

amended, and 19 CFR 351.214(d), we are initiating a new shipper review.

**FOR FURTHER INFORMATION CONTACT:**

Minoo Hatten or Mark Ross at (202) 482-1690 and (202) 482-4794, respectively, AD/CVD Enforcement III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

**Background**

The notice announcing the antidumping duty order on welded carbon steel pipes and tubes from India was published on May 12, 1986. On May 30, 2003, we received a request for a new shipper review of the antidumping duty order on welded carbon steel pipes and tubes from India from Surya Roshni, Ltd. (Surya), and K&K Enterprises, Inc. Surya is both the producer and exporter of the subject merchandise on which its request for a new shipper review is based.

**Initiation of Review**

Pursuant to 19 CFR 351.214(b)(2)(i) and (iii)(A), Surya provided a certification that it did not export subject merchandise to the United States during the period of investigation (POI) and, that since the initiation of the investigation, it has never been affiliated with any exporter or producer that exported the subject merchandise to the United States during the POI, including those not individually examined during the investigation.

In addition, Surya submitted documentation establishing the following: (1) The date on which it first shipped the subject merchandise for export to the United States and the date on which its subject merchandise was first entered, or withdrawn from warehouse, for consumption; (2) the volume of its first shipment and the volume of subsequent shipments; and (3) the date of its first sale to an unaffiliated customer in the United States.

Pursuant to section 751(a)(2)(B) of the Tariff Act, as amended (the Act), and 19 CFR 351.214(d)(1), we are initiating a new shipper review for shipments of welded carbon steel pipes and tubes from India produced and exported by Surya. The period of review is May 1, 2002, through April 30, 2003. See 19 CFR 351.214(g)(1)(i)(A). We intend to issue the final results of this review no later than 270 days from the date of initiation. See 19 CFR 351.214(i).

We will instruct the Bureau of Customs and Border Protection to

continue to suspend liquidation of any entries of the subject merchandise and to allow, at the option of the importer, the posting of a bond or security in lieu of a cash deposit for each entry of the subject merchandise produced and exported by Surya until the completion of the review. Surya has certified that it both produced and exported the subject merchandise on which it based the request for a new shipper review. Therefore, we will apply the bonding option only to subject merchandise for which it is both the producer and exporter.

Interested parties that need access to proprietary information in this new shipper review should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: June 30, 2003.

**Jeffrey May,**

*Deputy Assistant Secretary for Import Administration.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D. 021903B]

**RIN 0648-AQ24**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Rebuilding Plan for Greater Amberjack in the Gulf of Mexico**

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

**ACTION:** Notice of agency action.

**SUMMARY:** NMFS announces approval of Secretarial Amendment 2 to the Reef Fish Fishery Management Plan (Secretarial Amendment 2) that establishes a 10-year stock rebuilding plan for greater amberjack in the Gulf of Mexico. The Secretary of Commerce, acting through the Gulf of Mexico Fishery Management Council (Council), prepared Secretarial Amendment 2. The greater amberjack rebuilding plan consists of a series of 3-year management goals and the associated management measures and actions necessary to achieve those goals, as

determined by the status of the stock during each of the 3-year intervals. Secretarial Amendment 2 also establishes biomass-based stock rebuilding targets and thresholds (i.e., maximum sustainable yield (MSY), optimum yield (OY), maximum fishing mortality threshold (MFMT), and minimum stock size threshold (MSST)), consistent with the requirements of the Sustainable Fisheries Act of 1996 (SFA). The intended effect of Secretarial Amendment 2 is to prevent overfishing and rebuild the greater amberjack resource consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) while minimizing, to the extent practicable, adverse economic impacts on all users of the resource and the affected fishing communities.

**FOR FURTHER INFORMATION CONTACT:** Phil Steele, telephone: 727-570-5305, fax: 727-570-5583, e-mail: [Phil.Steele@noaa.gov](mailto:Phil.Steele@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The reef fish fishery in the exclusive economic zone of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622.

On March 14, 2003, NMFS published a notice of availability of Secretarial Amendment 2 and requested public comment (68 FR 12344). After considering the public comments received, NMFS approved Secretarial Amendment 2, without modification, on June 12, 2003. The background and rationale for the measures in Secretarial Amendment 2 are contained in the amendment and the notice of availability and are not repeated here.

