

methodology described in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722 (December 27, 2006). The Department also invited interested parties to comment on the preliminary results. After receiving comments and rebuttal comments from interested parties, the Department issued its final results for the section 129 determination on March 31, 2009.

Consistent with section 129(b)(3) of the URAA, USTR held consultations with the Department and the appropriate congressional committees with respect to this determination. On April 23, 2009, in accordance with sections 129(b)(4) and 129(c)(1)(B) of the URAA, USTR directed the Department to implement in whole this determination.

**Nature of the Proceedings**

Section 129 of the URAA governs the nature and effect of determinations issued by the Department to implement findings by WTO dispute settlement panels and the Appellate Body. Specifically, section 129(b)(2) provides that “notwithstanding any provision of the Tariff Act of 1930,” within 180 days of a written request from USTR, the Department shall issue a determination

that would render its actions not inconsistent with an adverse finding of a WTO panel or the Appellate Body. See 19 U.S.C. 3538(b)(2). The Statement of Administrative Action accompanying the URAA (SAA), H.R. Doc. No. 103–316, Vol. 1 (1994), reprinted in 1994 U.S.C.C.A.N. 3773 variously refers to such a determination by the Department as a “new,” “second,” and “different” determination. See SAA at 1025 and 1027. After consulting with the Department and the appropriate congressional committees, USTR may direct the Department to implement, in whole or in part, the new determination made under section 129. See 19 U.S.C. 3538(b)(4). Pursuant to section 129(c), the new determination shall apply with respect to unliquidated entries of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date on which USTR directs the Department to implement the new determination. See 19 U.S.C. 3538(c). The new determination is subject to judicial review separate and apart from judicial review of the Department’s original determination. See 19 U.S.C. 1516a(a)(2)(B)(vii).

**Analysis of Comments Received**

The issues raised in the case and rebuttal briefs submitted by interested

parties to this proceeding are addressed in the final results of proceeding under section 129 of the URAA. See “Issues and Decision Memorandum for the Final Results of Proceeding Under Section 129 of the Uruguay Round Agreements Act: Antidumping Measures on Stainless Steel from Mexico” from John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, dated March 31, 2009 (Issues and Decision Memorandum), which is hereby adopted by this notice. The Issues and Decision Memorandum is on file in the Central Records Unit (CRU), room 1117 of the Department of Commerce main building and can be accessed directly at <http://ia.ita.doc.gov/download/section129/full-129-index.html>. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content. A list of the issues addressed in the Issues and Decision Memorandum is appended to this notice.

**Final Antidumping Margins**

The recalculated margins, unchanged from the preliminary results, are as follows:

Manufacturer/Exporter	Amended Final Determination <sup>2</sup>	Recalculated Weighted-Average Margins
ThyssenKrupp Mexinox S.A. de C.V. <sup>3</sup> .....	30.85 percent	30.69 percent
All Others .....	30.85 percent	30.69 percent

<sup>2</sup> See *Amended Final Determination and Order*, 64 FR at 40562.

<sup>3</sup> This company was included in the less-than-fair-value investigation under the name of its predecessor, Mexinox S.A. de C.V. However, the Department subsequently made a formal successor-in-interest finding with respect to this company. See *Stainless Steel Sheet and Strip in Coils from Mexico: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 67 FR 48878 (July 26, 2002).

**Implementation**

On April 23, 2009, in accordance with sections 129(b)(4) and 129(c)(1)(B) of the URAA, USTR directed the Department to implement this determination, effective April 23, 2009. Accordingly, we will instruct U.S. Customs and Border Protection (CBP) to change the all-others cash-deposit rate from 30.85 percent *ad valorem* to 30.69 percent *ad valorem*.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or

conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with section 129(c)(2)(A) of the URAA.

