

POR entries of subject merchandise made by Gerber. As either total or partial AFA, the Department applied the PRC-wide-rate of 198.63 percent to both companies. Gerber and Green Fresh challenged the Department's resorting to the application of AFA to determine their cash deposit and assessment rates in the Final Results before the CIT.

In light of the CIT's analysis in its decisions in the litigation covering the third administrative review (see *Gerber Food (Yunnan) Co., Ltd. and Green Fresh (Zhangzhou) Co., Ltd. v. United States*, Slip Op. 08-97 (September 16, 2008) (*Gerber v. United States I*), which concerned the same parties and many of the same issues as those in the fourth administrative review, and the factual similarity between the administrative records of the third and fourth administrative reviews, the Government of the United States requested a voluntary remand, which the CIT granted on May 5, 2009. See *Gerber v. United States Remand Order*. Pursuant to this remand order and consistent with the Court's analysis in *Gerber v. United States I*, the Department issued its final results of redetermination on July 24, 2009. See *Redetermination Pursuant to Court Remand*, dated July 24, 2009 (*Remand Redetermination*) (found at <http://ia.ita.doc.gov/remands>). In this redetermination, the Department recalculated the margin for Gerber using a rate other than the PRC-wide rate as partial AFA with respect to only those sales of subject merchandise made by Gerber during the POR which were exported to the United States using the invoices of Green Fresh. The Department also recalculated the margin for Green Fresh exclusive of the above-mentioned transactions and the application of AFA. See *Remand Determination* at 1, and 4-7. The CIT affirmed this redetermination on January 5, 2010. See *Gerber Food (Yunnan) Co., Ltd. and Green Fresh (Zhangzhou) Co., Ltd. v. United States*, Slip Op. 10-2 (January 5, 2010) at 3.

On January 25, 2010, consistent with the decision of the United States Court of Appeals for the Federal Circuit in *Timken Co. v. United States*, 893 F. 2d 337 (Fed. Cir. 1990), the Department notified the public that the CIT's decision was not in harmony with the Department's final results. See *Certain Preserved Mushrooms from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of Administrative Review*, 75 FR 3896 (January 25, 2010). No party appealed the CIT's decision. Because there is now a final and conclusive court decision in this case, the

Department is amending the *Final Results*.

#### Amended Final Results of Review

As the litigation in this case has concluded, we are amending the *Final Results* to reflect the results of our remand redetermination. Specifically, the Department's redetermination resulted in changes to the *Final Results* weighted-average margins for Gerber from 198.63 percent to 22.84 percent, and for Green Fresh from 42.90 percent to 15.83 percent.

#### Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on POR entries of the subject merchandise from Gerber and Green Fresh based on the revised assessment rates calculated by the Department. We intend to issue the assessment instructions to CBP 15 days after the date of publication of these amended final results of review.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 29, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XV19**

#### Endangered and Threatened Species; Initiation of 5-Year Review for Southern Resident Killer Whales

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

**ACTION:** Notice of initiation of 5-year review; request for information.

**SUMMARY:** NMFS announces a 5-year review of Southern Resident killer whales (*Orcinus orca*) under the Endangered Species Act of 1973, as amended (ESA). A 5-year review is a periodic process conducted to ensure that the listing classification of a species is accurate. A 5-year review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of any such information on Southern Resident killer whales that has become available since their original listing as endangered in November 2005. Based

on the results of this 5-year review, we will make the requisite finding under the ESA.

**DATES:** To allow us adequate time to conduct this review, we must receive your information no later than July 6, 2010. However, we will continue to accept new information about any listed species at any time.

**ADDRESSES:** Please submit information on Southern Resident killer whales to Lynne Barre, NMFS Northwest Region, 7600 Sand Point Way NE, Seattle, WA 98115. Information may also be submitted via email to [orca.plan@noaa.gov](mailto:orca.plan@noaa.gov). Information received in response to this notice will be available for public inspection by appointment, during normal business hours, at the above address. We will consider all comments and information received during the comment period in preparing a 5-year review.

**FOR FURTHER INFORMATION CONTACT:** Lynne Barre, Northwest Regional Office, 206-526-4745; or Susan Pultz, Office of Protected Resources, 301-713-1401.