**Comments and Responses**

NMFS received one set of comments on Secretarial Amendment 2 from a group of environmental organizations. Those comments and NMFS' responses are provided below.

*Comment 1:* NOAA Fisheries must assess the amount and type of bycatch occurring in each fishery and ensure that each plan includes conservation and management measures that, to the extent practicable, minimize bycatch and minimize the mortality of such bycatch that cannot be avoided.

*Response:* NMFS is committed to working through the Council process for development and implementation of fishery management plans to minimize bycatch, and to the extent practicable,

minimize the mortality of bycatch that cannot be avoided. Within this mandate, NMFS is working with the Council to: (1) promote the development and improvement of a database on bycatch and bycatch mortality; (2) assess the effects of management measures on the amount and type of bycatch and bycatch mortality; and (3) select measures that, to the extent practicable, will minimize bycatch and bycatch mortality.

Additionally, NMFS has established a National Bycatch Working Group to begin the process of developing scientific and policy strategies for addressing the nation's bycatch problems. The National Bycatch Strategy consists of six components, all of which are being implemented within different time frames and include: (1) Assessing progress toward meeting the national bycatch goal, its supporting objectives and strategies, and regional recommendations as set forth in NMFS' 1998 publication *Managing the Nation's Bycatch* (available at <http://www.nmfs.noaa.gov/bycatch.htm>); (2) Developing a national approach to a standardized bycatch reporting methodology; (3) Implementing the national bycatch goal through regional implementation plans; (4) Undertaking education and outreach involving cooperative efforts to develop effective and efficient methods for reducing bycatch; (5) Utilizing existing partnerships and developing new international approaches to reducing bycatch of living marine resources including fish stocks, sea turtles, marine mammals, and migratory birds, where appropriate; and (6) Identifying new funding requirements to effectively support the NMFS National Bycatch Strategy on an ongoing basis.

*Comment 2:* Secretarial Amendment 2 is not approvable because it does not address bycatch.

*Response:* The greater amberjack resource in the Gulf of Mexico was declared overfished by NMFS on February 9, 2001, but is not considered to be undergoing overfishing due to Council actions taken in 1997, 1998, and 1999. Consequently, actions to further reduce fishing mortality are not needed at this time. Through this amendment, NMFS establishes a rebuilding plan for greater amberjack in the Gulf of Mexico. Actions in the amendment include setting total allowable catch (TAC) for 3-year intervals with TAC being set at the yield associated with year one of the 3-year interval from the constant F40% rebuilding stream. TAC will be 2.9 million lb (1.3 million kg) for the years 2003–2005, 5.2 million lb (2.6 million kg) for years 2006–2008, 7.0 million lb

(3.2 million kg) for years 2009–2011, and 7.9 million lb (3.6 million kg) for 2012. Additionally, the amendment contains biomass-based definitions of maximum sustainable yield and optimum yield and adds new stock status determination criteria regarding definitions of “overfished” (minimum stock size threshold) and “overfishing” (maximum fishing mortality threshold). These criteria are necessary to meet requirements of the Magnuson-Stevens Act, as amended by the Sustainable Fisheries Act. The amendment does not change the current fishing regulations for greater amberjack.

While Secretarial Amendment 2 does not specifically address bycatch reporting methodologies or methods to minimize bycatch and reduce bycatch mortality, methodologies for reporting this information have already been implemented. The methodology for reporting bycatch from the recreational component of the catch of greater amberjack was implemented through the Marine Recreational Fisheries Statistics Survey program developed by NMFS. The commercial component of the greater amberjack catch has been monitored through the commercial logbook program since 1992. This program has required that all vessels submit a reporting form for each trip listing landings by species, numbers and pounds. Additionally, beginning in 2001, the NMFS Southeast Fisheries Science Center has required 20 percent of all the permitted vessels to submit forms for each trip listing species discarded as bycatch by number.

Further, additional alternatives to address bycatch issues are currently being developed for the entire reef fish management unit in Amendment 18 to the Reef Fish Fishery Management Plan. An options paper for Amendment 18 is scheduled for presentation at the Gulf of Mexico Fishery Management Council (Council) meeting in July 2003. The Council is tentatively scheduled to take final action on this amendment at its November 2003 meeting. While Amendment 18 will focus primarily on grouper management actions, it will also address bycatch issues for all species within the reef fish fishery management unit including greater amberjack.

