

**Billing Code 4333-15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS-R8-ES-2019-N045; FF08EVEN00- FXES111608MSSO0]**

**Marine Mammal Protection Act; Stock Assessment Report for the Southern Sea Otter in California**

**AGENCY:** Fish and Wildlife Service, Interior.

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

**SUMMARY:** In accordance with the Marine Mammal Protection Act of 1972, as amended, we, the U.S. Fish and Wildlife Service, have developed a draft revised marine mammal stock assessment report (SAR) for the southern sea otter stock in the State of California. We now make the draft SAR available for public review and comment.

**DATES:** We will consider comments that are received or postmarked on or before **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** *Document availability:* If you wish to review the draft revised stock assessment report for southern sea otter, you may obtain a copy from our website at <http://www.fws.gov/ventura>. Alternatively, you may contact the Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003 (telephone: 805-644-1766).

*Comment submission:* If you wish to comment on the draft SAR, you may submit your comments in writing by any one of the following methods:

- *U.S. mail:* Field Supervisor, at the above address;
- *Hand delivery:* Ventura Fish and Wildlife Office at the above address;
- *Fax:* 805-644-3958; or
- *Email:* [fw8ssostock@fws.gov](mailto:fw8ssostock@fws.gov).

**FOR FURTHER INFORMATION CONTACT:** Lilian Carswell, at the above street address, by telephone (805-677-3325), or by email ([Lilian\\_Carswell@fws.gov](mailto:Lilian_Carswell@fws.gov)). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:** We announce the availability for review and comment of a draft revised marine mammal stock assessment report (SAR) for the southern sea otter (*Enhydra lutris nereis*) stock in the State of California.

## **Background**

Under the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 et seq.), and its implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 18, the U.S. Fish and Wildlife Service (Service) regulates the taking; import; and, under certain conditions, possession; transportation; purchasing; selling; and offering for sale, purchase, or export, of marine mammals. One of the MMPA's goals is to ensure that stocks of marine mammals occurring in waters under U.S. jurisdiction do not experience a level of human-caused mortality and serious injury that is likely to cause the stock to be reduced below its *optimum sustainable population level* (OSP). OSP is defined under the MMPA as "the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element" (16 U.S.C. 1362(9)).

To help accomplish the goal of maintaining marine mammal stocks at their OSPs, section 117 of the MMPA requires the Service and the National Marine Fisheries Service (NMFS) to prepare a SAR for each marine mammal stock that occurs in waters under U.S. jurisdiction. A SAR must be based on the best scientific information available; therefore, we prepare it in consultation with regional scientific review groups established under section 117(d) of the MMPA. Each SAR must include:

1. A description of the stock and its geographic range;
2. A minimum population estimate, current and maximum net productivity rate, and current population trend;
3. An estimate of the annual human-caused mortality and serious injury by source and, for a strategic stock, other factors that may be causing a decline or impeding

recovery;

4. A description of commercial fishery interactions;
5. A categorization of the status of the stock; and
6. An estimate of the *potential biological removal* (PBR) level.

The MMPA defines the PBR as “the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its OSP” (16 U.S.C. 1362(20)). The PBR is the product of the minimum population estimate of the stock ( $N_{\min}$ ); one-half the maximum theoretical or estimated net productivity rate of the stock at a small population size ( $R_{\max}$ ); and a recovery factor ( $F_r$ ) of between 0.1 and 1.0, which is intended to compensate for uncertainty and unknown estimation errors. This can be written as:

$$\text{PBR} = (N_{\min})^{1/2} \text{ of the } R_{\max} (F_r)$$

Section 117 of the MMPA also requires the Service and NMFS to review the SARs (a) at least annually for stocks that are specified as strategic stocks, (b) at least annually for stocks for which significant new information is available, and (c) at least once every 3 years for all other stocks. If our review of the status of a stock indicates that it has changed or may be more accurately determined, then the SAR must be revised accordingly.

A *strategic stock* is defined in the MMPA as a marine mammal stock “(a) for which the level of direct human-caused mortality exceeds the PBR level; (b) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) [the “ESA”], within the foreseeable future; or (c) which is listed as a threatened or endangered species under

the ESA, or is designated as depleted under [the MMPA].” 16 U.S.C. 1362(19).

### **Stock Assessment Report History for the Southern Sea Otter in California**

The southern sea otter SAR was last revised in 2017. Because the southern sea otter is listed as a threatened species under the ESA, the stock is considered strategic. Therefore, the Service reviews the stock assessment annually. In 2018, Service review concluded that revision was not warranted because the status of the stock had not changed, nor could it be more accurately determined. However, upon review in 2019, the Service determined that revision was warranted because the status of the stock may be subject to change. The range-wide population index (i.e., population level over a consecutive 3-year period) reached the ESA threshold (i.e., exceeding 3,090 animals) for delisting consideration identified in the Southern Sea Otter Recovery Plan (U.S. Fish and Wildlife Service 2003). As a result, the Service will initiate an ESA status review to determine whether delisting of the southern sea otter is appropriate, which could result in a change to the status of the stock under the MMPA.

### **Summary of Draft Revised Stock Assessment Report for the Southern Sea Otter in California**

The following table summarizes some of the information contained in the draft revised southern sea otter SAR, which includes the stock's  $N_{\min}$ ,  $R_{\max}$ ,  $F_r$ , PBR, annual estimated human-caused mortality and serious injury, and status. After consideration of any public comments we receive, the Service will revise and finalize the SAR, as appropriate. We will publish a notice of availability and summary of the final SAR, including responses to submitted comments.

**SUMMARY—DRAFT REVISED STOCK ASSESSMENT REPORT, SOUTHERN SEA  
OTTER IN CALIFORNIA**

<b>Southern Sea Otter Stock</b>	<b>N<sub>MIN</sub></b>	<b>R<sub>MAX</sub></b>	<b>F<sub>R</sub></b>	<b>PBR</b>	<b>Annual estimated human-caused mortality and serious injury</b>	<b>Stock status</b>
Mainland	2,986	0.06	0.1	9.24	Figures by specific source, where known, are provided in the SAR.	Strategic
San Nicolas Island	95	0.13	0.1	0.62		
Summary	3,081	--	--	9		

**Public Availability of Comments**

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**References**

In accordance with the MMPA, we include in this notice a list of the information sources and public reports upon which we based the SAR:

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**Authority**

The authority for this action is the Marine Mammal Protection Act of 1972, as amended  
(16 U.S.C. 1361 et al.)

Dated: \_\_\_\_\_.

\_\_\_\_\_  
Margaret E. Everson

*Principal Deputy Director,*

*Exercising the Authority of the Director for the U.S. Fish and Wildlife Service.*