meeting the 99 percent purity requirement of the test rule has two possible consequences. First, testing with the currently available test materials with purities under 99 percent will result in noncompliance with 40 CFR 799.1054. Second, modifying the test schedules to allow for time to identify and obtain a batch of test material which meets the purity requirements will result in a delay unacceptable to the Agency, in the initiation, conduct, and completion of the tests required under 40 CFR 799.1054.

Therefore, since the presently available supply of test material appears to have a purity of 97.6 to 98.13 percent, and that this lower level of purity is believed by the Agency to produce study results which will reasonably define the likely toxicological effects of the test substance, the Agency is establishing 97 percent as the minimum level of purity under this test rule.

Analysis of contaminants showed the test material to be within the impurities tolerances established in 40 CFR 799.1054(a)(3) and therefore do not present an issue in this action.

The Agency has determined that obtaining comment on this modification to the substance purity requirement would be impracticable, unnecessary, and contrary to the public interest by delaying the start of testing and hence the development of data for submission to the Agency. Therefore, in accordance with the procedures in 40 CFR 790.55 and the Administrative Procedures Act, the Agency approved this modification without public comment (Ref. 4). EPA is publishing in this **Federal Register** notice the modification to the test substance purity requirements for the 1,2,4,5-TCB test rule.

II. Rulemaking Record

A. Supporting Documentation

EPA has established a record for this rulemaking [docket number OPTS-47002H]. The record includes the information considered by the Agency in developing this decision.

B. References

(1) Chemical Manufacturers Association (CMA). Telephone contact from Carol Stack to Nancy Merrifield, USEPA. (March 20, 1987).

(2) Chemical Manufacturers Association (CMA). Telephone contact from Carol Stack to Nancy Merifield, USEPA. (March 24, 1987).

(3) Chemical Manufacturers Association (CMA). Letter from Carol Stack (CMA) to Nancy Merifield, USEPA. (April 2, 1987).

(4) U.S. Environmental Protection Agency. Letter from Charles L. Elkins, Director, Office of Toxic Substances to Carol Stack (CMA). (April 2, 1987).

The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in Rm. G-004, NE Mall, 401 M St., SW., Washington, DC 20460.

List of Subjects in 40 CFR Part 799

Testing Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dates: July 1, 1987.

Victor J. Kimm,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR Part 799 is amended as follows:

1. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. In § 799.1054 by revising paragraph (a)(2) to read as follows:

§ 799.1054 1,2,4,5-Tetrachlorobenzene.

* * * * *

(a) * * *

(2) 1,2,4,5-TCB of at least 97 percent purity shall be used as the test substance.

* * * * *

[FR Doc. 87-16003 Filed 7-14-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 550

[Docket No. 87-1]

Automobile Measurement Rule

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission amends its rules pertaining to the publishing, filing and posting of tariffs in domestic offshore commerce to permit the rating of automobiles on other than a weight or cube measurement basis. This final rule also indefinitely suspends reference to the Federal Maritime Commission's

"Automobile Manufacturers' Measurements" guide.

EFFECTIVE DATE: August 14, 1987.

FOR FURTHER INFORMATION CONTACT: Robert G. Drew, Director, Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L. Street NW., Washington, DC 20573–0001, (202) 523–5796.

SUPPLEMENTARY INFORMATION: This proceeding was initiated by the Federal Maritime Commission ("Commission" or "FMC") in response to a Petition for proposed rulemaking ("Petition") filed by Matson Navigation Company ("Matson"). (51 FR 34502).

The existing Commission regulations pertaining to the rating of automobiles at 46 CFR 550.5(b)(8)(xiv) require that they be rated according to either weight or cube. Carriers are required to weigh or measure each type of vehicle carried or rely upon the figures in "Automobile Manufacturers' Measurements," which is published annually by the Commission.

Matson's proposed amendment would leave in place the requirements pertaining to the rating of automobiles on a weight or cube basis but would permit, as an alternative, the rating of automobiles on a per unit basis.

