

Dated: September 3, 2024.

**Ryan Majerus,**

*Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

## Appendix I

### Scope of the Investigation

The scope of this investigation covers all forms and sizes of ferrosilicon, regardless of grade, including ferrosilicon briquettes. Ferrosilicon is a ferroalloy containing by weight four percent or more iron, more than eight percent but not more than 96 percent silicon, three percent or less phosphorus, 30 percent or less manganese, less than three percent magnesium, and 10 percent or less of any other element. The merchandise covered also includes product described as slag, if the product meets these specifications.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by performing any grinding or any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the ferrosilicon.

Ferrosilicon is currently classifiable under subheadings 7202.21.1000, 7202.21.5000, 7202.21.7500, 7202.21.9000, 7202.29.0010, and 7202.29.0050 of the Harmonized Tariff Schedule of the United States (HTSUS). While the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

## Appendix II

### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Injury Test
- IV. Preliminary Affirmative Determination of Critical Circumstances, In Part
- V. Subsidies Valuation Information
- VI. New Subsidy Allegations
- VII. Use of Facts Otherwise Available and Adverse Inferences
- VIII. Analysis of Programs
- IX. Recommendation

[FR Doc. 2024–20363 Filed 9–9–24; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–489–501, A–489–822, A–489–816, A–489–833]

### Circular Welded Carbon Steel Standard Pipe and Tube Products From the Republic of Türkiye; Welded Line Pipe From the Republic of Türkiye; Certain Oil Tubular Goods From the Republic of Türkiye; and Large Diameter Welded Pipe From the Republic of Türkiye: Preliminary Results of Antidumping Duty Changed Circumstances Review

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that Borusan Birleşik Boru Fabrikalari Sanayi ve Ticaret A.S. (Borusan Boru) is the successor-in-interest to Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (BMB) in the context of the antidumping duty orders on circular welded carbon steel standard pipe and tube products (WLP), certain oil tubular goods (OCTG), and large diameter welded pipe (LDWP) from the Republic of Türkiye (Türkiye). Interested parties are invited to comment on these preliminary results.

**DATES:** Applicable September 10, 2024.

**FOR FURTHER INFORMATION CONTACT:** Ajay K. Menon, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0208.

### SUPPLEMENTARY INFORMATION:

#### Background

On May 15, 1986, March 7, 1986, December 1, 2015, September 10, 2014, and May 2, 2019, respectively, Commerce published in the **Federal Register** antidumping duty orders on standard pipe, WLP, OCTG, and LDWP from Türkiye.<sup>1</sup> On January 9, 2024,

<sup>1</sup> See *Antidumping Duty Order; Welded Carbon Steel Standard Pipe and Tube Products from Turkey*, 51 FR 17784 (May 15, 1986) (*Standard Pipe AD Order*); *Welded Line Pipe from the Republic of Korea and the Republic of Turkey: Antidumping Duty Orders*, 80 FR 75056 (December 1, 2015) (*Welded Line Pipe AD Order*); *Certain Oil Country Tubular Goods from India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods from the Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 53691, 53693 (September 10, 2014) (*OCTG AD Order*); and *Large Diameter Welded Pipe from the Republic of Turkey: Amended Final Affirmative*

Borusan Boru requested that, pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216, and 19 CFR 351.221(c)(3), Commerce conduct expedited changed circumstances reviews (CCR) to determine that Borusan Boru is the successor-in-interest to BMB and accordingly to: (1) assign it the cash deposit rates currently applicable to BMB pursuant to *THE Standard Pipe AD Order* and *Welded Line Pipe AD Order*; and (2) continue to exclude it from *OCTG AD Order* and *LDWP AD Order*.<sup>2</sup> On February 26, 2024, Commerce published the notice initiating these CCRs to consider whether Borusan Boru is the successor-in-interest to BMB.<sup>3</sup>

On April 9, 2024, we issued a supplemental questionnaire to Borusan Boru, to which we received a timely response on April 30, 2024.<sup>4</sup> In its response, Borusan Boru stated that there were no material changes to either the supplier or customer base of BMB as a result of BMB's conversion to Borusan Boru.<sup>5</sup> We received no comments from other interested parties concerning Borusan Boru's request.

### Scope of the Orders

The merchandise covered by these orders is standard pipe, WLP, OCTG, and LDWP from Türkiye. For a complete description of the scope of each of these orders, see the appendix to this notice.<sup>6</sup>

### Preliminary Results

In these CCRs, pursuant to section 751(b) of the Act, Commerce conducted a successor-in-interest analysis. In making a successor-in-interest determination, Commerce examines several factors, including, but not limited to, changes in the following: (1)

*Antidumping Duty Determination and Antidumping Duty Order*, 84 FR 18799 (May 2, 2019) (*LDWP AD Order*).

