

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-570-016]

**Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2016-2017**

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

**SUMMARY:** The Department of Commerce (Commerce) determines that manufacturers/exporters of certain passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (China), sold subject merchandise in the United States at prices below normal value (NV) during the period of review (POR) August 1, 2016, through July 31, 2017.

**DATES:** Applicable April 26, 2019

**FOR FURTHER INFORMATION CONTACT:** Toni Page, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1398.

**SUPPLEMENTARY INFORMATION:****Background**

Commerce published the *Preliminary Results* of this administrative review on September 11, 2018.<sup>1</sup> We invited interested parties to comment on the *Preliminary Results*. Subsequent to the *Preliminary Results*, several separate rate entities sought to withdraw their requests for administrative review.<sup>2</sup>

<sup>1</sup> See *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Rescission, in Part; 2016-2017*, 83 FR 45893 (September 11, 2018) and accompanying Preliminary Decision Memorandum (PDM) (*Preliminary Results*).

<sup>2</sup> See Winrun's Letter, "Withdrawal of Request for AD Administrative Review and Request for Rescission Passenger Vehicle and Light Truck Tires from China," dated October 2, 2018 (Winrun Withdrawal Request); see also (1) Qingdao Sentury Tyre Co.; (2) Shandong Linglong Tyre Co.; (3) Hongkong Tiancheng Investment & Trading Co., Limited; (4) Shandong New Continent Tyre Co., Ltd.; (5) YC Rubber Co. (North America) LLC; and (6) Sutong Tire Resources, Inc.'s Letter, "GDLSK Respondents' Request to Extend Time to File Withdrawal of Review Requests and Request for Rescission of Review in the 2nd Administrative Review of the Antidumping Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China (POR 2: 8/1/16-7/31/17)," dated October 25, 2018 (Sentury *et al.* Withdrawal Requests); Shandong Hengyu's Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Withdrawal

Between November 6 and 8, 2018, the petitioner (United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC (the USW)); Zhaoqing Junhong Co., Ltd (Junhong) (mandatory respondent); and various separate rate entities submitted case briefs.<sup>3</sup> On November

of Request for Administrative Review and Request for Rescission," dated November 6, 2018 (Shandong Hengyu Withdrawal Request); Qingdao Odyking Tyre Co., Ltd., Shandong Shuangwang Rubber Co., Ltd., and Shouguang Firemax Tyre Co., Ltd.'s Letter, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Withdrawal of Request for Administrative Review and Request for Rescission," dated November 6, 2018 (Odyking *et al.* Withdrawal Requests); and American Pacific Industries, Inc.'s Letter, "Passenger Vehicle and Light Truck Tires from People's Republic of China Re: Withdrawal of Request for Administrative Review," dated November 9, 2018 (API Withdrawal Request).

<sup>3</sup> See Petitioner's Case Brief, "Case Brief Submitted on Behalf of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC," dated November 8, 2018 (Petitioner's Case Brief); see also Junhong's Case Brief, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Case Brief of Zhaoqing Junhong Co., Ltd.," dated November 8, 2018 (Junhong's Case Brief); Crown International Corporation, "Passenger Vehicle and Light Truck Tires from the People's Republic of China, 2nd Administrative Review; Comments of Crown International Corporation on the Preliminary Results," dated November 8, 2018 (Crown's Comments); Hankook Tire China Co., Ltd., "Passenger Vehicle and Light Truck Tires from China, Case No. A-570-016: Letter in Lieu of Case Brief," dated November 8, 2018 (Hankook's Comments); Hongkong Tiancheng Investment & Trading Co., Limited, "HK Tiancheng Case Brief in the 2nd Administrative Review of the Antidumping Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China (POR 2: 8/1/16-7/31/17)," dated November 8, 2018 (HK Tiancheng's Case Brief); Shandong Hengyu Science & Technology Co., Ltd., "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China—Case Brief," dated November 6, 2018 (Shandong Hengyu's Case Brief); Shandong Anchi Tyres Co., Ltd., Shandong Longyue Rubber Co., Ltd., Shandong Province Sanli Tire Manufactured Co., Ltd., and Mayrun Tyre (Hong Kong) Limited Comments, "Passenger Vehicle and Light Truck Tires from China Comments in Lieu of Case Brief," dated November 8, 2018 (Shandong Anchi *et al.*'s Comments); Shandong Wanda Boto Tyre Co. Ltd. (Boto) and ITG Voma Corporation (ITG Voma) Case Brief, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Case Brief of Shandong Wanda Boto Tyre Co. Ltd. and ITG Voma Corporation," dated November 8, 2018 (Boto's & ITG Voma's Case Brief); Qingdao Sentury Tyre Co., Shandong Linglong Tyre Co., Hongkong Tiancheng Investment & Trading Co., Limited, Shandong New Continent Tyre Co., Ltd., YC Rubber Co. (North America) LLC, and Sutong Tire Resources, Inc., "GDLSK Clients' Case Brief in the 2nd Administrative Review of the Antidumping Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China (POR 2: 8/1/16-7/31/17)," dated November 8, 2018 (Sentury *et al.*'s Case Brief); and Winrun Tyre Co., Ltd., "Winrun's Case Brief: Passenger Vehicle and Light Truck Tires from China," dated November 8, 2018 (Winrun's Case Brief).