In its Notice of Proposed Rulemaking (52 FR 4040), the Commission proposed an amendment in the form advocated by Matson and also requested comment on the desirability of deleting the automobile rating rule in its entirety. The Commission noted that if the rule was deleted in its entirety, carriers would be free to rate automobiles in the same fashion that they rate other types of cargo. The alternative would also obviate the need for the Commission to publish the "Automobile Manufacturers' Measurements."

Comments in response to the proposed rulemaking were filed by: Chrysler Motors ("Chrylser"), Crowley Maritime Corporation ("CMC"), the State of Hawaii ("Hawaii"), the U.S. Department of Transportation ("DOT"), Matson and the Guam Rate Agreement No. 8454 ("Rate Agreement").

Chrysler, CMC, and DOT support deletion of the auto measurement rule in its entirety. Chrysler wants to simplify the rate determination process without affecting carrier revenues. Chrysler believes the Commission should allow sufficient freedom for both carriers and shippers to develop workable rate schedules to satisfy their needs. CMC also notes that automobile manufacturers and other large shippers (rental car companies) "invariably" desire per unit rates as they are much simpler and more expedient to administer. CMC also advises that it is a competitive necessity for FMC regulated carriers to have the same rating flexibility as carriers regulated by the Interstate Commerce Commission, which are not precluded from rating automobiles on a "per unit" basis.

Matson argues that to the extent automobiles are still freighted on a weight or measurement basis, the existing requirements are needed to preclude the misrating practices which gave rise to the rule in the first place. The Rate Agreement supports the position taken by Matson in its comments.

Although Hawaii supports the proposal, it is concerned that a per vehicle rating scheme may yield different revenues to a carrier. Hawaii believes that lower automobile revenues are not in the rate payer's interest because of the importance of auto carriage to this trade. Lower auto revenues, allegedly, could result in "cross subsidization between automobiles and other commodities, and depressed revenues," with any revenue deficiency being made up by revenues from the carriage of other commodities. (Hawaii comments at 3.) Hawaii argues that the implementation of a single unit rate for automobiles would require the unit rate to be set at the average revenue level, in order to maintain existing automobile revenues. This, according to Hawaii, would result in a substantial rate increase for small automobiles while large automobiles would experience a rate reduction. Hawaii therefore recommends:

> the establishment of a range of unit rates, perhaps three, in number, as opposed to a single unit rate. A range of unit rates would result in a closer alignment of the unit rate with the existing rate, and reduce the maximum possible difference between the existing and the proposed rating methods. (Hawaii comments at 4.)

Upon consideration of all of the comments, the Commission has determined that the final rule should give carriers the option to rate automoblies on a "per unit" basis but should continue to set out the requirements for rating automoblies on a weight or cube basis.

At the time current rule was established the Commission explained the need for the rule as follows:

> Because passenger automobiles vary extensively in size and are susceptible to mismeasurement it is believed that publication of uniform measurements is a necessity in order to provide identical treatment for all such shipments; to enable shippers of automobiles to accurately ascertain ocean transportation charges prior to movement; and to facilitate billing of automobile shipments by the carrier.

Uniform Weights and Measurements of Automobiles, 9 S.R.R. 148, 149 (1967). Chrysler, CMC and DOT have all provided cogent arguments in favor of giving carriers the flexibility to rate automobiles on a "per unit" basis. However, they have not explained why, to the extent carriers may choose to continue to rate automobiles on weight or cube, a measurement rule is unnecessary.

It is likely that few carriers will continue to publish automobile rates on a weight or cube basis. Indeed, given the wide support for "per unit" rates, it seems doubtful whether enough carriers will continue to rate automobiles on the basis of weight or cube to justify the expense of publishing the "Automobile Manufacturers' Measurements." Accordingly, the Commission will not publish the "Automobile Manufacturers' Measurements" until it can be determined that there is sufficient need for the document to justify the expense of publication. The parenthetical reference to the "Automobile Manufacturers' Measurements" contained in § 550.5(b)(8)(xiv) will be indefinitely suspended.

