

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[Docket No. 100427199-0266-01]

RIN 0648-XW22

**Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition to List Puget Sound Coho Salmon as Endangered or Threatened**

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

**ACTION:** Notice of petition finding.

**SUMMARY:** We, NMFS, have received a petition to list Puget Sound populations of coho salmon (*Oncorhynchus kisutch*) as an endangered or threatened species and to designate critical habitat under the Endangered Species Act (ESA). We determine that the petition does not present substantial evidence to indicate that the petitioned action may be warranted. Accordingly, we will not initiate a status review of the species at this time.

**ADDRESSES:** Requests for copies of the petition and comments regarding Puget Sound coho salmon should be submitted to Chief, Protected Resources Division, NMFS, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232. The petition and supporting data are available for public inspection, by appointment, Monday through Friday at this address.

**FOR FURTHER INFORMATION CONTACT:** Eric Murray, NMFS, Northwest Region, (503) 231-2378 or Marta Nammack, NMFS, Office of Protected Resources, (301) 713-1401.

**SUPPLEMENTARY INFORMATION:****Background**

Section 4 of the ESA contains provisions allowing interested persons to petition the Secretary of the Interior or the Secretary of Commerce (Secretary) to add a species to or remove a species from the List of Endangered and Threatened Wildlife and to designate critical habitat. On February 23, 2010, we received a petition from Mr. Sam Wright of Olympia, Washington, to list and designate critical habitat for Puget Sound populations of coho salmon.

Section 4(b)(3)(A) of the Endangered Species Act (16 U.S.C. 1531 1544) requires that we determine whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted.

In making this determination, we consider information submitted with and referenced in the petition, and all other information readily available in our files. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**.

In evaluating a petition, we consider whether it (1) describes past and present numbers and distribution of the species and any threats faced by the species (50 CFR 424.14(b)(2)(ii)); (2) provides information regarding the status of the species over all or a significant portion of its range (50 CFR 424.14(b)(2)(iii)); and (3) is accompanied by appropriate supporting documentation (50 CFR 424.14(b)(2)(iv)).

The ESA defines "species" to include subspecies and any distinct population segment of a vertebrate species which interbreeds when mature (16 U.S.C. 1532(16)). To identify distinct population segments of salmon, we follow our Policy on Applying the Definition of Species under the ESA to Pacific Salmon (56 FR 58612; November 20, 1991). This policy states that we consider evolutionarily significant units (ESU) of salmon to be distinct population segments under the ESA. We consider populations of salmon to be an ESU if they are substantially reproductively isolated from other populations of the same species and represent an important component in the evolutionary legacy of the species. The petitioner requested listing the "populations of Puget Sound coho salmon." We evaluated whether the information provided or cited in the petition met the ESA's standard for "substantial information." We also reviewed other information readily available to us (currently within our files).

**Previous Status Review of Puget Sound Coho Salmon**

We announced our completion of a coastwide status review of coho salmon in a **Federal Register** document dated July 25, 1995 (60 FR 38011). In that document, we delineated several ESUs of coho salmon throughout the west coast, including a Puget Sound/Strait of Georgia ESU. We proposed several ESUs of coho salmon as threatened under the ESA, but determined that listing the Puget Sound/Strait of Georgia ESU was not warranted. In making this finding, we determined that, "relative to the other coho salmon ESUs, populations in the Puget Sound/Strait of Georgia ESU are abundant, and with some exceptions, run sizes and natural

spawning escapements have been generally stable."

In this previous **Federal Register** document we identified the Puget Sound/Strait of Georgia ESU to include coho salmon populations from drainages in Puget Sound and Hood Canal, the eastern Olympic Peninsula (east of Salt Creek), and the Strait of Georgia from the eastern side of Vancouver Island and the British Columbia mainland (north to and including Campbell and Powell rivers), excluding the upper Fraser River. While we expressed some uncertainty about including the Strait of Georgia populations, we concluded "that at least until further information is developed, the geographic boundaries of this ESU extend into Canada to include drainages from both sides of the Strait of Georgia as far as the north end of the Strait."