15, 2018, certain separate rate respondents submitted rebuttal briefs.<sup>4</sup>

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.<sup>5</sup> This extended the deadline for the final results to February 19, 2019. On January 31, 2019, Commerce fully extended the deadline for the final results until April 19, 2019.<sup>6</sup>

**Scope of the Order**

The scope of the order is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation.<sup>7</sup> Merchandise covered by this order is classifiable under subheadings 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, 4011.20.50.10, 4011.99.45.10, 4011.99.45.50, 4011.99.85.10, 4011.99.85.50, 8708.70.45.45, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

<sup>4</sup> See Winrun's Letter, "Letter In Lieu Of Rebuttal Brief Passenger Vehicle and Light Truck Tires from China," dated November 15, 2018 (Winrun's Rebuttal Comments); see also Shandong Anchi *et al.*'s Letter, "Passenger Vehicle and Light Truck Tires from China-Rebuttal Letter in Lieu of Brief," dated November 15, 2018 (Shandong Anchi *et al.*'s Rebuttal Comments); and Sentury *et al.*'s Rebuttal Brief, "GDLSK Clients' Rebuttal Brief in the 2nd Administrative Review of the Antidumping Duty Order on Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China (POR 2: 8/1/16-7/31/17)," dated November 15, 2018 (Sentury *et al.*'s Rebuttal Brief).

<sup>5</sup> See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

<sup>6</sup> See Memorandum, "2016-2017 Antidumping Duty Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated January 31, 2019.

<sup>7</sup> For a complete description of the scope of the order, see "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the 2016-2017 Antidumping Duty Administrative Review," (April 19, 2019) (Issues and Decision Memorandum) at "Scope of the Order."

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs are addressed in the accompanying Issues and Decision Memorandum, which is hereby adopted by this notice.<sup>8</sup> The issues are identified in Appendix I to this notice. 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 in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://trade.gov/enforcement/frn/index.html>. The signed Issues and Decision Memorandum and electronic versions of the Issues and Decision Memorandum are identical in content.

**Final Determination of No Shipments**

In the *Preliminary Results*, Commerce preliminarily determined that Federal Tire (Jiangxi), Ltd. and Highpoint Trading, Ltd. each had no shipments during the POR.<sup>9</sup> As we have not received any information to contradict our preliminary finding, we determine that these entities did not have any shipments of subject merchandise during the POR. We will issue appropriate instructions that are consistent with our “automatic

assessment” clarification, for these final results.<sup>10</sup>

**Changes Since the Preliminary Results**

Based on our analysis of the comments received and the record, we made certain changes to the *Preliminary Results*. Specifically, we have made adjustments to the calculation of the antidumping margin for Junhong;<sup>11</sup> and granted a separate rate to certain additional companies.<sup>12</sup>

**Separate Rates**

In the *Preliminary Results*, we found that evidence provided by mandatory respondent, Zhaoqing Junhong Co., Ltd. (Junhong), as well as by other companies, supported finding an absence of both *de jure* and *de facto* government control, and, therefore, we preliminarily granted a separate rate to each of these companies.<sup>13</sup> We received no information since the issuance of the *Preliminary Results* that provides a basis for reconsidering these determinations with respect to the separate rate status of these exporters. Therefore, for the final results, we continue to find that these entities are eligible for separate rates.

In addition, Commerce listed BC Tyre Group Limited/Best Choice International Trade Co., Limited, Crown International Corporation, Hankook Tire China Co., Ltd., and Hong Kong Tiancheng Investment & Trading Co., Limited as not qualifying for separate rate status in the *Preliminary Results*.<sup>14</sup>

As discussed in more detail in the accompanying Issues and Decision Memorandum and/or the Final Separate Rate Memorandum, we find that these entities are eligible for separate rates and Appendix II below has been revised for these final results.

Further, Commerce continues to find that certain entities failed to demonstrate an absence of *de jure* and/or *de facto* government control, and, thus, are not eligible for separate rates. A list of entities that are not entitled to separate rate status for this administrative review are included in Appendix 2 of this notice.