The Commission has considered the concerns of Hawaii over the effects of "unit pricing" and has determined not to modify the final rule as Hawaii suggests. "Per unit" rates are based on the cost of service and do not discriminate among commodities on the basis of the "value of service" or "what the traffic will bear." This fact does not render them unlawful "per se."[1] Whether a given "per unit" rate is discriminatory, unfair or otherwise unlawful depends on the facts peculiar to that rate. It would be premature for the Commission to attempt to formulate a rule of general application to deal with a problem that has not been shown to exist.

The Chairman of the Federal Maritime Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental jurisdictions. The primary economic impact of this rule would be on domestic offshore common carriers which generally are not small entities.

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[1] *See Agreement No. 9955–1 A/S Billabong; Westfal-Larsen and Co. A/S; Fred. Olsen and Co. and Star Shipping A/S,* 18 F.M.C. 426, 472 (1975).

List of Subjects in 46 CFR Part 550

Publishing, Filing and posting of tariffs in domestic offshore commerce.

Therefore, for the reasons set forth above, Part 550 of Title 46, Code of Federal Regulations, is amended as follows:

PART 550—[AMENDED]

1. The authority citation for Part 550 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 812, 814, 815, 817(a), 820, 833a, 841a and 843–847.

2. In § 550.5(b)(8)(xiv), the introductory text is revised to read as follows:

§ 550.5 Contents of tariffs.

* * * * *

(b) * * *

(8) * * *

(xiv) *Automobile rates.* If rates for automobiles are published on a weight or measurement basis, one of the following rules (i.e., (A) or (B)) must be employed in its entirety:

* * * * *

3. In § 550.5(b)(8)(xiv)(A), the parenthetical language in which reads, "(Alternatively, the carrier may state 'as shown in Federal Maritime Commission publication, Automobile Manufacturers' Measurements.')," is suspended indefinitely.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 87–16037 Filed 7–14–87; 8:45 am]

BILLING CODE 6730–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1130

[Docket No. 37130 (Sub-No. 4]

Special Docket Proceedings-Exemption From Letter of Intent Requirement Involving Amounts of $25,000 or Less

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting revised rules that would eliminates the letter of intent requirement in special docket cases involving reparations or waivers of under charges of $25,000 or less. This change in agency procedure will save carriers, shippers, and the Commission substantial and costly paperwork and will protect the shipping public by also requiring that letters of disposition still required of such cases will be kept in a public file for 3 years.

DATES: Comments of those opposed to the revision are due on August 4, 1987. Absent opposition, the rules will become effective on August 14, 1987. If adverse comments are received, the effectiveness of the decision will be postponed by a document published in the **Federal Register**, pending a further decision.

ADDRESS: An original and, if possible, ten copies of negative comments should be sent to: Room 4310, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Lawrence C. Herzig, (202) 275–7358.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision, contact The Office of the Secretary, Room 2215, Interstate Commerce Commission, 12th Street and Constitution Ave. NW., Washington, DC 20423 or call (202) 275–7428 or 7358.

The Commission certifies that petitioners' proposed rules will not have a significant economic impact on a substantial number of small entities. These final rules rules will allow carriers to save clerical costs and allow for speedier waiver of undercharges and reparations.

This action does not significantly affect either the quality of the human environment or energy conservation.

Authority: 49 U.S.C. 10321 and 10707, and 5 U.S.C. 553.

List of Subjects in 49 CFR Part 1130

Administrative practice and procedure.

Decided: June 24, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons. Commissioner Simmons dissented with a separate expression. Vice Chairman Lamboley dissented.

Noreta R. McGee,

Secretary.

Appendix

Title 49, Part 1130, of the Code of Federal Regulations is amended as follows:

PART 1130—INFORMAL COMPLAINTS

1. The authority citation for Part 1130 continues to read as follows:

Authority: 49 U.S.C. 10321 and 10707; 5 U.S.C. 553 and 559.

