

contained in the Issues and Decision Memorandum.⁴

Ministerial Error

Section 751(h) of the Tariff Act of 1930, as amended (Act), and 19 CFR 351.224(f) define a “ministerial error” as an error “in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any similar type of unintentional error which the Secretary considers ministerial.” We have analyzed Jiangsu RC’s ministerial error comments and have determined, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), that we made ministerial errors in our calculations for the *Final Results*. For the *Final Results*, the Department identified and valued five labor inputs to use in calculating the surrogate value for Jiangsu RC.⁵ In calculating the surrogate value, the Department inadvertently double-counted two of these five labor inputs.⁶

In accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Results*. The revised weighted-average dumping margins are detailed below.

Amended Final Results of Review

As a result of correcting this ministerial error, we determine that the following weighted-average dumping margins exist for the POR:⁷

Exporter	Weighted-average dumping margin (percent)
Jiangsu RC Import & Export Co., Ltd	189.81
PRC-wide Rate	189.81

Disclosure

We will disclose the calculations performed for these amended final results to interested parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department shall determine, and U.S.

Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. For customers or importers of Jiangsu RC for which we do not have entered value, we calculated customer-/importer-specific antidumping duty assessment amounts based on the ratio of the total amount of dumping duties calculated for the examined sales of subject merchandise to the total sales quantity of those same sales. For customers or importers of Jiangsu RC for which we received entered-value information, we have calculated customer/importer-specific antidumping duty assessment rates based on customer/importer-specific ad valorem rates in accordance with 19 CFR 351.212(b)(1).

The Department announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, including, in this case, Suzhou Guoxin Group Wang Shun Imp. and Exp. Co., Ltd. (Guoxin) and Winnsen Industry Co., Ltd. (Winnsen), the Department will instruct CBP to liquidate such entries at the revised PRC-wide rate of 189.81 percent.⁸ In addition, for companies for which the Department determined that the exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter’s case number (*i.e.*, at that exporter’s rate) will be liquidated at the PRC-wide rate. We intend to issue assessment instructions to CBP 15 days after the date of publication of these amended final results of review.

Notification

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary

⁸The Department determined that Guoxin is not eligible for a separate rate and that Winnsen, whose request for a review was timely withdrawn, had not been assigned a separate rate.

information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

These amended final results of review are issued and published in accordance with section 751(h) of the Tariff Act of 1930 Act and 19 CFR 351.224(f).

Dated: April 10, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015-08894 Filed 4-16-15; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-015]

53-Foot Domestic Dry Containers From the People’s Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Commerce.

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of 53-foot domestic dry containers (domestic dry containers) from the People’s Republic of China (PRC) as provided in section 705 of the Tariff Act of 1930, as amended (the Act). For information on the estimated subsidy rates, see the “Final Determination” section of this notice.

DATES: *Effective:* April 17, 2015.

FOR FURTHER INFORMATION CONTACT: Yasmin Nair, David Cordell (Singamas), or Ilissa Shefferman (CIMC), AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-3813, (202) 482-0408 or (202) 482-4684, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 2014, the Department published the preliminary determination of the countervailing duty (CVD) investigation of domestic dry containers from the PRC in the **Federal Register**.¹ On September 30,

¹ See *Countervailing Duty Investigation of 53-Foot Domestic Dry Containers from the People’s*

⁴ See Issues and Decision Memorandum.

⁵ See Calculation Memorandum at Attachment I.

⁶ *Id.*

⁷ See memoranda, “Decision Memorandum for the Amended Final Results of Antidumping Duty Administrative Review; 2012–2013” and “Calculation Memorandum for the Amended Final Results of Antidumping Duty Administrative Review; 2012–2013” dated concurrently with this Notice.