<sup>2</sup> See Borusan Boru's Letter, "Notification of Company Name Change and Request for Changed Circumstances Review, If Deemed Necessary: Name Change of Borusan Mannesmann Boru Sanayi ve Ticaret A.S. and Borusan Mannesmann Pipe U.S.," dated January 8, 2024 (Borusan Boru's CCR Request).

<sup>3</sup> See *Circular Welded Carbon Steel Standard Pipe and Tube Products from the Republic of Turkey; Welded Line Pipe from the Republic of Turkey; Certain Oil Tubular Goods From the Republic of Turkey; and Large Diameter Welded Pipe from the Republic of Turkey: Notice of Initiation of Antidumping Duty and Countervailing Duty Changed Circumstances Reviews*, 89 FR 14052 (February 26, 2024).

<sup>4</sup> See Borusan Boru's Letter, "Supplemental Questionnaire Response," dated April 30, 2024 (Borusan Boru's SQR).

<sup>5</sup> *Id.*

<sup>6</sup> See *Standard Pipe AD Order*, 51 FR 17784; *Welded Line Pipe AD Order*, 80 FR 75056; *OCTG AD Order*, 79 FR 53691, and *LDWP AD Order*, 84 FR 18799.

management; (2) production facilities; (3) supplier relationships; and (4) customer base.<sup>7</sup> While no single factor or combination of factors will necessarily provide a dispositive indication of a successor-in-interest relationship, generally, Commerce will consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor.<sup>8</sup> Thus, if the record evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, Commerce may assign the new company the cash deposit rate of its predecessor.<sup>9</sup>

In accordance with 19 CFR 351.216, we preliminarily determine that Borusan Boru is the successor-in-interest to BMB, based on the analysis of the information BMB provided in its CCR request and supplemental response regarding the factors listed above.

### Management

Borusan Boru stated that, in November 2023, following the termination of its partnership with Salzgitter Mannesmann GmbH (Salzgitter): (1) Borusan Mannesmann Boru Yatirim Holding A.S. (BMBYH) changed its name to BMB Holding A.S. (BMBH); and (2) BMBH also changed the name of BMB to Borusan Boru. According to Borusan Boru, BMBH continued to control the same percentage of Borusan Boru as it did before the name change and there were no other changes to the shareholders of

<sup>7</sup> See, e.g., *Certain Frozen Warmwater Shrimp from India: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review*, 83 FR 37784 (August 2, 2018) (*Shrimp from India 2018 CCR Prelim*), unchanged in *Certain Frozen Warmwater Shrimp from India: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 83 FR 49909 (October 3, 2018) (*Shrimp from India 2018 CCR Final*).

<sup>8</sup> See, e.g., *Shrimp from India 2018 CCR Preliminary*, 83 FR at 37784, unchanged in *Shrimp from India 2018 CCR Final*, 83 FR at 49909.

<sup>9</sup> See, e.g., *Shrimp from India 2018 CCR Preliminary*, 83 FR at 37784, unchanged in *Shrimp from India 2018 CCR Final*, 83 FR at 49909; see also *Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber from Japan*, 67 FR 58, 59 (January 2, 2002); *Ball Bearings and Parts Thereof from France: Final Results of Changed-Circumstances Review*, 75 FR 34688, 34689 (June 18, 2010); *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Preliminary Results of Antidumping Duty Changed Circumstances Review*, 63 FR 14679 (March 26, 1998), unchanged in *Circular Welded Non-Alloy Steel Pipe from Korea: Final Results of Antidumping Duty Changed Circumstances Review*, 63 FR 20572 (April 27, 1998), in which Commerce found that a company which only changed its name and did not change its operations is a successor-in-interest to the company before it changed its name.