§ 1130.2 [Amended]

2. In the first sentence of § 1130.2(e)(1) introductory text, the amount "$10,000.00" is revised to read "$25,000.00".

3. In the seventh sentence of the concluding paragraph of § 1130.2(e)(1), the amount "$10,000.00" is revised to read "$25,000.00".

4. In the first sentence of § 1130.2(e)(2), introductory text, the amount "$10,000.00" is revised to read "$25,000.00".

5. In the penultimate sentence of § 1130.2(e)(2), the amount "$10,000.00" is revised to read "$25,000.00".

[FR Doc. 87–15986 Filed 7–14–87; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 215

[Docket No. 70477–7142]

Subsistence Taking of North Pacific Fur Seals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final notice of harvest levels.

SUMMARY: The 1986 rule on Subsistence Taking of North Pacific Fur Seals requires NMFS to publish annually, in the **Federal Register**, a summary of the data obtained from the previous year's harvest and a discussion of the number of seals expected to be taken that year to meet the subsistence needs of the Aleut residents of the Pribilof Islands. NMFS published this notice and request for public comments on May 7, 1987. Following a 30-day public comment period, NMFS is publishing a final notice of the expected harvest levels for 1987, as follows:

St. George Island: 530–1,000

St. Paul Island: 1,600–3,000

EFFECTIVE DATE: June 30, 1987.

FOR FURTHER INFORMATION CONTACT: Steven Zimmerman, (Alaska Regional Office), 907–586–7233, or Georgia Cranmore, 202–673–5351.

Background

In 50 CFR 215.32(b), the 1986 rule on Subsistence Taking of North Pacific Fur Seals (51 FR 24828, July 9, 1986) requires NMFS to publish annually, in the **Federal Register**, a report on the previous year's harvest and a discussion of the expected number of seals needed for the current year to meet the

subsistence needs of the Aleuts on each island. A notice summarizing the 1986 harvest and providing estimates of the number of seals which may be taken in 1987 was published on May 7, 1987 (52 FR 17307), for a 30-day public comment period. The following groups and individuals provided written comments on this notice:

Humane Society of the United States, Mrs. Judith C. Johnson, Center for Environmental Education, Greenpeace U.S.A., Friends of Animals, Inc., Tanadgusix Corporation, St. Paul Island

Response to Public Comments

(1) Expected Harvest Levels

As discussed in the notice of May 7, 1987 (52 FR 17309) it is difficult to provide an estimate of Pribilof Island subsistence needs since a subsistence-only harvest has been conducted for only two seasons and the available data on subsistence needs are limited. In addition, the current economic conditions on the islands could influence the amount of subsistence meat needed per household. Expected harvest levels for 1987 published in our May 7 notice were 1,600–4,000 for St. Paul Island and 530–1,320 for St. George. The lower end of the St. Paul Island range is based on the 1986 harvest level. The upper end reflects the take in 1985. St. George Island harvest levels in 1986 were judged to be unreliable indicators of subsistence need because of events outlined in the May 7 notice. Accordingly, we projected the take on St. George based on the smaller (by about two-thirds) Aleut population on this island.

One commenter agreed with the range estimates but emphasized that "the take should be curtailed as much as possible" because of the decline in the fur seal population. Two commenters supported the lower ends of the ranges for both islands, but though the upper ends were too high. One of these commenters "concedes that a range is preferable to setting no limit at all", but urges NMFS to acquire "the kinds of data it needs to set a specific number in the future." This commenter recommends an upper end to the expected level on St. Paul of 2,500 seals, since only a portion of the seal meat taken in 1985 was actually consumed. The upper end of the St. George range should be reduced in proportion, according to this commenter.