Dated: April 23, 2009.  
**Ronald K. Lorentzen,**  
*Acting Assistant Secretary for Import Administration.*

**Appendix I  
 Issues Raised in the Issues and Decision Memorandum**

*Comment 1:* Whether the Department Should Recalculate Margins in Eight Administrative Reviews

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XO28**

**Listing Endangered and Threatened Species: Initiation of Status Review for the Oregon Coast Evolutionarily Significant Unit of Coho Salmon**

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

**ACTION:** Initiation of status review and request for information.

**SUMMARY:** We, NMFS, initiate a status review under the Endangered Species Act (ESA) for the Oregon Coast coho

From Mexico, 64 FR 40560 (July 27, 1999) (*Amended Final Determination and Order*).

salmon (*Oncorhynchus kisutch*) evolutionarily significant unit (ESU). To ensure that the status review is complete and based upon the best available scientific and commercial information, we solicit information regarding the population structure, status and trends, and limiting factors and threats of this coho salmon ESU.

**DATES:** Information and comments on the subject action must be received by July 28, 2009.

**ADDRESSES:** You may submit comments, identified by RIN 0648-XO28, by any of the following methods:

- Fax: 503-230-5441.
- Mail: Submit written comments and information to Chief, NMFS, Protected Resources Division, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232. You may hand-deliver written comments to our office during normal business hours at the street address given above.

**FOR FURTHER INFORMATION CONTACT:** For further information regarding this notice contact Garth Griffin, NMFS, Northwest Region, (503) 231-2005; or Marta Nammack, NMFS, Office of Protected Resources, (301) 713-1401.

#### SUPPLEMENTARY INFORMATION:

#### Background

In a **Federal Register** notice published February 11, 2008 (73 FR 7816), we issued a final determination to list the Oregon Coast coho salmon ESU as a threatened species under the ESA, and also issued final protective regulations and designated critical habitat. The current listing of Oregon Coast coho salmon and associated protections will remain in place while we conduct this new review. If we determine that a change in listing status is warranted, such a finding would be proposed in a subsequent **Federal Register** notice, and public comment would be solicited. A thorough review of previous Federal ESA actions related to Oregon Coast coho salmon can be found in 73 FR 7816 through 7817 (February 11, 2008).

#### ESA Statutory, Regulatory, and Policy Provisions

To be considered for listing under the ESA, a group of organisms must constitute a "species," which is defined in section 3 of the ESA to include "any subspecies of fish or wildlife or plants, and any *distinct population segment* [DPS] of any species of vertebrate fish or wildlife which interbreeds when mature." NMFS treats ESUs of Pacific salmon as constituting a DPS, and hence a "species" under the ESA (56 FR 58612; November 20, 1991). To qualify as an ESU, a Pacific salmon population

must be substantially reproductively isolated from other conspecific populations and represent an important component in the evolutionary legacy of the biological species.

The ESA defines an endangered species as one that is in danger of extinction throughout all or a significant portion of its range, and a threatened species as one that is likely to become endangered in the foreseeable future (sections 3(6) and 3(20), respectively). The statute requires us to determine whether any species is endangered or threatened because of any of five factors: the present or threatened destruction of its habitat, overexploitation, disease or predation, the inadequacy of existing regulatory mechanisms, or any other natural or manmade factors (section 4(a)(1)(A) (E)). We are to make this determination based solely on the best available scientific information after conducting a review of the status of the species and taking into account any efforts being made by states or foreign governments to protect the species. The focus of our evaluation of these five factors is to evaluate whether and to what extent a given factor represents a threat to the future survival of the species. The focus of our consideration of protective efforts is to evaluate whether these efforts substantially have and will continue to address the identified threats and so ameliorate a species' risk of extinction. In making our listing determination, we must consider all factors that may affect the future viability of the species, including whether regulatory and conservation programs are inadequate and allow threats to the species to persist or worsen, or whether these programs are likely to mitigate threats to the species and reduce its extinction risk. The steps we follow in implementing this statutory scheme are to: review the status of the species, analyze the factors listed in section 4(a)(1) of the ESA to identify threats facing the species, assess whether certain protective efforts mitigate these threats, and make our best prediction about the species' future persistence.