2014, China International Marine Containers (Group) Co., Ltd., Guangdong Xinhui CIMC Special Transportation Equipment Co., Ltd., Nantong CIMC-Special Transportation Equipment Manufacture Co., Ltd., Qingdao CIMC Container Manufacture Co., Ltd., Xinhui CIMC Wood Co., Ltd., and Xinhui CIMC Container Co., Ltd. (collectively "CIMC") submitted ministerial error comments regarding the *Preliminary Determination*. On October 9, 2014, the Department responded to these comments, stating that the issues raised by CIMC were methodological in nature and did not constitute ministerial errors within the meaning of the Department's regulations.²

On November 6, 2014, the Department issued a post-preliminary analysis with respect to CIMC, as well as Hui Zhou Pacific Container Co., Ltd., Qingdao Pacific Container Co., Ltd., and Qidong Singamas Energy Equipment Co., Ltd. (collectively, "Singamas").³

Between November 12, 2014 and November 19, 2014, the Department conducted onsite verification of CIMC's, Singamas's and the Government of the People's Republic of China's (GOC) questionnaire responses.⁴

Republic of China: Preliminary Determination and Alignment of Final Determination with Final Antidumping Duty Determination, 79 FR 58320 (September 29, 2014) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

² See Memorandum to Richard Weible, Director, Office VI, AD/CVD Operations, Enforcement and Compliance, "Countervailing Duty Investigation of 53-Foot Domestic Dry Containers from the People's Republic of China: Allegation of a Ministerial Error in the Preliminary Determination," dated October 9, 2014, at 3.

³ See Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, "Countervailing Duty (CVD) Investigation of 53-Foot Domestic Dry Containers from the People's Republic of China (PRC): Post-Preliminary Analysis Memorandum," dated November 6, 2014.

⁴ See Memoranda to Richard Weible, Director, Office VI, AD/CVD Operations, Enforcement and Compliance, entitled "Countervailing Duty Investigation of 53-Foot Domestic Dry Containers from the People's Republic of China (PRC): Verification Report of China International Marine Containers (Group) Co., Ltd. (CIMC Group) and its cross-owned affiliates CIMC Containers Holding Co., Ltd. (CIMC Holding); CIMC Wood Development Co., Ltd. (CIMC Wood); Guangdong Xinhui CIMC Special Transportation Equipment Co., Ltd. (Xinhui Special); Qingdao CIMC Containers Manufacture Co., Ltd. (Qingdao CIMC); Nantong CIMC-Special Transportation Equipment Manufacture Co., Ltd. (Nantong CIMC); Xinhui CIMC Container Co., Ltd. (Xinhui Container); and Xinhui CIMC Wood Co., Ltd. (Xinhui Wood) (collectively, CIMC)," dated January 14, 2015; "Countervailing Duty Investigation of 53-Foot Domestic Dry Containers from the People's Republic of China (PRC): Verification Report of Hui Zhou Pacific Container Co., Ltd. (HPCL), Qingdao Pacific Container Co., Ltd., (QPCL) and Qidong Singamas Energy Equipment Co., Ltd., (QSCL) and their holding

On February 6, 2015, CIMC, Singamas and its holding company, Singamas Container Holdings Limited (Singamas Holding); the GOC; Petitioner; and Crowley Maritime Corporation and Crowley Liner Services, Inc. and Sea Star Line, LLC (hereafter, collectively, "Crowley") filed case briefs. On February 12, 2015, CIMC, Singamas, Singamas Holding, the GOC, Petitioner, Crowley, and J.B. Hunt Transport, Inc. (J.B. Hunt) timely filed rebuttal briefs. Pursuant to the Department's request, Crowley and Petitioner filed additional scope comments to the record of this proceeding.⁵

Period of Investigation

The period of investigation (POI) is January 1, 2013, through December 31, 2013.

Scope Comments

The Department received comments regarding the scope of this investigation from interested parties. As detailed in the accompanying Issues and Decision Memorandum,⁶ we have not made any changes to the scope.