Another commenter also believes that the 3,384 seals taken on St. Paul in 1985 do not constitute a valid basis for the upper estimate published in our May 7 notice. This commenter does not recommend a specific upper number but urges "utmost caution be exercised when considering an increase above the lower bound", i.e., 1,600. One commenter opposes the estimates of subsistence as "excessive and unsupported by the evidence." Based on an examination of harvest data, including meat storage, during 1985, the commenter believes that only 1,000 seals were actually used for subsistence on St. Paul in 1985. And while conceding that, based on 1986 data, approximately 1,600 seals is an appropriate end point for St. Paul, the commenter concludes that it should be the upper end of the estimate for 1987, not the lower. Thus, this commenter recommends 1,000 to 1,587 on St. Paul, and 333 to 525 on St. George.

One commenter opposed subsistence taking claiming that "any kill of the northern fur seal during its tenuous grasp on survival is morally and biologically unacceptable." NMFS would like to point out that the Fur Seal Act, 16 U.S.C. 1151, and the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1361, provide for the subsistence taking of fur seals by the Pribilovians. Subsistence harvests are permitted even if the population is designated as depleted under the MMPA. No other commenters questioned the fact that there are legitimate subsistence needs for fur seal meat on the Pribilof Islands. Indeed, one group that provided written comments emphasized that it "recognizes and respects the subsistence requirements of the Aleut residents of St. Paul and St. George Islands. For two hundred years fur seals have contributed to their dietary requirements and their culture evolved around the long regime of the commercial hunt."

Tanadgusix Corporation (TDX), the native village corporation on St. Paul Island, was the only commenter representing the Pribilovians. TDX restated the dietary needs of Pribilovians for seal meat and said NMFS failed to mention that "the Aleut people including those in the Aleutians have been harvesting the fur seals before recorded time; and as of this date not only do the Pribilof Aleuts rely on the fur seal meat but so do the Aleuts in the Aleutians. In recent times families would ship fur seal meat to families living in the Aleutians and the big cities." NMFS cautions TDX that the right to barter subsistence products is limited by statute, and advises prior consultation in writing before any large-scale barter operation is begun.

Regarding the expected harvest levels, TDX stated—

> Seal liver has also been a major source of our necessary nutrients. In the past we could freeze enough liver to last the long winters. . . . With federal regulations limiting us to two or three seals, we can only provide liver for a one month supply. The Pribilofs have very few days of sunshine and fresh vegetables are hard to come by. So we need to harvest enough fur seals to provide an ample supply of liver for the whole year to supplement these nutritional needs. Our past estimates of harvesting needs just for St. Paul Island is from 6,000 to 11,000 seals.

In 50 CFR 215.31, it states that—

> Pribilovians may take fur seals on the Pribilof Islands if such taking is—
> (a) For subsistence uses, and
> (b) Not accomplished in a wasteful manner.

Definitions of "subsistence uses" and "wasteful manner" are found at 50 CFR 215.2 (h) and (i), respectively. As stated in the preamble to the 1986 subsistence rule (51 FR 24832),

> Based upon a review of all pertinent literature, public testimony and written comments, the NMFS considers the removal and consumption of the following seal parts to constitute substantial use which would be consistent with the requirement that the taking of seals not be accomplished in a wasteful manner: all hearts, livers, flippers, breasts, shoulders, and other readily utilizable tissues and organs, a limited number of backbones, and some, but not necessarily all, rib sections.

Killing of fur seals merely for their livers would not be consistent with the regulations, and thus, the claim for a subsistence need of 6,000 to 11,000 on this basis must be denied.

Of particular concern to NMFS is TDX's statement that "Many families were without food this year. The church had to plead to the village to set up a food bank to help meet these families basic needs." TDX appears to believe that this is the result of the subsistence rule. TDX states that—

> Our people are unjustly being over regulated. We are forced by regulation and intimidated by federal agents to do an inefficient harvest and take home parts of seal meat we never had to eat in the past. We must now take a majority of the seal meat and bones which take up valuable freezer space. Two seals or less will completely fill up one freezer. Our people can no longer freeze enough meat for the winter supply because of the massive space the bones and non choice meat takes up.

If freezer capacity is a problem, the NMFS urges the Pribilovians to consult with the NMFS representatives on the island during the harvest about reasonable butchering practices. At a minimum, ribs and backbone portions could be consumed fresh, while more compact portions could be frozen or salted for future use.