The joint NMFS FWS Policy on Evaluating Conservation Efforts ("PECE" 68 FR 15100; March 28, 2003) provides direction for considering protective efforts identified in conservation agreements, conservation plans, management plans, or similar documents (developed by Federal agencies, state and local governments, tribal governments, businesses, organizations, and individuals) that have not yet been implemented, or have been implemented but have not yet demonstrated effectiveness.

#### Distribution and Life History Coho Salmon

Coho salmon (*O. kisutch*) are a widespread species of Pacific salmon, occurring in most major river basins around the Pacific Rim from Monterey Bay, California, north to Point Hope, Alaska, through the Aleutians, and from the Anadyr River south to Korea and northern Hokkaido, Japan (Laufle et al., 1986). From central British Columbia south, the majority of coho salmon adults are 3-year-olds, having spent approximately 18 months in fresh water and 18 months in salt water (Gilbert, 1912; Pritchard, 1940; Sandercock, 1991). The primary exceptions to this pattern are "jacks," sexually mature males that return to freshwater to spawn after only 5-7 months in the ocean. However, in southeast and central Alaska, the majority of coho salmon adults are 4-year-olds, having spent an additional year in fresh water before going to sea (Godfrey et al., 1975; Crone and Bond, 1976). The transition zone between predominantly 3-year-old and 4-year-old adults occurs somewhere between central British Columbia and southeast Alaska.

West Coast coho smolts typically leave freshwater in the spring (April to June) and re-enter freshwater when sexually mature from September to November, and spawn from November to December and occasionally into January (Sandercock, 1991). Stocks from British Columbia, Washington, and the Columbia River often have very early (entering rivers in July or August) or late (spawning into March) runs in addition to "normally" timed runs.

#### Information Solicited

##### ESU Structure and Extinction Risk

To ensure that the updated status review is complete and based on the best available and most recent scientific and commercial data, we solicit information and comments (see **DATES** and **ADDRESSES**) concerning Oregon Coast coho salmon. We solicit pertinent information on the viability of naturally spawned and hatchery populations such as: data on population abundance, recruitment, productivity, escapement, and reproductive success (e.g., spawner-recruit or spawner-spawner survivorship, fecundity, smolt production estimates, and smolt-to-adult ocean survival rates); historical and present data on hatchery fish releases, outmigration, survivorship, returns, straying rates, replacement rates, and reproductive success in the wild; data on age structure and migration patterns of juveniles and adults; meristic, morphometric, and

genetic studies; and information on harvest rates on hatchery and wild fish. Data since our last evaluation (2002) is particularly helpful.

In the February 2008 listing determination for Oregon Coast coho (73 FR 7816), we noted that the principal inquiry in determining if this ESU warrants listing is whether present habitat conditions are sufficient to support a viable ESU, particularly during periods of unfavorable marine conditions and low marine survival, and whether future freshwater habitat conditions are expected to degrade. We concluded that the present and future status of freshwater habitat for the Oregon Coast coho ESU was uncertain. Accordingly, we also seek information on spatial or temporal trends in habitat accessibility, quality, and quantity of freshwater (including overwintering and rearing habitats) habitats within the boundaries of the Oregon Coast coho ESU.

#### *Efforts Being Made to Protect Oregon Coast Coho Salmon*

We also encourage all parties to submit information on ongoing efforts to protect and conserve Oregon Coast coho salmon, as well as information on recently implemented or planned activities and their likely impact(s).

#### References

Copies of the petition and related materials are available on the Internet at <http://www.nwr.noaa.gov>, or upon request (see **ADDRESSES** section above).

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: April 23, 2009.

**Samuel D. Rauch III,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XL62

#### Marine Mammal Stock Assessment Reports

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

**ACTION:** Notice of availability; response to comments.

**SUMMARY:** As required by the Marine Mammal Protection Act (MMPA), NMFS has incorporated public comments into

revisions of marine mammal stock assessment reports (SARs). These reports for 2008 are now final and available to the public.