Borusan Boru. Borusan Boru demonstrated that its management did not change as a result of the name change and the only change to its board of directors was to replace the Salzgitter-appointed directors.<sup>10</sup>

### Production Facilities

Borusan Boru stated there were no changes in the company's production facilities as a result of the name change. According to Borusan Boru, it maintains the same headquarters, manufacturing facilities, and its production capacity is unchanged as a result of the name change.<sup>11</sup>

### Supplier Relationships

Borusan Boru stated that the major input in its production is hot-rolled coil (HRC), and it provided a list of its 2023 HRC suppliers as compared to its suppliers through March 31, 2024, demonstrating that Borusan Boru's suppliers are substantially similar to BMB's.<sup>12</sup>

### Customer Base

Borusan Boru stated that there were no changes to its customer base after the name change. Borusan Boru provided a list of its 2023 customers as compared to its customers through March 31, 2024, demonstrating that Borusan Boru's customers are substantially similar to BMB's.<sup>13</sup>

Thus, record evidence, as submitted by Borusan Boru, indicates that Borusan Boru operates as essentially the same business entity as BMB with respect to the subject merchandise.<sup>14</sup> Because Borusan Boru demonstrated that there were no material changes in the ownership and management structure, production facilities, and supplier and customer base as a result of BMB changing its name to Borusan Boru, we preliminarily find that Borusan Boru is the successor-in-interest to BMB.

We preliminarily determine that Borusan Boru is entitled to the same AD cash deposit rates as its predecessor for merchandise subject to the *Standard Pipe AD Order* and *Welded Line Pipe AD Order*. We also preliminarily determine that Borusan Boru is entitled to its predecessor's exclusion from the *OCTG AD Order* and *LDWP AD Order*.<sup>15</sup>

<sup>10</sup> See Borusan Boru's CCR Request at 5 and Attachment 6.

<sup>11</sup> *Id.* at 5–6.

<sup>12</sup> See Borusan Boru's SQR at Exhibit 12.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*; see also Borusan Boru's CCR Request.

<sup>15</sup> BMB was excluded from the *OCTG AD Order* and *LDWP AD Order*. See *Certain Oil Country Tubular Goods From India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods from the*

Consequently, if this determination is unchanged in the final results, Commerce intends to instruct U.S. Customs and Border Protection (CBP) to collect estimated antidumping duties and suspend liquidation of all shipments of merchandise subject to the standard pipe and WLP antidumping duty orders produced and/or exported by Borusan Boru and entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results in the **Federal Register** at the rate assigned to BMB.<sup>16</sup> Further, Commerce will instruct CBP that Borusan Boru is entitled to its predecessor's exclusions from the *OCTG AD Order* and *LDWP AD Order* for entries of subject merchandise produced and exported by Borusan Boru. Lastly, the cash deposit requirements shall remain in effect until further notice.

### Public Comment

Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.<sup>17</sup> Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.<sup>18</sup> All comments are to be filed electronically using Enforcement and Compliance's Antidumping and CVD Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. An electronically filed document must be received successfully in its entirety by

*Socialist Republic of Vietnam: Amended Final Determination of Sales at Less Than Fair Value*, 79 FR 53691, 53693 (September 10, 2014); *Large Diameter Welded Pipe from the Republic of Turkey: Notice of Court Decision Not in Harmony With Amended Final Determination in the Less-Than-Fair-Value Investigation; Notice of Amended Final Determination Pursuant to Court Decision; and Notice of Revocation of Antidumping Duty Order, in Part*, 85 FR 35262, 35264 (June 9, 2020).

<sup>16</sup> The current rate for BMB in the *Standard Pipe AD Order* 5.27 percent. See *Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review; 2021–2022*, 88 FR 85592, 85593 (December 9, 2023). The current rate for BMB in the *Welded Line Pipe AD Order* is 0.00. See *Welded Line Pipe from the Republic of Korea and the Republic of Turkey: Antidumping Duty Orders*, 80 FR 75056, 75057 (December 1, 2015).

<sup>17</sup> See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Final Service Rule*).

<sup>18</sup> See 19 CFR 351.309(c)(2) and (d)(2).

ACCESS by 5 p.m. Eastern Time on the day it is due.<sup>19</sup>

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.<sup>20</sup> Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this CCR. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).<sup>21</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice. Parties should file their case and rebuttal briefs on the record of each of the four AD CCRs related to Borusan Boru's successor-in-interest request.

### Final Results

Consistent with 19 CFR 351.216(e), we will issue the final results of this CCR no later than 270 days after the date on which the review was initiated, or within 45 days if all parties agree to our preliminary finding.

### Notification to Interested Parties

We are issuing this notice in accordance with sections 751(b)(1) and

777(i) of the Act and 19 CFR 351.216(b) and 351.221(b)(1).

Dated: September 3, 2024.

### Ryan Majerus,

*Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

### Appendix

The Scope of the Order on Circular Welded Carbon Steel Standard Pipe and Tube Products From the Republic of Türkiye

The products covered by this order are welded carbon steel standard pipe and tube products with an outside diameter of 0.375 inch or more but not over 16 inches of any wall thickness, and are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, and 7306.30.5090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by this *Order* is dispositive. These products, commonly referred to in the industry as standard pipe or tube, are produced to various ASTM specifications, most notably A-120, A-53 or A-135.