NMFS is pleased to note increasing agreement on expected harvest levels. Of the five commenters who provided numbers for these estimates, three agreed with the lower bounds for both islands provided in the May 7 notice. According to 50 CFR 215.32 (e)(1)(iii) and (e)(3), if the lower end of the range of the estimated subsistence level is reached, the NMFS must suspend the harvest. If a suspension is issued under 50 CFR 215.32(e)(1)(iii), it may not exceed 48 hours. During this time a review of harvest data is conducted to assess whether or not the subsistence needs of the Pribilovians have been satisfied. If the harvest is not suspended under this criteria (50 CFR 215.32(e)(1)(i)), NMFS must provide a revised estimate of the remaining number of seals required to satisfy the Pribilovians' subsistence needs.

On the other hand, the arguments for lowering the upper end of the ranges have some merit. The 3,384 seals taken on St. Paul in 1985 did include some whose meat was destined for St. George Island (about 18,000 lbs.), before St. George had a proportional and separate subsistence estimate. In addition, some meat from this harvest was clearly wasted due to inefficient preserving methods. The alternative estimates proposed for St. Paul Island by commenters were 1,000 as a lower end, and 1,587 and 2,500 as upper bounds. The NMFS must reject the 1,000 seals-estimate as a possible lower bound of subsistence needs on St. Paul Island in 1987. The actual take in 1986 by August 8 was 1,228. An additional 539 animals were requested during an approved harvest extension, but were not taken because an excess of females terminated the harvest before the end of the extenstion period. Unless we could demonstrate that the needs of the people on St. Paul Island for fur seal meat in 1987 are less than in 1986, the lower bound of the subsistence need estimate must be no less than 1,587.

Regarding the upper bound, the evidence is less explicit. Because employment levels have fluctuated widely on the Pribilof Islands and economic conditions are currently unpredictable, the Pribilovians' need for seal meat may increase. NMFS is reluctant to provide the public with an unrealistically low upper bound to the expected harvest levels. The upper bound is not to be construed as permission to take that level. Daily monitoring of the harvest by the NMFS will provide information on which to base any finding that subsistence needs have been satisfied and/or that the harvest should be suspended. Based on a review of all comments and the 1985 harvest data, NMFS is revising downward the upper end of the expected harvest level on St. Paul from the 4,000 estimate provided in the May 7 notice to 3,000. Thus, expected subsistence harvest levels on both islands, as of June 30, are as follows:

St. Paul Island: 1,600–3,000
St. George Island: 530–1,000

(2) Extension of the Harvest Season Beyond August 8

As discussed in the May 7 notice, in 1986 both islands were granted extensions to take seals for subsistence until September 30. St. Paul ceased harvesting on August 8 and resumed, under an approved extension, on September 27.

Unfortunately, of the 71 animals harvested that day, 12 were found to be females. It appears that the risk of taking female seals when harvesting after August 8, as documented in the preamble of the subsistence rule and reflected in 50 CFR 215.32(f)(2), is great, especially so late in the extended season. Although certain Pribilovians commented during the rulemaking process that they could easily distinguish female seals from the authorized males, this is obviously not the case, at least in late September when young animals of both sexes comingle on the harvesting grounds.

Two commenters recommended that no extensions be granted in 1987 for subsistence harvests after August 8. Another commenter urged NMFS to "make a very strict and critical analysis of any request for an extension beyond that August 8 closing date for the harvest." All three commenters had supported extensions in 1986.

NMFS strongly urges the Pribilovians to satisfy their subsistence needs for fur seal meat during the season June 30–August 8. The purpose of an extension is to accommodate those small-scale, family hunts which allow for more discriminate taking over a longer period of time. Any request for an extension will receive very critical and thorough review by the NMFS and the concerned public in 1987 in light of the increased female take that occurred after the extension on St. Paul in 1986.