Scope of the Investigation

The merchandise subject to investigation is closed (*i.e.*, not open top) van containers exceeding 14.63 meters (48 feet) but generally measuring 16.154 meters (53 feet) in exterior length, which are designed for the intermodal transport⁷ of goods other than bulk liquids within North America primarily by rail or by road vehicle, or by a combination of rail and road vehicle (domestic containers). Imports of the subject merchandise are provided for under subheading 8609.00.0000 of the Harmonized Tariff Schedule of the

company, Singamas Container Holdings Limited (SCHL) (collectively, "Singamas"), dated December 22, 2014; and "Countervailing Duty Investigation of 53-Foot Domestic Dry Containers from the People's Republic of China (PRC): Verification Report of the Government of the People's Republic of China (GOC)," dated December 22, 2014.

⁵ On April 2, 2015, the Department instructed all interested parties to this investigation that filed scope comments on the record of the companion AD investigation to file those comments and rebuttals on the record of this instant investigation.

⁶ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, "Countervailing Duty Investigation of 53-Foot Domestic Dry Containers from the People's Republic of China: Issues & Decision Memorandum for the Final Determination," dated concurrently with this notice (Issues and Decision Memorandum).

⁷ "Intermodal transport" refers to a movement of freight using more than one mode of transportation, most commonly on a container chassis for on-the-road transportation and on a rail car for rail transportation.

United States (HTSUS). Imports of the subject merchandise which meet the definition of and requirements for "instruments of international traffic" pursuant to 19 U.S.C. 1322 and 19 CFR 10.41a may be classified under subheading 9803.00.50, HTSUS. For a complete description of the scope of the investigation, see Appendix II to this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum, which is hereby incorporated in, and adopted by, this notice.⁸ This memorandum also details the changes we made since the *Preliminary Determination* to the subsidy rates calculated for the mandatory respondents and all other producers/exporters. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content. A list of the issues that parties have raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice as Appendix I.

Use of Facts Otherwise Available, Including Adverse Inferences

For purposes of this final determination, the Department relied, in part, on facts available and, because one or more respondents did not act to the best of their ability in responding to the Department's requests for information, drew an adverse inference where appropriate in selecting from among the facts otherwise available.⁹ For further information, see the section "Use of Facts Otherwise Available and Adverse Inferences," in the Issues and Decision Memorandum.

⁸ See Issues and Decision Memorandum.

⁹ See sections 776(a) and (b) of the Act.

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, and minor corrections presented at verification, we made certain changes to CIMC's and Singamas's subsidy rate calculations since the *Preliminary Determination*. For a discussion of these changes, see the Issues and Decision Memorandum and the Final Analysis Memoranda, all dated concurrently with this notice.¹⁰

Final Determination

For each of the subsidy programs found countervailable, we determine that there is a subsidy, *i.e.*, a financial contribution and benefit within the meaning of section 771(5) of the Act, and that the subsidy is specific within the meaning of section 771(5A) of the Act. For further analysis, see the Issues and Decision Memorandum.

We determine the total estimated net countervailable subsidy rates to be:

Exporter/producer	Subsidy rate (%)
CIMC	28.00
Singamas	17.13
All-Others	22.57

Disclosure

We intend to disclose to parties the calculations performed in this proceeding within five days of the public announcement of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of domestic dry containers from the PRC that were entered or withdrawn from warehouse, for consumption on or after September 29, 2014, the date of publication of the *Preliminary Determination* in the **Federal Register**.¹¹ In accordance with section 703(d) of the

Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after January 27, 2015, but to continue the suspension of liquidation of all entries from September 29, 2014, through January 26, 2015.

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated individual estimated countervailable subsidy rates for the individually-investigated producers/exporters of the subject merchandise, CIMC and Singamas. Section 705(c)(5)(A)(i) of the Act states that for companies not individually investigated, we will determine an "all-others" rate equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable rates, and any rates determined entirely under section 776 of the Act. As described above, neither of the mandatory respondents' subsidy rates was zero or *de minimis* or was calculated entirely under section 776 of the Act.

Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the "all-others" rate by weight averaging the rates of the two individually investigated respondents, because doing so risks disclosure of proprietary information. Therefore, for the "all-others" rate, we calculated a simple average of the rates of CIMC and Singamas.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of our final affirmative CVD determination. Because the final determination in this proceeding is affirmative, the ITC will make its final determination, in accordance with section 705(b)(2)(B) of the Act, as to whether the domestic industry in the United States is materially injured or threatened with material injury, or whether the establishment of an industry in the United States is materially retarded, by reason of imports of domestic dry containers from the PRC no later than 45 days after our final determination. If the ITC issues a final affirmative injury determination, we will issue a CVD order and reinstate the suspension of liquidation under section 706(a) of the Act, and will require a cash deposit of estimated CVDs for appropriate entries of merchandise in the amounts indicated above. If the ITC determines that material injury, threat of material

injury, or material retardation of the establishment of an industry does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled. We are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to APOs of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: April 10, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope Comments
- IV. Scope of the Investigation
- V. Application of the Countervailing Duty Law to Importers From the PRC
- VI. Use of Facts Otherwise Available and Adverse Inferences
- VII. Analysis of Comments

CIMC Issues

- Comment 1: The Department should correct the Ad Valorem subsidy rate with respect to loans that CIMC received during the POI from the China Export-Import Bank
- Comment 2: Whether CIMC is a State owned enterprise (SOE) such that it could benefit from the loans to SOEs program
- Comment 3: Whether the CIMC Preferential Lending to SOEs loan program is specific
- Comment 4: Whether the Department should apply adverse facts available in calculating the benefit CIMC received under the preferential lending to SOEs program

¹⁰ See Memorandum to Angelica Townshend, Program Manager, from Ilissa Kabak Shefferman, International Trade Compliance Analyst, entitled "Countervailing Duty Investigation of 53-Foot Domestic Dry Containers (Domestic Dry Containers) from the People's Republic of China: Final Determination Calculations for CIMC," dated April 10, 2015; and Memorandum to Angelica Townshend, Program Manager, from David Cordell, International Trade Compliance Analyst, entitled "Countervailing Duty Investigation of 53-Foot Domestic Dry Containers (Domestic Dry Containers) from the People's Republic of China: Final Determination Calculations for Singamas," dated April 10, 2015.

¹¹ See *Preliminary Determination*, 79 FR at 58321.

Singamas Issues

Comment 5: The sales value to be used as denominators to calculate subsidy rates with respect to Singamas

Overlapping Issues

Comment 6: Hot-Rolled Steel Sheet and Plate Less than Adequate Remuneration (LTAR) and whether the Department should reverse its findings regarding the hot-rolled LTAR benchmark.

- (A) Whether the Department should use domestic Chinese steel prices on the record to determine whether the GOC provided hot-rolled steel for LTAR.
- (B) Whether the Department properly found that “authorities” provided a benefit in the form of the provision of a good for LTAR
- (C) Whether the Department properly found “Specificity”
- (D) Benchmarks and calculation of benefit

Comment 7: Export Buyer’s Credits Program
 Comment 8: Scope Exclusion Request VIII. Recommendation

Appendix II**Scope of the Investigation**

The merchandise subject to investigation is closed (*i.e.*, not open top) van containers exceeding 14.63 meters (48 feet) but generally measuring 16.154 meters (53 feet) in exterior length, which are designed for the intermodal transport¹² of goods other than bulk liquids within North America primarily by rail or by road vehicle, or by a combination of rail and road vehicle (domestic containers). The merchandise is known in the industry by varying terms including “53-foot containers,” “53-foot dry containers,” “53-foot domestic dry containers,” “domestic dry containers” and “domestic containers.” These terms all describe the same article with the same design and performance characteristics. Notwithstanding the particular terminology used to describe the merchandise, all merchandise that meets the definition set forth herein is included within the scope of this investigation.

