



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 120807314-2314-01]

RIN 0648-XC155

Endangered and Threatened Species; 90-Day Finding on Petition to Delist the Southern Oregon/Northern California Coast Evolutionarily Significant Unit of Coho Salmon under the Endangered Species Act

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

ACTION: Notice of 90-day petition finding.

SUMMARY: We, NMFS, announce a 90-day finding on a petition to delist the Southern Oregon/Northern California Coast (SONCC) Evolutionarily Significant Unit (ESU) of coho salmon (*Oncorhynchus kisutch*) under the Endangered Species Act (ESA). We find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted.

ADDRESSES: Copies of the petition are available at: <http://www.nmfs.noaa.gov/pr/> or upon request from the Assistant Regional Administrator, Protected Resources Division, NMFS, Southwest Regional Office, 501 West Ocean Blvd, Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Craig Wingert, NMFS, Southwest Region Office, (562) 980-4021; or Dwayne Meadows, Office of Protected Resources (301) 427-8403.

SUPPLEMENTARY INFORMATION:

## Background

Section 4 of the ESA (16 U.S.C. 1533) contains provisions allowing interested persons to petition 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 for any endangered or threatened species. The Secretary has delegated the authority for these actions to the NOAA Assistant Administrator for Fisheries.

On July 3, 2012, we received a petition from the Siskiyou County Water Users Association and Dr. Richard Gierak (the petitioners) requesting that we delist the SONCC ESU of coho salmon under the ESA. The petitioners previously submitted four petitions requesting that we delist coho salmon. We analyzed those petitions and found that they did not present substantial scientific or commercial information indicating the petitioned action may be warranted. One negative 90-day finding notice for three of these petitions was published on October 7, 2011 (76 FR 62375) and a second negative 90-day finding for the fourth petition was published on January 11, 2012 (77 FR 1668). The new petition largely reiterates the petitioners' previous arguments, including that the species is not native to northern California watersheds, including the Klamath River, the species abundance has increased since the early 1960s and is in good condition overall, and that non-man-made factors (e.g., ocean conditions, floods, fires, and drought) rather than man-made factors are responsible for the decline in coho salmon abundance. These arguments were addressed in our responses to the previous petitions and therefore not repeated here.

In the current petition, the petitioners have specified their request to delist the SONCC coho salmon ESU, reiterated many of their previous arguments, and presented some additional

information regarding coho and Chinook salmon fishing seasons in Oregon streams, Yukon River salmon run predictions, changes in salmon landings over the past 1-2 decades, and increases in Pacific Ocean water temperature. We carefully analyzed this additional information and found that it is: not relevant to the petitioned action (e.g., the Oregon and Yukon fisheries are different ESUs from the petitioned species); not supported by literature citations or other references in the petition (e.g., historical landings and ocean temperature information), and therefore constitutes unsupported assertions; or it simply does not support the petitioned action (e.g., information about coho and Chinook salmon fishing seasons in Oregon streams that are not within the range of this ESU). As a result of these deficiencies, the petition does not present any additional substantial scientific or commercial information that indicates the petitioned action may be warranted. Moreover, none of this additional information modifies the underlying scientific basis for our original determination to list the SONCC coho salmon ESU or causes us to re-evaluate our analysis of delisting petitions that were previously submitted by the petitioners.

#### ESA Statutory and Regulatory Provisions and Evaluation Framework

Section 4(b)(3)(A) of the ESA (16 U.S.C. 1533(b)(3)(A)) requires that we make a finding as to whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating the petitioned action may be warranted. ESA implementing regulations define “substantial information” as the “amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted” (50 CFR 424.14(b)(1)). In determining whether a petition presents substantial scientific or commercial information to list or delist a species, we take into account 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, followed by prompt publication in the Federal Register (16 U.S.C. 1533(b)(3)(A)). ESA implementing regulations state that a species may be delisted only if the best scientific and commercial data available substantiate that it is neither endangered nor threatened for one or more of the following reasons: the species is extinct; the species is recovered; or subsequent investigations show the best scientific or commercial data available when the species was listed, or the interpretation of such data, were in error (50 CFR 424.11(d)).

#### Petition Finding

As discussed above, this subject petition does not present any additional substantial scientific or commercial information related to whether the SONCC ESU of coho salmon is recovered, extinct, or that the best scientific or commercial data available when the species was listed, or the interpretation of such data, were in error. Therefore, we find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted.

#### References Cited

A complete list of the references used in this finding is available upon request (see ADDRESSES).

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

Dated: September 4, 2012.

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Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy  
Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

[FR Doc. 2012-22209 Filed 09/07/2012 at 8:45 am; Publication Date: 09/10/2012]