(3) Commercial Use of Subsistence Products

The TXD Corporation made the following statement in their comments on the May 7 notice—

> Because of these restrictive regulations and the financial burden of conducting the harvest, as was done under the commercial harvest, except with no rights to sell our traditional furs to return the expenditures: we just technically can not harvest the required number of seals to meet our basic needs. If the Federal Government wants a truly regulated harvest similar to the organized commercial harvest, it must allow the Aleuts their traditional rights to sell the skins and other noneatable products to finance the organized harvest, or the government must compensate and subsidize the organized harvest.

As discussed in the preamble to the subsistence rule (51 FR 24830–24831, July 9, 1986), four groups recommended in their comments on the proposed rule that the harvest methods developed during the time of the commercial harvest (i.e., short season, large-scale drives and daily harvests utilizing paid sealers) be abandoned in favor of a family hunt more in keeping with other Alaskan Native marine mammal subsistence harvests. The Aleut Community of St. Paul Island requested in 1986 that the rule provide for a nonpaying "family hunt" involving the use of between 4 and 10 Aleut sealers experienced in the traditional hunt techniques. They felt that the less intrusive nature and smaller scale of the family hunt should justify a longer harvest season. The Traditional Village Council of St. George Island in 1986, also recommended a "family-style", individualized harvest by experienced sealers or Pribilovians under the tutelage of experienced sealers. They promised that efforts would be made to avoid taking females and causing unnecessary disturbances of the rookeries.

In the final subsistence rule, NMFS adopted the idea of a family hunt. We ensured that regulatory provisions that delineated the allowable harvest methods afforded the Pribilovians the opportunity to use small household groups and take seals at a slower rate over a longer period of time. As discussed above, the provision outlining possible extensions of the harvest season after August 8 was designed to accommodate the family hunt.

NMFS is unable to understand why the subsistence harvest has become a "financial burden" to TDX. We need to know where costs are being incurred so that we can recommend alternative procedures that are within the scope of the subsistence rule. Regarding the sale of skins or other by-products, section 109(f)(2) of the MMPA and 50 CFR 215.33 are clear that only handicrafted, nonedible by-products may be sold. NMFS cannot allow the commercial use of raw seal parts.

Another commenter recommended "that NMFS establish a stringent monitoring system to ensure that the

element of commerce is not a motivating factor in the Aleut's determination of subsistence requirements and that the pelts and other nonedible by-products be recorded and inventoried with NMFS and accounted for as they are consumed, transported, worked into handicrafts, and sold." NMFS representatives will be on the islands to observe the subsistence harvest and record harvest data, as required by our subsistence rule. Disposition of skins and other by-products will be noted.

(4) Effects on the Fur Seal Population

On commenter asked why NMFS has not published "an analysis of heavy metal contaminants—or mortality factors—attributed to the unexplained deaths—in 1986—of 100 seals located in rookeries." The death of about 100 seals found on St. George rookeries last August remains unexplained. Results of an analysis of tissue samples for heavy metal and pesticide concentrations did not provide a cause of death, nor did necropsies performed by a veterinarian at the scene.

One commenter is concerned that younger animals are being taken in the subsistence harvests, compared to the commercial harvests, and asks that "efforts should be made to limit the taking to 3 to 5 year olds." The subsistence rule prohibits the taking of pups and limits the subsistence harvest to subadult males less than 124.5 centimeters in length to protect the breeding stock of this population. The size of the pelt was a consideration during the commercial harvest era and 3–4 year-olds were most commonly taken. Now, the emphasis has shifted to a food harvest, and the, presumably, better-tasting 2-year-olds are preferred. There is no biological reason and no applicable statutory restriction that might provide a basis for encouraging the taking of older animals.