**ADDRESSES:** Electronic copies of SARs are available on the Internet as regional compilations and individual reports at the following address: <http://www.nmfs.noaa.gov/pr/sars/>. You also may send requests for copies of reports to: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226, Attn: Stock Assessments.

Copies of the Alaska Regional SARs may be requested from Robyn Angliss, Alaska Fisheries Science Center, 7600 Sand Point Way, BIN 15700, Seattle, WA 98115. Copies of the Atlantic Regional SARs may be requested from Gordon Waring, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543.

Copies of the Pacific Regional SARs may be requested from Jim Carretta, Southwest Fisheries Science Center, NMFS, 8604 La Jolla Shores Drive, La Jolla, CA 92037-1508.

**FOR FURTHER INFORMATION CONTACT:** Tom Eagle, Office of Protected Resources, 301-713-2322, ext. 105, e-mail [Tom.Eagle@noaa.gov](mailto:Tom.Eagle@noaa.gov); Robyn Angliss, Alaska Fisheries Science Center, 206-526-4032, email [Robyn.Angliss@noaa.gov](mailto:Robyn.Angliss@noaa.gov); Gordon Waring, Northeast Fisheries Science Center, email [Gordon.Waring@noaa.gov](mailto:Gordon.Waring@noaa.gov); or Jim Carretta, Southwest Fisheries Science Center, 858-546-7171, email [Jim.Carretta@noaa.gov](mailto:Jim.Carretta@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 117 of the MMPA (16 U.S.C. 1361 *et seq.*) required NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessments for each stock of marine mammals occurring in waters under the jurisdiction of the United States. These reports contain information regarding the distribution and abundance of the stock, population growth rates and trends, the stock's Potential Biological Removal level (PBR), estimates of annual human-caused mortality and serious injury from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available, and at least once every 3 years for non-strategic stocks. NMFS and FWS are

required to revise a SAR if the status of the stock has changed or can be more accurately determined. NMFS, in conjunction with the Alaska, Atlantic, and Pacific Scientific Review Groups (SRGs), reviewed the status of marine mammal stocks as required and revised reports in each of the three regions.

As required by the MMPA, NMFS updated SARs for 2008, and the revised reports were made available for public review and comment (73 FR 40299, July 14, 2008). The MMPA also specifies that the comment period on draft SARs must be 90 days. NMFS received comments on the draft SARs and has revised the reports as necessary. The final reports for 2008 are available.

#### Comments and Responses

NMFS received letters containing comments on the draft 2008 SARs from two Federal agencies (Marine Mammal Commission and Environmental Quality Division, National Park Service), three non-governmental organizations (Center for Biological Diversity, Australians for Animals International, and Hawaii Longline Association), and two individuals. Most letters contained multiple comments.

Unless otherwise noted, comments suggesting editorial or minor clarifying changes were included in the reports. Such editorial comments and responses to them are not included in the summary of comments and responses below. Other comments recommended development of Take Reduction Plans or to initiate or repeat large data collection efforts, such as abundance surveys, observer programs, or other mortality estimates. Comments on actions not related to the SARs (e.g., convening a Take Reduction Team or listing a marine mammal species under the Endangered Species Act (ESA)) are not included below. Many comments recommending additional data collection (e.g., additional abundance surveys or observer programs) have been addressed in previous years. NMFS' resources for surveys, observer programs, or other mortality estimates are fully utilized, and no new large surveys or other programs may be initiated until additional resources are available or until ongoing monitoring or conservation efforts can be terminated so that the resources supporting them can be redirected. Such comments on the 2008 SARs and responses to them may not be included in the summary below because the responses have not changed.

In some cases, NMFS' responses state that comments would be considered for, or incorporated into, future revisions of the SAR rather than being incorporated