**Adjustments for Export Subsidies and Double-Remedies**

Pursuant to section 772(c)(1)(C) of the Tariff Act of 1930, as amended (the Act), Commerce has adjusted Junhong’s U.S. price for export subsidies. In addition, pursuant to sections 777A(f)(1)(A)–(C) of the Act, Commerce has adjusted Junhong’s U.S. price for domestic subsidies passed through for these final results. Since Junhong’s antidumping duty rate is assigned to the non-examined exporters which qualify for a separate rate, the export subsidy and double-remedy adjustments are also reflected in their rates.

**Final Results of Review**

Commerce finds that the following weighted-average dumping margins exist for the POR:

Exporter	Weighted-average dumping margin (percent)
Zhaoqing Junhong Co., Ltd .....	64.57
BC Tyre Group Limited/Best Choice International Trade Co., Limited .....	64.57
Crown International Corporation .....	64.57
Hankook Tire China Co., Ltd .....	64.57
Hong Kong Tiancheng Investment & Trading Co., Limited .....	64.57
Jiangsu Hankook Tire Co., Ltd .....	64.57
Kenda Rubber (China) Co., Ltd .....	64.57
Mayrun Tyre (Hong Kong) Limited .....	64.57
Qingdao Odyking Tyre Co., Ltd .....	64.57
Qingdao Sentury Tire Co., Ltd./Sentury Tire USA Inc./Sentury (Hong Kong) Trading Co., Limited .....	64.57
Shandong Anchi Tyres Co., Ltd .....	64.57
Shandong Hengyu Science & Technology Co., Ltd .....	64.57
Shandong Linglong Tyre Co., Ltd .....	64.57
Shandong Longyue Rubber Co., Ltd .....	64.57
Shandong New Continent Tire Co., Ltd .....	64.57
Shandong Province Sanli Tire Manufactured Co., Ltd .....	64.57

<sup>8</sup> See Issues and Decision Memorandum at “Discussion of the Issues.”

<sup>9</sup> See *Preliminary Results* 83 FR 45893, 45894.

<sup>10</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694–95 (October 24, 2011) (*Assessment Notice*); see also “Assessment Rates” section of this notice.

<sup>11</sup> See Issues and Decision Memorandum at comments 5 and 6; and Memorandum, “Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Final Analysis Memorandum for Zhaoqing Junhong Co., Ltd.,” dated concurrently with the instant memorandum (Junhong Final Calculation Memorandum).

<sup>12</sup> See Issues and Decision Memorandum at comment 7, see also Memorandum, “Antidumping Duty Administrative Review of Certain Passenger Vehicle and Light Truck Tires from the People’s Republic of China: Final Separate Rate Status,” dated concurrently with the instant memorandum (Final Separate Rate Memorandum).

<sup>13</sup> See *Preliminary Results* 83 FR 45893, 45895.

<sup>14</sup> *Id.* at 45897.

Exporter	Weighted-average dumping margin (percent)
Shandong Shuangwang Rubber Co., Ltd .....	64.57
Shandong Wanda Boto Tyre Co., Ltd .....	64.57
Shandong Yongsheng Rubber Group Co., Ltd .....	64.57
Shouguang Firemax Tyre Co., Ltd .....	64.57
Winrun Tyre Co., Ltd .....	64.57

### Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review. For each individually examined respondent in this review whose weighted-average dumping margin in the final results of review is not zero or *de minimis* (i.e., less than 0.5 percent), Commerce intends to calculate importer-specific assessment rates, in accordance with 19 CFR 351.212(b)(1).<sup>15</sup> Where the respondent reported reliable entered values, Commerce intends to calculate importer-specific *ad valorem* assessment rates by aggregating the amount of dumping calculated for all U.S. sales to the importer, and dividing this amount by the total entered value of the sales to the importer.<sup>16</sup> Where the importer did not report entered values, Commerce intends to calculate an importer-specific assessment rate by dividing the amount of dumping for reviewed sales to the importer by the total sales quantity associated with those transactions. Where an importer-specific *ad valorem* assessment rate is not zero or *de minimis*, Commerce will instruct CBP to collect the appropriate duties at the time of liquidation. Where either the respondent's weighted average dumping margin is zero or *de minimis*, or an importer-specific *ad valorem* assessment rate is zero or *de minimis*, Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.<sup>17</sup> We intend to instruct CBP to liquidate entries containing subject merchandise

<sup>15</sup> See *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification*).

<sup>16</sup> See 19 CFR 351.212(b)(1).

<sup>17</sup> See *Final Modification*, 77 FR 8101, 8103.

exported by the China-wide entity at the China-wide rate.