One commenter claims that "over fishing" in the Bering Sea is the cause of the decline of fur seals, and asks "Do we see a federal regulation to control the disastrous impact to the fur seal population? No! They are much too important and create a lot of taxable income. It is much easier to shift the regulation to a more emotional campaign, the Aleut Harvest." On December 30, 1986, NMFS proposed a rule (51 FR 47155) to designate the Pribilof fur seals as depleted under the MMPA. Although it will not affect the subsistence harvest, this rule will provide additional restrictions on taking from this population, including taking in the course of commercial fishing. In the preamble to the depletion rule, we discuss the possible effects of the groundfish fishery in the North Pacific Ocean on the availability of food for fur seals. NMFS concluded that food is not a limiting factor for this population and the cause of the decline is related to an increased mortality of juvenile seals at sea. It is the opinion of NMFS that the subsistence harvests of 1985 and 1986 had no effect on the recovery of this population to higher levels.

This commenter also noted the grounding of a crab-processing vessel on St. Paul this year and claimed that this wreck is "a definite negative impact to the fur seal population." An NMFS representative visited the island during the week of June 8 and observed a nearly intact vessel aground about one mile from a seal rookery. All fuel has been removed by the U.S. Coast Guard. No threat is believed to exist to the fur seal population.

(5) Timing of this Notice

One commenter strongly criticized NMFS for publishing the first notice more than a month later than the April 1 deadline mentioned in the subsistence rule. This commenter stated, "By waiting until May 7 to publish the notice, then allowing the required 30-day comment period, the agency will be hard pressed to publish its final rule by the June 30 deadline it set for itself in the permanent regulations." Unfortunately, the notice process contemplated in the 1986 subsistence rule took longer than expected in practice. We will begin the process much earlier next year and make every effort to remedy this circumstance in future years. The harvest season will begin on June 30 regardless of the timing of the notice, although we understand that St. Paul Island does not plan to begin harvesting until the week of July 12.

Dated: July 10, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87–15981 Filed 7–10–87; 10:22 am]

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50 CFR Part 674

[Docket No. 70619–7119]

High Seas Salmon Fishery Off Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) closes on July 13, 1987, the commercial salmon fishing season in the U.S. Exclusive Economic Zone (EEZ) off Southeastern Alaska for chinook salmon and prohibits commercial fishing for all salmon in a small area of the EEZ. This action is necessary to conserve the chinook salmon stocks that contribute to the Alaska, British Columbia, Washington, Oregon, and Idaho salmon fisheries. The intent of this action is to ensure that the harvest of chinook salmon does not exceed the limit imposed by the Pacific Salmon Commission. This action complements similar actions on the commercial troll fishery in waters managed by the State of Alaska.

DATES: This notice is effective at 0001 hours Alaska Daylight time (ADT), Monday, July 13, 1987, and will expire at 2400 hours ADT on September 20, 1987. Public comments are invited until August 13, 1987.

ADDRESSES: Send comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802–1668. During the 30-day public comment period, the data upon which this notice is based will be available for public inspection during the hours of 0800 to 1630 (ADT) Monday through Friday at the NMFS Regional Office, Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Aven M. Andersen (Fishery Management Biologist, NMFS) 907–586–7229.

SUPPLEMENTARY INFORMATION: This notice implements the Pacific Salmon Treaty and the Fishery Management Plan for the High Seas Salmon Fishery (FMP), which was developed and amended by the North Pacific Fishery Management Council (Council). The regulations at 50 CFR Part 674 govern the salmon fisheries in the EEZ off the coast of Alaska east of 175° east longitude. The regulations were issued under section 7(a) of Pub. L. 99–5, the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631 *et seq.*) and under section 305 of the Magnuson Fishery Conservation and Management Act, as amended, (16 U.S.C. 1801 *et seq.*).

Chapter 3 of Annex IV of the Pacific Salmon Treaty limited the 1987 harvest by all fisheries in southeast Alaska to 263,000 chinook salmon, exclusive of salmon from Alaska's new enhancement activities. On June 22, 1987, NMFS issued a final rule to announce that limit and set fishing periods for the 1987 commercial troll fishery in the EEZ (52 FR 23450).

Section 674.23 of the regulations provides that the Secretary may modify the fishing periods and areas by issuing a field order. Any such modification