In the 1995 status review report we found that abundance in the Canadian populations in the ESU had declined more severely than in the U.S. populations. Available data showed a long-term decline in coho abundance on Vancouver Island and along the south-central British Columbia coast (excluding the Fraser River) over the entire historical period of record for the species, based on comparison of 1800s abundance with 1953-1992 average abundance. Abundance decline for these areas was also apparent over the most recent shorter term period (1953-1992). On Vancouver Island, coho salmon escapements had declined from more than 300,000 in the mid-1950s to about 150,000 through the time of the status review. Along the south-central coast, escapement declines in the same period were more dramatic, from about 500,000 in the mid-1950s to less than 100,000 through the early 1990s. By contrast, estimated average run sizes of coho salmon in the U.S. portion of the ESU were comparable to the estimated historical (1896) abundance of 1.25 million (although at least half of these were hatchery-origin coho salmon).

Of the U.S. populations examined in the 1995 status review report, two had significant downward trends, five had significant upward trends, and the remaining 10 had no significant trend. Only three populations had long-term data sets (over 50 years) available for review. Two declined in the 1960s and 1970s, with some evidence of recovery in the 1980s. The third neither increased nor decreased in abundance. Long-term (1896-1992) abundance trends for naturally-reproducing Puget Sound coho salmon were not statistically significant, but a marked short-term decline in abundance trends

was observed within this period (between 1935 and 1975)

The 1995 status review report also evaluated potential threats to the viability of the ESU, including overharvest in fisheries and hatchery operations. Prior to 1995, overall ocean exploitation rates on the U.S. portion of the ESU (as estimated from coded wire tag data) were relatively high but showed no apparent trend. Harvest rates on naturally-reproducing populations were substantially lower than harvest rates on hatchery-dominated populations. We expressed considerable concern that over half of the U.S. portion of the run was hatchery fish. Little information was available about hatchery contributions to the Canadian portion of the ESU, except that hatchery production had rapidly increased relative to low historical levels. The average size of adult coho salmon in the Puget Sound/Strait of Georgia ESU had also decreased (this was observed beginning in the 1950s, but documented first in the 1970s) along with fecundity (Weitkamp et al., 1995). The decrease in size and fecundity was expected to decrease productivity in the ESU as a whole. Other threats identified in the assessment included widespread habitat degradation, droughts, and changes in ocean productivity, all of which were expected to reduce ESU productivity.

Despite the threats facing this ESU in the described 1995 status review report, we noted that total abundance of naturally-reproducing fish was fairly high and apparently stable. For this reason, we concluded that listing was not warranted (60 FR 38011; July 25, 1995). However, because of the threats to the overall health of this ESU, we added it to the Candidate List (later to become known as the "Species of Concern List"). The Species of Concern List can aid in the conservation of species by highlighting needed research and stewardship opportunities. We did not conduct a new status review until we were petitioned because we did not have information in our files to indicate that the species might warrant ESA protection.

#### **Analysis of Petition**

When reviewing a petition to list a species under the ESA, we consider information provided in the petition as well as information readily available in agency files. We first review information from the petition and our files regarding delineation of the Puget Sound/Strait of Georgia coho salmon ESU, and next review information from the petition and our files regarding the status of coho salmon in Puget Sound.