*Comment 3:* Recommended Options for Status Determination Criteria

*Maximum Sustainable Yield (MSY) Alternatives* - While Alternative 1, the Preferred Alternative, which sets MSY at the yield value of 9.5 million lb (4.3 million kg) is technically consistent with expected values produced by the most recent stock assessment on greater amberjack, the legal requirements of the Magnuson-Stevens Act and applicable

NOAA Fisheries guidance documents, we are concerned that these landings are overly optimistic. Our concern is that the highest documented level of greater amberjack taken in the Gulf is approximately 10 million lb (4.5 million kg) in 1989. Landings from the mid 1980s through the early 1990s averaged approximately 6 million lb (2.7 million kg). High landings during these years are thought to be part of the reason greater amberjack are now in an overfished state. Accordingly, we ask that future scientific work be undertaken to refine status determination criteria for this species.

*Response:* The Preferred Alternative, Alternative 1, describes the yield that would be associated with the fishing mortality rate (F) needed to maintain a population at 30 percent spawning potential ratio (SPR) in equilibrium conditions and so is consistent with recommendations made to the Council about this species for setting MSY in the generic Sustainable Fisheries Act (SFA) amendment. It is also consistent with the current maximum fishing mortality threshold (MFMT) of F30% SPR that has been approved by NMFS. In the most recent stock assessment, the yield estimated from fishing at F30% SPR was 9.5 million lb (4.3 million kg). Alternative 1 is consistent with the best available scientific estimate of what MSY should be. Fishing at or below this recommended level (F30% SPR) to achieve this yield should allow the stock to be fished over the long term and maintain the highest average yield possible.

Further, the period of highest landings for amberjack was 1986–1989 when the annual landings averaged 7.7 million lb (3.5 million kg) and peaked in 1989 at 9.9 million lb (4.5 million kg). The most likely reason that the current estimate of MSY is so much higher than historical landings is that, until 1990, there were no minimum size limits on this species. Cummings and McClellan (2000) indicate that prior to 1990, a substantial amount of small fish (less than 16-inch (40.6-cm) fork length) were landed by the fishery. Therefore, growth overfishing and possibly recruitment overfishing may have been occurring. It was not until 1998 that all the current management measures were implemented and halted overfishing. NMFS will revisit these estimates as new information from stock assessments becomes available.

*Optimum Yield (OY) Alternatives* - We have similar concerns with proposed Alternative 1, the Preferred Alternative, which sets OY at a value of 8.5 million lb (3.9 million kg). We are concerned that this level may be too

high based on an analysis of past landings and the current condition of greater amberjack. We therefore again recommend that this value will be reassessed at regular intervals to insure its soundness.

**Response:** According to NMFS national standard guidelines on the Magnuson-Stevens Act (50 CFR Part 600.310), OY is based on MSY or MSY as it may be reduced to take into account social, economic, or ecological factors. The guidelines go on to say that Councils should adopt a precautionary approach in specifying OY including reference points set safely below limit reference points and that these targets be "explicitly" risk averse. NMFS technical guidance in setting an OY level suggests that OY should be set at a yield where the fishing mortality rate is 25 percent below the limit fishing mortality rate (i.e.,  $0.75 * F_{MSY}$ ). Advantages of setting F at this level are: (1) the probability of exceeding the MFMT is low (20–30 percent), and (2) because the total mortality on the stock is reduced, the stock size is allowed to increase. Restrepo *et al.* (1998) estimated that by fishing at  $0.75 * F_{MSY}$ , the stock is allowed to build to 125–131 percent of BMSY and that the resultant reduction in yield is only about 6 percent of MSY. Specifically for greater amberjack, fishing at the FMSY proxy ( $0.75 * F_{30\%SPR}$ ) would allow the stock to build to 128 percent of the spawning stock biomass at MSY ( $SSB_{MSY}$ ), with the resultant yield of about 92 percent of MSY.

