

Procedures Act at 5 U.S.C. 555 insofar as New Jersey was promptly notified of the Commission's non-compliance referral and given an opportunity to meet with the agency and provide comments on the matter. New Jersey has also been promptly notified of the agency's determination in this matter. Additionally, NMFS provided notice to the public of this compliance action in a notice published in the **Federal Register** (75 FR 9158, March 1, 2010). NMFS received one comment in response to that notice. The comment supported closing all shark fishing indefinitely off the coast of New Jersey. In response NMFS finds that the comment goes beyond the scope of shark conservation management measures as detailed in the Commission's Plan, and although we concur that a full moratorium on the possession of sharks in the State's waters is necessary for shark conservation beginning July 30, 2010, it will only be in place so long as the State of New Jersey remains out of compliance with the Commission's Plan. Action beyond that is not warranted in this action.

The Assistant Administrator for Fisheries, NOAA (AA), finds that providing additional prior public notice and opportunity for comment is impracticable and unnecessary. Providing additional notice and opportunity for comment would be impracticable, because it would prevent the agency from executing its functions under the Act in a timely manner. The Act contemplates quick action on the declaration of a moratorium that would not be possible if additional notice and an opportunity for comment are provided. Furthermore, providing additional notice and opportunity for comment would be unnecessary because it would serve no purpose. The nature of a moratorium is described in the Act and, therefore, cannot be modified in response to public comments.

The declaration of moratorium does not trigger the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* because prior notice and opportunity for public comment are not required for this determination by the Administrative Procedures Act or any other law.

The declaration of a moratorium does not fall under review under Executive Order 12866 insofar as the moratorium is not a regulatory action of the agency but is an action mandated by Congress upon the findings of certain conditions precedent set forth in the Atlantic Coastal Act, which also prescribes the nature and extent of the moratorium. Although the recreational and

commercial shark fisheries in New Jersey are of importance to the State, the moratorium as proposed is not expected to materially or adversely affect the economy or have an impact of over \$100 million. New Jersey has expressed the desire to come into compliance with the Commission's Plan within this calendar year, so although the state has not yet completed an affirmative and observable regulatory action, NMFS fully expects New Jersey to come into compliance with the Plan by the end of the calendar year. The matter creates no serious inconsistency with actions by other agencies and it is not expected to have material budgetary impacts. The declaration of moratorium is not significant within the meaning of the Executive Order.

The declaration of moratorium is not the result of a policy formulated or implemented by the agency, but is instead the result of the application of found facts to the Congressional standards set forth in the Atlantic Coastal Act and as such, the declaration does not implicate federalism in the manner contemplated by Executive Order 13132. Further, the agency has consulted with New Jersey to the maximum extent practicable in this matter given the truncated timeframe set forth in the Atlantic Coastal Act. Rather, the Act provides clear evidence that Congress intended the Secretary to have the authority to preempt state law. That authority has been delegated from the Secretary to NMFS. The scope of the moratorium reflects the standards set forth in the Atlantic Coastal Act, and as such restricts state law to the minimum level necessary to further the objectives of the statute.

**Authority:** 16 U.S.C. 5101 *et seq.*

Dated: April 22, 2010.

**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-XW06**

#### Endangered Species; File No. 14510

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

**ACTION:** Issuance of permit.

**SUMMARY:** Notice is hereby given that NMFS Southwest Fisheries Science Center, 3333 North Torrey Pines Court, La Jolla, CA 92037-1023, has been issued a permit to take green (*Chelonia mydas*), loggerhead (*Caretta caretta*), olive ridley (*Lepidochelys olivacea*), and leatherback (*Dermochelys coriacea*) sea turtles for purposes of scientific research.

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)713-0376; and Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213; phone (562)980-4001; fax (562)980-4018.

**FOR FURTHER INFORMATION CONTACT:** Kate Swails or Amy Hapeman (301)713-2289.

**SUPPLEMENTARY INFORMATION:** On November 18, 2009, notice was published in the **Federal Register** (74 FR 59525) that a request for a scientific research permit to take had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

The purpose of the proposed research project is to initiate a baseline study of the status of sea turtles in the San Gabriel River and Alamitos Bay in Long Beach, California. Researchers would also opportunistically take samples and potentially track sea turtles incidentally taken in coastal power plants off California and that strand live in the marine environment. Researchers may annually capture, measure, weigh, photograph/video, flipper tag, passive integrated transponder tag (PIT), tissue biopsy, blood sample, scute scrape, lavage, ultrasound, oral swab, cloacal swab, inject tetracycline, and release up to: ten green, one olive ridley, and three loggerhead sea turtles taken in power plant entrainments; four green, one olive ridley, one loggerhead, and two leatherback sea turtles that strand in the marine environment; and 35 green, six loggerhead, and six olive ridley sea turtles during captures as part of the San Gabriel and Los Alamitos Bay California project. Some turtles may have satellite transmitters, sonic tags, or camera attached. Researchers would also have

authority to authority to salvage, necropsy, and sample animals that die as a result of entrapments or strandings. The permit is issued for five years.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: April 21, 2010.

**P. Michael Payne,**

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part

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

**SUMMARY:** The Department of Commerce ("the Department") has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with March anniversary dates. We received a timely request to revoke one antidumping duty order in part. In accordance with the Department's regulations, we are initiating those administrative reviews.

**DATES:** *Effective Date:* April 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482-4697.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with March anniversary dates. We also received a timely request to revoke in part the antidumping duty order on Certain Orange Juice from Brazil with respect to one exporter.

##### Notice of No Sales

Under 19 CFR 351.213(d)(3), the Department may rescind a review where

there are no exports, sales, or entries of subject merchandise during the respective period of review ("POR") listed below. If a producer or exporter named in this initiation notice had no exports, sales, or entries during the POR, it should notify the Department within 30 days of publication of this notice in the **Federal Register**. The Department will consider rescinding the review only if the producer or exporter, as appropriate, submits a properly filed and timely statement certifying that it had no exports, sales, or entries of subject merchandise during the POR. All submissions must be made in accordance with 19 CFR 351.303 and are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended ("the Act"). Six copies of the submission should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy of each request must be served on every party on the Department's service list.

##### Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews, the Department intends to select respondents based on U.S. Customs and Border Protection ("CBP") data for U.S. imports during the POR. We intend to release the CBP data under Administrative Protective Order ("APO") to all parties having an APO within five days of publication of this initiation notice and to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within 10 calendar days of publication of this **Federal Register** notice.

##### Separate Rates

In proceedings involving non-market economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994). In accordance with the separate-rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate-rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate-rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate-rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at <http://www.trade.gov/ia> on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the "Instructions for Filing the Certification" in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding<sup>1</sup> should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate

<sup>1</sup> Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (e.g., an ongoing administrative review, new shipper review, etc.) and entities that lost their separate rate in the most recently complete segment of the proceeding in which they participated.