The petition states that "any connectivity [of the Puget Sound coho salmon populations] with Canadian stocks has been effectively severed by 35 years of managing the entire Nooksack River system as a Hatchery Salmon Management Zone. The Skagit River system now forms the northern boundary of a much smaller and isolated viable ESU that now has its southern boundary formed by the Snohomish river system." The petitioner refers to this proposed, truncated Puget Sound population (representing a smaller proportion of the ESU than that delineated and reviewed by NMFS in 1995) as being a "new and much smaller viable ESU." Without agreeing with the petitioner that creation of a truncated Puget Sound coho ESU is warranted, the petition is correct that Nooksack River coho continue to be managed for hatchery production, a management approach unchanged from the strategy in effect when we reviewed the status of the ESU in 1995. The Nooksack River watershed represents just one of seven coho management units making up the ESU, five of which are managed for wild coho production. We determined in 1995 that, based on the relatively healthy viability status of these wild coho populations and considering the standing of threats to their viability, hatchery production in the Nooksack River did not constitute a significant threat to the ESU as a whole. This previous finding is further supported by new scientific evidence indicating the tendency for hatchery-origin coho salmon not to successfully interbreed with native Nooksack watershed coho salmon (Small et al., 2004). These researchers reached this conclusion through comparison of microsatellite DNA variation in wild-spawning and hatchery-strain coho salmon from the Nooksack River. Significant heterogeneity in genotype frequencies was detected between wild-spawning coho salmon from the upper North Fork Nooksack River and Kendall Creek Hatchery coho salmon, which were descendants of primarily native Nooksack River broodstock. These findings suggest that a distinct Nooksack River wild coho salmon population persists, amidst continued management of the watershed for hatchery coho production, and that the wild population contributes positively to the abundance, diversity, and spatial structure of the ESU. Considering this new information, and that the petition presents no new information regarding threats to ESU viability associated with hatchery fish management in the Nooksack watershed, we reach the same

conclusion that we reached in 1995, that hatchery management in the Nooksack does not pose a significant threat to the ESU.

Genetics data available in our files since our last review do suggest that a change in ESU configuration may be warranted. That information suggests that coho salmon in Canadian and U.S. rivers may be reproductively isolated and therefore represent different ESUs. Even if that is the case, before initiating a status review we must determine whether the petitioned action of listing a potential coho ESU in Puget Sound may be warranted. We, therefore, consider information in the petition and our files to determine whether it indicates that listing of a Puget Sound ESU may be warranted.

The petition claims that Puget Sound coho salmon face a variety of threats including: (1) the Washington Department of Fish and Wildlife, which has deliberately planned for overfishing on many populations and has failed to set escapement goals for many populations; (2) the decrease in size of adult coho salmon in the State of Washington; and (3) pre-spawning mortality associated with land use practices. With the exception of pre-spawning mortality, the petition presents no new information on these threats beyond what we considered in our 1995 review. As previously mentioned, the petitioner indicates that a different ESU configuration may exist; however, there is no information available to indicate that the severity of threats or ESU viability would increase if a smaller, Puget Sound ESU was established. In fact, the opposite may be true. In our 1995 review, we noted that declines in abundance in the Canadian portion of the Puget Sound/Strait of Georgia ESU were much more severe than in the U.S. portion of the ESU. If the ESU was reconfigured to include stocks only within Puget Sound, it is likely that overall ESU viability would improve and the severity of threats facing this smaller ESU would decrease.

Regarding the high harvest rates that were highlighted in our last assessment, the petition fails to provide any recent data to indicate whether these trends have continued and therefore still present risks to the ESU. A review of data available in our files suggests that the risk from harvest has decreased in recent years. With the near complete cessation of coho salmon fisheries by Canada on the West Coast of Vancouver Island since the time of our last status review, overall fisheries exploitation rates for all key naturally-reproducing coho populations in Puget Sound have been markedly reduced. For example,

total harvest rates for Skagit naturally-reproducing coho salmon have been reduced from an average of 51 percent in the early to mid 1990s, to an average of 30 percent for the period 1999--2008. Similarly, average total fishery harvest rates have been reduced from 57 percent to 21 percent for Stillaguamish naturally-reproducing coho; 57 percent to 22 percent for Snohomish naturally-reproducing coho; 57 percent to 35 percent for Hood Canal naturally-reproducing coho; and 39 percent to 8 percent for Strait of Juan de Fuca naturally-reproducing coho (L. LaVoy, NMFS Sustainable Fisheries Division data, pers. comm., April 9, 2010). Harvest rates have also been substantially reduced on Deschutes River coho salmon (from 85 percent to 45 percent), a population the petition mentions in particular.

