

at the "order" date. Therefore, the Department stated that it would recalculate the margin using Colakoglu's reported "order" date as the date of sale.

On November 28, 2005, the Department received comments on the draft results from Gerdau AmeriSteel Corporation, Commercial Metals Company (SMI Steel Group), and Nucor Corporation (collectively "the petitioners"). On November 30, 2006, the Department received rebuttal comments from Colakoglu. On January 13, 2006, the Department issued its final results of redetermination pursuant to remand to the Court. After analyzing the comments submitted by interested parties, we continued to find that the appropriate date of sale for Colakoglu's U.S. sales for the time period in question was the "order" date. Accordingly, Colakoglu's antidumping duty margin percentage for the 2002–2003 period of review is 4.91 percent.

On March 13, 2006, the Court found that the Department complied with the Court's remand order and sustained the Department's remand redetermination. See *Colakoglu Remand*.

#### Timken Notice

In its decision in *Timken Co., v. United States*, 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*), the United States Court of Appeals for the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination, and must suspend liquidation of entries pending a "conclusive" court decision. The Court's decision in *Colakoglu Remand* on March 13, 2006, constitutes a final decision of that court that is not in harmony with the Department's final results in the 2002–2003 administrative review of certain steel concrete reinforcing bars from Turkey. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal, or, if appealed, pending a final and conclusive court decision.

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Dated: March 20, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*  
[FR Doc. E6–4311 Filed 3–23–06; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. No. 031606B]

#### Endangered and Threatened Wildlife and Plants: Announcement of Initiation of a Status Review of the Cook Inlet Beluga Whale under the Endangered Species Act (ESA)

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

**ACTION:** Notice; request for information.

**SUMMARY:** We, NOAA's National Marine Fisheries Service (NMFS), intend to review the status of the Cook Inlet beluga whale pursuant to the ESA to determine if this group of beluga whales should be listed as an endangered or threatened species. We previously reviewed the status of these whales in 1998, and in 2000 concluded that a listing under the ESA was not warranted at that time. We solicit information to be used in reassessing the status of the Cook Inlet beluga whale.

**DATES:** Comments and information must be received by April 24, 2006.

**ADDRESSES:** Comments and information should be sent to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, NMFS, Alaska Region, Attn: Ellen Walsh. Comments may be submitted by:

(1) Mail: P.O. Box 21668, Juneau, AK 99802–1668;

(2) Hand Delivery to the Federal Building: 709 West 9<sup>th</sup> Street, Room 420A, Juneau, AK;

(3) FAX: 907–586–7557; or

(4) Email: *CIB-ESA-Status-Review@noaa.gov*. Include in the subject line of the email the following document identifier: CI Belugas Status Review. Email comments, with or without attachments, are limited to five (5) megabytes.

**FOR FURTHER INFORMATION CONTACT:** Brad Smith, NMFS Alaska Region, Anchorage Field Office, (907) 271-5006, Kaja Brix, NMFS, Alaska Region, (907) 586-7235, or Marta Nammack, Office of Protected Resources, (301) 713-1401.

**SUPPLEMENTARY INFORMATION:** ESA section 4 contains provisions and procedures for adding and removing species to the lists of endangered and threatened species. In particular, section 4(a) provides that NMFS shall determine whether any species is threatened or endangered because of any of the following factors: (1) The present or threatened destruction,

modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence.

Pursuant to the ESA, and in response to petitions from external organizations, we reviewed the status of the Cook Inlet beluga whale under the ESA. We determined in 2000 that this group is a distinct population segment (DPS) and, thus, a separate  $\geq$ species $\geq$  as defined by the ESA. We also determined that listing the Cook Inlet beluga whale DPS as a threatened or endangered species was not warranted at that time (65 FR 38778; June 22, 2000).

Between 1994, when we initiated abundance surveys for the stock, and 1998, the Cook Inlet beluga whale population declined from an estimated 673 animals to an estimated 347 animals. We stated that the population was likely declining when the 1994 abundance was estimated, and the historical abundance was likely more than 1,000 animals. Subsistence harvest in 1995–1997 was estimated at 87 whales per year, and we concluded this level of harvest accounted for the observed decline of the population. At the time, no other factors could be identified as having a significant effect on the beluga population. Because there was an adequate regulatory mechanism in place to address subsistence harvest, we concluded that an ESA listing was not warranted. This determination was based in part on the expectation that the population would increase after the harvest was reduced to sustainable levels.

We are concerned that recovery may not be occurring as expected, and we recognize that long-term persistence at a small population size increases the risk to this population. Therefore, we plan to re-evaluate the status of the Cook Inlet beluga whale DPS under the ESA.

ESA section 4(a)(3) provides that NMFS shall, concurrent with making a determination that a species is threatened or endangered, designate critical habitat for that species. Critical habitat consists of specific areas in which are found physical and biological features essential to the conservation of the species and which may require special management considerations or protection. Cook Inlet beluga whales occur primarily in upper Cook Inlet, where human development and occupation have been extensive. The status review concerns only whether the Cook Inlet beluga whales should be listed. However, if we determine listing

is necessary, we would also determine whether designation of critical habitat is prudent and determinable.