Domestic containers generally meet the characteristic for closed van containers for domestic intermodal service as described in the American Association of Railroads (AAR) Manual of Standards and Recommended Practices Intermodal Equipment Manual Closed Van Containers for Domestic Intermodal Service Specification M 930 Adopted: 1972; Last Revised 2013 (AAR Specifications) for 53-foot and 53-foot high cube containers. The AAR Specifications generally define design, performance and testing requirements for closed van containers, but are not dispositive for purposes of defining subject merchandise within this scope definition. Containers which may not fall precisely within the AAR Specifications or any successor equivalent specifications are included within the scope definition of the subject merchandise if they have the exterior dimensions referenced

¹² “Intermodal transport” refers to a movement of freight using more than one mode of transportation, most commonly on a container chassis for on-the-road transportation and on a rail car for rail transportation.

below, are suitable for use in intermodal transportation, are capable of and suitable for double-stacking¹³ in intermodal transportation, and otherwise meet the scope definition for the subject merchandise.

Domestic containers have the following actual exterior dimensions: An exterior length exceeding 14.63 meters (48 feet) but not exceeding 16.154 meters (53 feet); an exterior width of between 2.438 meters and 2.60 meters (between 8 feet and 8 feet 6³/₈ inches); and an exterior height of between 2.438 meters and 2.908 meters (between 8 feet and 9 feet 6¹/₂ inches), all subject to tolerances as allowed by the AAR Specifications. In addition to two frames (one at either end of the container), the domestic containers within the scope definition have two stacking frames located equidistant from each end of the container, as required by the AAR Specifications. The stacking frames have four upper handling fittings and four bottom dual aperture handling fittings, placed at the respective corners of the stacking frames. Domestic containers also have two forward facing fittings at the front lower corners and two downward facing fittings at the rear lower corners of the container to facilitate chassis interface.

All domestic containers as described herein are included within this scope definition, regardless of whether the merchandise enters the United States in a final, assembled condition, or as an unassembled kit or substantially complete domestic container which requires additional manipulation or processing after entry into the United States to be made ready for use as a domestic container.

The scope of this investigation excludes the following items: (1) Refrigerated containers; (2) trailers, where the cargo box and rear wheeled chassis are of integrated construction, and the cargo box of the unit may not be separated from the chassis for further intermodal transport; (3) container chassis, whether or not imported with domestic containers, but the domestic containers remain subject merchandise, to the extent they meet the written description of the scope. Imports of the subject merchandise are provided for under subheading 8609.00.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Imports of the subject merchandise which meet the definition of and requirements for “instruments of international traffic” pursuant to 19 U.S.C. 1322 and 19 CFR 10.41a may be classified under subheading 9803.00.50, HTSUS. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise as set forth herein is dispositive.

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¹³ “Double-stacking” refers to two levels of intermodal containers on a rail car, one on top of the other.

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648–XD789

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Marine Corps Training Exercises at Brant Island Bombing Target and Piney Island Bombing Range, USMC Cherry Point Range Complex, North Carolina

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

ACTION: Notice of issuance of a Letter of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a Letter of Authorization (LOA) has been issued to the U.S. Marine Corps (Marine Corps) to take marine mammals, by harassment, incidental to training operations at the Brant Island Bombing Target (BT–9) and Piney Island Bombing Range (BT–11) located within the Marine Corps’ Cherry Point Range Complex in Pamlico Sound, NC.

DATES: Effective from March 13, 2015, through March 12, 2020.

ADDRESSES: The LOA and supporting documentation may be obtained by writing to Jolie Harrison, Division Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East West-Highway, Silver Spring, MD 20910, calling the contact listed under **FOR FURTHER INFORMATION CONTACT**, or visiting the Internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental/military.htm>. Documents cited in this notice may also be viewed, by appointment, during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:**Background**

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued. Under the MMPA, the term