**SUPPLEMENTARY INFORMATION:** Under the ESA, the U.S. Fish and Wildlife Service maintains a list of endangered and threatened wildlife and plant species at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every five years. On the basis of such reviews under section 4(c)(2)(B), we determine whether or not any species should be removed from the List (delisted), or reclassified from endangered to threatened or from threatened to endangered. Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiates that the species is neither endangered nor threatened for one or more of the following reasons: (1) the species is considered extinct; (2) the species is considered to be recovered; and/or (3) the original data available when the species was listed, or the interpretation of such data, were in error. Any change in Federal classification would require a separate rulemaking process. The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the Southern Resident killer whale distinct population segment (DPS) currently listed as endangered (70 FR 69903; November 18, 2005).

Background information on Southern Resident killer whales including the endangered listing, critical habitat designation, recovery planning and

protective regulations is available on the NMFS Northwest Region Web site at <http://www.nwr.noaa.gov/>. Critical habitat was designated in November 2006 (71 FR 69054) and includes 2,560 square miles (6,630 sq km) of marine habitat in Haro Strait and waters around the San Juan Islands, Puget Sound, and the Strait of Juan de Fuca. The final Recovery Plan was released in January 2008 (73 FR 4176), and contains detailed information on status, threats and recovery actions for Southern Residents, including updates since the ESA listing in 2005. Proposed regulations to protect Southern Resident killer whales from vessel effects were released in July 2009 (74 FR 37674).

#### Determining if a Species is Threatened or Endangered

Section 4(a)(1) of the ESA requires that we determine whether a species is endangered or threatened based on one or more of the five 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. Section 4(b) also requires that our determination be made on the basis of the best scientific and commercial data available after taking into account those efforts, if any, being made by any State or foreign nation, to protect such species.

#### Public Solicitation of New Information

To ensure that the 5-year review is complete and based on the best available scientific and commercial information, we are soliciting new information from the public, governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of Southern Resident killer whales. The 5-year review considers the best scientific and commercial data and all new information that has become available since the listing determination or most recent status review. Categories of requested information include: (1) species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics; (2) habitat conditions including, but not limited to, amount, distribution, and suitability; (3) conservation measures that have been implemented that benefit the species; (4) status and trends of threats; and (5) other new information, data, or corrections including, but not limited

to, taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Any new information will be considered during the 5-year review and will also be useful in evaluating the ongoing recovery program for Southern Resident killer whales. For example, information on conservation measures will assist in tracking implementation of recovery actions. Habitat information received during the 5-year review process will also be useful in any future consideration of amending the designated critical habitat for Southern Resident killer whales. At the time critical habitat was designated (71 FR 69054; November 26, 2006), we concluded there was insufficient data to identify specific areas in offshore waters in which essential habitat features are found and stated we would consider any new information on coastal and offshore habitats that becomes available.

If you wish to provide information for this 5-year review, you may submit your information and materials to Lynne Barre (see **ADDRESSES** section). Our practice is to make submissions of information, including names and home addresses of respondents, available for public review on the Northwest Regional Web page and in our office during regular business hours. Respondents may request that we withhold a respondent's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your submission. We will not, however, consider anonymous submissions. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Information and materials received will be available for public inspection, by appointment, during normal business hours (see **ADDRESSES** section).

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

Dated: March 30, 2010.

**Angela Somma,**

*Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-831]

#### Stainless Steel Sheet and Strip in Coils from Taiwan: Notice of Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** April 6, 2010.

**FOR FURTHER INFORMATION CONTACT:** Henry Almond, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0049.

#### SUPPLEMENTARY INFORMATION:

##### Background

On July 1, 2009, the Department of Commerce (the Department) published a notice in the **Federal Register** of opportunity to request administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Taiwan. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 74 FR 31406 (July 1, 2009). On July 28, 2009, Chia Far Industrial Factory Co., Ltd. (Chia Far) requested an administrative review of its entries during the period of review (POR) of July 1, 2008, through June 30, 2009. On July 31, 2009, the petitioners<sup>1</sup> requested a review with respect to Chia Far and 22 additional companies.

On August 25, 2009, the Department published a notice of initiation of administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Taiwan for the POR with respect to 23 companies. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 74 FR 42873 (Aug. 25, 2009).

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from

<sup>1</sup> The petitioners in this proceeding are Allegheny Ludlum Corporation, AK Steel Corporation, North American Stainless, United Auto Workers Local 3303, United Steelworkers of America, AFL-CIO/CLC, and Zanesville Armco Independent Organization.