### Information Solicited

To ensure the status review is complete and based on the best available scientific and commercial data, we solicit information and comments concerning the Cook Inlet beluga whales and the extent to which natural or human factors may be affecting them. We are particularly interested in information that has been collected since 1998, when the previous status review was initiated, or information that was not available for consideration during that status review. We are seeking available information on: (1) Current known range of the Cook Inlet beluga whale, with a particular focus on current and historical habitat use; (2) demographic movements; (3) trends in foraging habits and seasonal prey abundance; (4) trends in environmental contamination; (5) contaminant burdens in prey species, especially salmonids and eulachon; (6) impacts caused by human recreational activities (e.g., boating); (7) current and planned activities and their possible impacts to the Cook Inlet beluga whale (e.g., habitat modification); (8) efforts to protect the Cook Inlet beluga whale or improve its habitat; (9) non-human factors that may have contributed to its decline (i.e., disease, biotoxins, climatic or oceanographic regime shifts); and (10) industry effects from oil and gas, municipal wastewater, commercial fishing, commercial shipping, etc., and associated noise.

Information is available on the Cook Inlet beluga whale at: <http://www.fakr.noaa.gov/protectedresources/whales/beluga.htm>.

Dated: March 20, 2006.

**Jim Lecky,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 032006D]

### Fisheries Off West Coast States and in the Western Pacific; Pelagic Fisheries; Overfishing Determination on Yellowfin Tuna; Western and Central Pacific Ocean

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of overfishing determination.

**SUMMARY:** This action serves as notice that NMFS, on behalf of the Secretary of Commerce, has determined that overfishing is occurring on the yellowfin tuna (*Thunnus albacares*) stock in the western and central Pacific Ocean (WCPO), and requests that the Western Pacific Fishery Management Council (Council) address this overfishing condition pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. The intent of this action is to notify interested persons that yellowfin tuna is undergoing overfishing in the WCPO.

**SUPPLEMENTARY INFORMATION:** The following reprint of the March 16, 2006, letter from NMFS to the Council notifies the Council of a determination that overfishing is occurring on the yellowfin tuna stock in the WCPO, provides background on how NMFS made the determination, provides the legal basis for the Council to act in response to a determination that overfishing is occurring, and requests the Council to take appropriate action to address the overfishing condition.

Mr. Frank McCoy, Sr.,  
*Chairperson,*  
Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813.

Dear Chairman McCoy:

By this letter, NOAA's National Marine Fisheries Service (NMFS), on behalf of the Secretary of Commerce, notifies the Western Pacific Fishery Management Council (Council) that overfishing is occurring on the yellowfin tuna (*Thunnus albacares*) stock in the western and central Pacific Ocean (WCPO). NMFS requests the Council to take appropriate action pursuant to section 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

According to Amendment 8 Supplement to the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (Pelagics FMP), effective July 3, 2003 (68 FR 46112, August 5, 2003), the maximum fishing mortality threshold (MFMT) for stocks managed under the Pelagics FMP would be exceeded if the fishing mortality rate exceeded the rate associated with maximum sustainable yield (MSY). The most recent stock assessment (August 2005) on WCPO yellowfin tuna by the Scientific Committee of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, indicates that the then-current rate of fishing mortality ( $F_{\text{current}}$ ) is likely to be in excess of the rate associated with MSY ( $F_{\text{MSY}}$ ). For the base case analysis, the assessment results indicate an  $F_{\text{current}}/F_{\text{MSY}}$  ratio of 1.22 with a

range from 1.0 to 2.33 for the four analyses using alternative sets of assumptions<sup>1</sup>.

The latest estimate of  $F_{\text{current}}/F_{\text{MSY}}$  (1.22) for WCPO yellowfin tuna in 2005 was substantially higher than in the 2004 assessment (0.63)<sup>2</sup>. Scientists at the NMFS Pacific Islands Fisheries Science Center (PIFSC) consider the 2005 assessment model to be an improvement over the 2004 model, and the results to be more reliable. Based on these assessment results and relying on the expertise and advice of the PIFSC Director (October 28, 2005), NMFS has determined that overfishing of the WCPO yellowfin tuna stock is occurring.

The Pacific-wide distribution of yellowfin tuna and the scope of fisheries (international and domestic) exploiting this important species dictate that the U.S. government pursue a strategy to end overfishing through the relevant Regional Fisheries Management Organization, in this instance, the Western and Central Pacific Fisheries Commission (WCPFC). The entire U.S. harvest of yellowfin tuna in the WCPO is only about 4% of the total WCPO catch and the majority of the U.S. harvest is by purse seine vessels fishing within the EEZs of Pacific Island nations (under the authority of the South Pacific Tuna Treaty) or on the high seas. NMFS welcomes the Council's participation as a member of the U.S. Delegation to the WCPFC and looks forward to working with the Council to develop and implement domestic management measures necessary to implement WCPFC decisions. According to Section 304(e) of the MSA, the Council has one year from the date of this notification to prepare and submit an FMP, FMP amendment, or proposed regulations to address the overfishing condition of the yellowfin tuna stock.

Sincerely,

*William L. Robinson,  
Regional Administrator.*

Dated: March 20, 2006.

**Alan D. Risenhoover,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E6-4322 Filed 3-23-06; 8:45 am]

**BILLING CODE 3510-22-P**

<sup>1</sup> Hampton, J., P. Kleiber, A. Langley, Y. Takeuchi, and M. Ichinokawa. 2005. Stock assessment of yellowfin tuna in the western and central Pacific Ocean. WCPFC-SA WP-1, 1st Meeting of the Scientific and Committee of the Western and Central Pacific Fisheries Commission, WCPFC-SC1, Noumea, New Caledonia, 8-19 August 2005. July 2005. 79p.

<sup>2</sup> Hampton, J., P. Kleiber, A. Langley, and K. Hiramatsu. 2004. Stock assessment of yellowfin tuna in the western and central Pacific Ocean. WCPFC SCTB17 Working Paper SA-1. 17th Meeting of the Standing Committee on Tuna and Billfish, Majuro, Marshall Islands, 9-18 August 2004. July 2004. 74 p.