### The Scope of the AD Order on Welded Line Pipe From the Republic of Türkiye

The products covered by the order are circular welded carbon and alloy steel (other than stainless steel) pipe of a kind used for oil or gas pipelines (welded line pipe), not more than 24 inches in nominal outside diameter, regardless of wall thickness, length, surface finish, end finish, or stenciling. Welded line pipe is normally produced to the American Petroleum Institute (API) specification 5L, but can be produced to comparable foreign specifications, to proprietary grades, or can be non-graded material. All pipe meeting the physical description set forth above, including multiple-stenciled pipe with an API or comparable foreign specification line pipe stencil is covered by the scope of this order.

The welded line pipe that is subject to the order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.5000, 7305.12.1030, 7305.12.5000, 7305.19.1030, 7305.19.5000, 7306.19.1010, 7306.19.1050, 7306.19.5110, and 7306.19.5150. The subject merchandise may also enter in HTSUS 7305.11.1060 and 7305.12.1060. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

### The Scope of the AD Order on OCTG From the Republic of Türkiye

The merchandise covered by the order is certain OCTG, which are hollow steel products of circular cross-section, including oil well casing and tubing, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, regardless of end finish (e.g., whether or not plain end, threaded, or threaded and coupled) whether

or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished (including limited service OCTG products) or unfinished (including green tubes and limited service OCTG products), whether or not thread protectors are attached. The scope of the order also covers OCTG coupling stock.

Excluded from the scope of the order are: casing or tubing containing 10.5 percent or more by weight of chromium; drill pipe; unattached couplings; and unattached thread protectors.

The merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.31.10, 7304.29.31.20, 7304.29.31.30, 7304.29.31.40, 7304.29.31.50, 7304.29.31.60, 7304.29.31.80, 7304.29.41.10, 7304.29.41.20, 7304.29.41.30, 7304.29.41.40, 7304.29.41.50, 7304.29.41.60, 7304.29.41.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.61.15, 7304.29.61.30, 7304.29.61.45, 7304.29.61.60, 7304.29.61.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.29.10.30, 7306.29.10.90, 7306.29.20.00, 7306.29.31.00, 7306.29.41.00, 7306.29.60.10, 7306.29.60.50, 7306.29.81.10, and 7306.29.81.50.

The merchandise subject to the order may also enter under the following HTSUS item numbers: 7304.39.00.24, 7304.39.00.28, 7304.39.00.32, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.39.00.76, 7304.39.00.80, 7304.59.60.00, 7304.59.80.15, 7304.59.80.20, 7304.59.80.25, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, 7304.59.80.70, 7304.59.80.80, 7305.31.40.00, 7305.31.60.90, 7306.30.50.55, 7306.30.50.90, 7306.50.50.50, and 7306.50.50.70.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description is dispositive.

### The Scope of the AD Order on LDWP From the Republic of Türkiye

The merchandise covered by this order is welded carbon and alloy steel pipe (other than stainless steel pipe), more than 406.4 mm (16 inches) in nominal outside diameter (large diameter welded pipe), regardless of wall thickness, length, surface finish, grade, end finish, or stenciling. Large diameter welded pipe may be used to transport oil, gas, slurry, steam, or other fluids, liquids, or gases. It may also be used for structural purposes, including, but not limited to, piling. Specifically, not included is large diameter welded pipe produced only to specifications of the American Water Works Association (AWWA) for water and sewage pipe.

Large diameter welded pipe used to transport oil, gas, or natural gas liquids is normally produced to the American Petroleum Institute (API) specification 5L. Large diameter welded pipe may also be

<sup>19</sup> See 19 CFR 351.303(b).

<sup>20</sup> We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

<sup>21</sup> See *APO and Final Service Rule*, 88 FR at 67069.

produced to American Society for Testing and Materials (ASTM) standards A500, A252, or A53, or other relevant domestic specifications, grades and/or standards. Large diameter welded pipe can be produced to comparable foreign specifications, grades and/or standards or to proprietary specifications, grades and/or standards, or can be non-graded material. All pipe meeting the physical description set forth above is covered by the scope of this order, whether or not produced according to a particular standard.

Subject merchandise also includes large diameter welded pipe that has been further processed in a third country, including but not limited to coating, painting, notching, beveling, cutting, punching, welding, or any other processing that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the in-scope large diameter welded pipe.