The Preferred Alternative (Alternative 1) defines OY as the yield associated with an  $F_{40\% SPR}$  when the stock is at equilibrium, and is actually more conservative than what is recommended by NMFS. According to Turner (2002), the estimated value of  $F_{40\% SPR}$  is 72 percent of  $F_{30\% SPR}$  (the proxy they used for FMSY). Based on estimates of yield at  $F_{40\%}$  (8.5 million lb (3.9 million kg)) and at  $F_{30\%}$  (9.5 million lb (4.3 million kg)), the OY yield from Alternative 1 would be 89 percent of the Preferred Alternative for MSY (the yield associated with an  $F_{30\%}$ ). Alternative 1 also is consistent with NMFS recommendations for OY in the generic SFA amendment that OY should correspond with a stock at 40 percent static SPR.

NMFS will continue to provide the Council with annual updates on the greater amberjack harvest. These updates would cover each calendar year and be presented as soon as the information can be properly collated. The purpose of these updates would be to insure that the annual harvest by the recreational and commercial fisheries

was not exceeding the expected annual harvest needed for the rebuilding plan, and to provide any potential new information that may be incorporated into the rebuilding plan.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: June 27, 2003.

**Rebecca Lent,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 061603A]

#### Taking and Importing of Marine Mammals

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

**ACTION:** Notice of affirmative finding renewal.

**SUMMARY:** The Assistant Administrator for Fisheries, NMFS, (Assistant Administrator) renewed the affirmative finding for the Republic of Ecuador under the Marine Mammal Protection Act (MMPA). This renewal allows the continued importation into the United States of yellowfin tuna and yellowfin tuna products harvested in the eastern tropical Pacific Ocean (ETP) after March 3, 1999, by Ecuadorian-flag purse seine vessels or vessels operating under Ecuadorian jurisdiction greater than 400 short tons (362.8 mt) carrying capacity. The affirmative finding renewal was based on review of documentary evidence submitted by the Republic of Ecuador and obtained from the Inter-American Tropical Tuna Commission (IATTC) and the Department of State. This finding remains in effect through March 31, 2004.

**DATES:** Effective April 1, 2003, through March 31, 2004.

**FOR FURTHER INFORMATION CONTACT:** Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA, 90802–4213; Phone 562–980–4000; Fax 562–980–4018.

**SUPPLEMENTARY INFORMATION:** The MMPA, 16 U.S.C. 1361 *et seq.*, as amended by the International Dolphin Conservation Program Act (IDCPA) (Public Law 105–42), allows the entry into the United States of yellowfin tuna harvested by purse seine vessels in the

ETP under certain conditions. If requested by the harvesting nation, the Assistant Administrator will determine whether to make an affirmative finding based upon documentary evidence provided by the government of the harvesting nation, the IATTC, or the Department of State. A finding will remain valid for 1 year (April 1 through March 31) or for such other period as the Assistant Administrator may determine. An affirmative finding applies to tuna and tuna products that were harvested in the ETP by purse seine vessels of the nation after March 3, 1999, the effective date of the IDCPA.

The affirmative finding process requires that the harvesting nation meet several conditions related to compliance with the International Dolphin Conservation Program (IDCP). A nation may provide information regarding compliance with the IDCP directly to NMFS on an annual basis or may authorize the IATTC to release the information to NMFS in years when NMFS will review and consider whether to issue an affirmative finding determination without an application from the harvesting nation.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f) are no longer being met or that a nation is consistently failing to take enforcement actions on violations which diminish the effectiveness of the IDCP. Every 5 years, the government of the harvesting nation must request an affirmative finding and submit the required documentary evidence directly to the Assistant Administrator.

As a part of the annual review process set forth in 50 CFR 216.24(f), the Assistant Administrator considered documentary evidence submitted by the Republic of Ecuador or obtained from the IATTC and the Department of State and determined that Ecuador has met the MMPA's requirements to receive an affirmative finding. After consultation with the Department of State, NMFS renewed the Republic of Ecuador's affirmative finding allowing the continued importation into the United States of yellowfin tuna and products derived from yellowfin tuna harvested in the ETP by Ecuadorian-flag purse seine vessels or vessels under Ecuadorian jurisdiction greater than 400 short tons (362.8 metric tons) carrying capacity after March 3, 1999. This renewal will remain in effect for 1 year (April 1, 2003, through March 31, 2004).

In 2004, the Assistant Administrator will determine whether the Republic of Ecuador is meeting the requirements