Regarding the decrease in size of adult coho, we considered this decrease in our 1995 review. The petitioner provides no details and no new information since our previous review nor do we have any additional information in our files on this matter.

Regarding pre-spawning mortality, the petition includes a 2004 report titled "Land Use and Coho Pre-spawning Mortality in the Snohomish Watershed, Washington." The petition does not demonstrate that this is a new phenomenon, and does not explain how this information affects the overall status of coho in Puget Sound in a way not considered in the 1995 review. The petition also includes smolt (juvenile salmon) production data for Big Beef Creek, describing it as representing a decline. In contrast to the petition's characterization of the data as showing a decline, it actually suggests that recent smolt production is comparable to or exceeds that of previous years. Although we did not explicitly consider effects of pre-spawning mortality in the 1995 review, there is no information in the petition or our files indicating that this mortality is different from what it was in 1995.

#### Petition Finding

After reviewing the petition, as well as information readily available to us, we have determined that the petition does not present substantial scientific information indicating the petitioned action may be warranted. The petition correctly states that the scientific information used in NMFS' previous review is at least 15 years old. However, the petition does not offer adequate new information on the status, trends, and threats to the Puget Sound/Strait of Georgia ESU of coho salmon to warrant the initiation of a status review at this

time. Moreover, information available to us does not suggest that listing may be warranted.

If new information becomes available to suggest that the Puget Sound populations of coho salmon may warrant listing under the ESA, we will reconsider conducting a species status review.

#### References

A complete list of all references cited herein is available upon request (see **ADDRESSES** section).

**Authority:** 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701; 16 U.S.C. 1361 *et seq.*

Dated: June 29, 2010.

#### Samuel D. Rauch III,

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

[FR Doc. 2010-16361 Filed 7-2-10; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Order No. 1688]

#### Expansion of Foreign-Trade Zone 89 Las Vegas, NV

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas*, the Nevada Development Authority, grantee of Foreign-Trade Zone 89, submitted an application to the Board for authority to expand FTZ 89 to include a site in the City of North Las Vegas, Nevada, within the Las Vegas Customs and Border Protection port of entry (FTZ Docket 48-2009, filed 11/09/09);

*Whereas*, notice inviting public comment has been given in the **Federal Register** (74 FR 59131-59132, 11/17/09) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

*Whereas*, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

*Now, therefore*, the Board hereby orders:

The application to expand FTZ 89 is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28, and to the Board's standard 2,000-acre activation limit for the overall general-purpose zone

project, and further subject to a sunset provision that would terminate authority on June 30, 2017 for Site 9 where no activity has occurred under FTZ procedures before that date.

Signed at Washington, DC, this 22nd day of June 2010.

**Paul Piquado,**

*Acting Deputy Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

ATTEST:

Elizabeth Whiteman,  
Acting Executive Secretary.

[FR Doc. 2010-16356 Filed 7-2-10; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-831]

#### Fresh Garlic from the People's Republic of China: Extension of Time Limit for the Final Results of New Shipper Review

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

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

**FOR FURTHER INFORMATION CONTACT:** Lingjun Wang, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2316.

#### Background

On April 27, 2010, the Department of Commerce (the Department) issued the preliminary results of the new shipper review of fresh garlic from the People's Republic of China for Qingdao Sea-line International Trade Co. Ltd. (Qingdao Sea-line), covering the period of review of November 1, 2008 through April 30, 2009. *See Fresh Garlic from the People's Republic of China: Preliminary Results of New Shipper Review*, 75 FR 24578 (May 5, 2010).

#### Statutory Time Limits

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(i)(1), provides that the Department will issue the preliminary results of a new shipper review of an antidumping duty order within 180 days after the day on which the review was initiated, and final results of review within 90 days after the date on which the preliminary results were issued. However, if the Secretary concludes that a new shipper review is extraordinarily