Excluded from the scope are any products covered by the existing antidumping duty order on welded line pipe from Türkiye. See *Welded Line Pipe from the Republic of Korea and the Republic of Turkey: Antidumping Duty Orders*, 80 FR 75056 (December 1, 2015).

The large diameter welded pipe that is subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.4000, 7305.31.6090, 7305.39.1000 and 7305.39.5000. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

[FR Doc. 2024–20396 Filed 9–9–24; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XE109]

#### Taking of Threatened or Endangered Marine Mammals Incidental to Commercial Fishing Operations; Proposed Issuance of a Permit

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

**ACTION:** Notice; request for comments.

**SUMMARY:** NMFS is proposing to issue a permit to authorize the incidental, but not intentional, take of specific Endangered Species Act (ESA)-listed marine mammal species or stocks under the Marine Mammal Protection Act (MMPA), in the Washington (WA)/Oregon (OR)/California (CA) sablefish pot fishery.

**DATES:** Comments on this action and supporting documents must be received by October 10, 2024.

**ADDRESSES:** You may submit comments on the proposed permit and the preliminary determination supporting the permit, identified by NOAA–NMFS–2024–0087, through the Federal e-Rulemaking Portal:

1. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2024–0087 in the Search box.

2. Click the “Comment” icon, and complete the required fields.

3. Enter or attach your comments.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous).

The preliminary determination supporting the permit is available on the internet at <https://www.regulations.gov/docket/NOAA-NMFS-2024-0087>. Other supporting information is available on the internet including: recovery plans for the ESA-listed marine mammal species, <https://www.fisheries.noaa.gov/national/endangered-species-conservation/recovery-species-under-endangered-species-act>; 2024 MMPA List of Fisheries (LOF), <https://www.fisheries.noaa.gov/national/marine-mammal-protection/list-fisheries-summary-tables>; the most recent Marine Mammal Stock Assessment Reports (SAR) by region, <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>, and stock, <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-species-stock>; and Take Reduction Teams (TRT) and Plans, <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-take-reduction-plans-and-teams>.

**FOR FURTHER INFORMATION CONTACT:** Dan Lawson, West Coast Region, (206) 526–4740, [Dan.Lawson@noaa.gov](mailto:Dan.Lawson@noaa.gov), or Jaclyn Taylor, NMFS Office of Protected Resources, (301) 427–8402, [Jaclyn.Taylor@noaa.gov](mailto:Jaclyn.Taylor@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The MMPA requires NMFS to authorize the incidental take of ESA-listed marine mammals in commercial fisheries provided it can make the following determinations: (1) the incidental mortality and serious injury (M/SI) from commercial fisheries will have a negligible impact on the affected species or stocks; (2) a recovery plan for all affected species or stocks of threatened or endangered marine mammals has been developed or is being developed pursuant to the ESA; and (3) where required under MMPA section 118, a take reduction plan (TRP) has been developed or is being developed, a monitoring program is established, and vessels participating in the fishery are registered. We have made a preliminary determination that the Category II WA/OR/CA sablefish pot fishery meets these three requirements and propose to issue a permit to the fishery to authorize the incidental take of ESA-listed marine mammal species or stocks (Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA stocks of humpback whale) under the MMPA for a period of 3 years. We solicit public comments on the proposed issuance of the permit and the underlying preliminary determination.

#### Background

The MMPA LOF classifies each commercial fishery as a Category I, II, or III fishery based on the level of mortality and injury of marine mammals occurring incidental to each fishery as defined in 50 CFR 229.2. Section 118(c)(2) of the MMPA requires fishing vessels that operate in Category I and II fisheries to register with NMFS and are subsequently authorized to incidentally take marine mammals during commercial fishing operations. However, that authorization is limited to those marine mammals that are not listed as threatened or endangered under the ESA. Section 118(a)(2) of the MMPA, 16 U.S.C. 1387(a)(2), also requires an additional authorization at section 101(a)(5) of the MMPA, 16 U.S.C. 1371, for incidental taking of ESA-listed marine mammals. Section 101(a)(5)(E) of the MMPA, 16 U.S.C. 1371, states that NMFS, as delegated by the Secretary of Commerce, for a period of up to 3 consecutive years shall allow the incidental, but not intentional, taking of marine mammal species or stocks designated as depleted because of their listing as an endangered species or threatened species under the ESA, 16 U.S.C. 1531 *et seq.*, by persons using vessels of the United States, while engaging in commercial fishing operations, if NMFS makes certain