Pursuant to Commerce practice, for entries that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, Commerce will instruct CBP to liquidate such entries at the rate for the China-wide entity.<sup>18</sup> Additionally, if Commerce determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's CBP case number will be liquidated at the rate for the China-wide entity.

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on POR entries, and for future deposits of estimated antidumping duties, where applicable.

### Cash Deposit Requirements

Commerce will instruct CBP to require a cash deposit for antidumping duties equal to the weighted-average amount by which NV exceeds U.S. price. The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review; (2) for previously investigated or reviewed China and non-China exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all China exporters of subject merchandise which have not been found to be entitled to a separate rate,

<sup>18</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

the cash deposit rate will be the rate for the China-wide entity (i.e., 76.46 percent)<sup>19</sup> and (4) for all non-China exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the China exporter that supplied that non-China exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

### Notification to Importers

This notice also serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties and/or countervailing duties has occurred, and the subsequent assessment of double antidumping duties and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

### Notifications to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (APO) 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 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.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

<sup>19</sup> See *Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 FR 47902, 47904 at note 19 (August 10, 2015).

Dated: April 19, 2019.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

## Appendix 1

### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the *Preliminary Results*
- V. Discussion of the Issues:
  - Comment 1: Whether Commerce should allow certain separate rate respondents to withdraw from this administrative review after the 90-day deadline.
  - Comment 2: Whether Commerce should base the margin assigned to separate rate respondents solely on Junhong's margin.
  - Comment 3: Whether Commerce should have selected a third mandatory respondent.
  - Comment 4: Whether Commerce should exclude certain information from countries that maintain generally available export subsidies.
  - Comment 5: Whether Commerce should offset Junhong's AD margin for the Export Buyer's Credit program.
  - Comment 6: Whether Commerce properly valued Junhong's energy inputs.
  - Comment 7: Whether to grant Crown, Hankook, and HK Tiancheng a separate rate for the Final Results.
- VI. Recommendation

## Appendix 2

### List of Companies Not Receiving Separate Rate Status

1. Cheng Shin Tire & Rubber (China) Co., Ltd.
2. Hebei Tianrui Rubber Co., Ltd.
3. Hong Kong Tri-Ace Tire Co., Limited
4. Hwa Fong Rubber (Hong Kong) Ltd.
5. Hwa Fong Rubber (Suzhou) Ltd.
6. Qingdao Fullrun Tyre Corp. Ltd.
7. Qingdao Fullrun Tyre Tech Corp. Ltd.
8. Qingdao Nexen Tire Corporation
9. Qingdao Qianzhen Tyre Co., Ltd.
10. Qingdao Qihang Tyre Co., Ltd.
11. Qingdao Qizhou Rubber Co., Ltd.
12. Shandong Haohua Tire Co., Ltd.
13. Shandong Haolong Rubber Tire Co., Ltd.
14. Shandong Haolong Rubber Co., Ltd.
15. Shandong Province Sanli Tire
16. Shifeng Juxing Tire Co., Ltd.
17. Southeast Mariner International Co., Ltd.
18. Toyo Tire (Zhangjiagang) Co., Ltd.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XG817

### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Rocky Intertidal Monitoring Surveys Along the Oregon and California Coasts

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

**ACTION:** Notice; issuance of an incidental harassment authorization Renewal.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) Renewal to the Partnership for Interdisciplinary Study of Coastal Oceans (PISCO) at the University of California Santa Cruz (UCSC) to harass marine mammals incidental to rocky intertidal monitoring surveys along the Oregon and California Coasts.

**DATES:** This IHA Renewal is valid from April 12, 2019 through April 11, 2020.

**FOR FURTHER INFORMATION CONTACT:** Rob Pauline, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the original application, Renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed above.

#### SUPPLEMENTARY INFORMATION:

#### Background

The Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) prohibits the "take" of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA direct the Secretary of Commerce (as delegated to NMFS) 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 either regulations are issued or, if the taking is limited to

harassment, a notice of a proposed incidental take authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other "means of effecting the least practicable adverse impact" on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as "mitigation measures"). Monitoring and reporting of such takings are also required. The meaning of key terms such as "take," "harassment," and "negligible impact" can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency's regulations at 50 CFR 216.103.

NMFS' regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed one year for each reauthorization. In the notice of proposed IHA for the initial authorization, NMFS described the circumstances under which we would consider issuing a Renewal for this activity, and requested public comment on a potential Renewal IHA under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-year IHA Renewal when (1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or (2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section of the initial IHA. All of the following conditions must be met in order to issue a Renewal:

- A request for Renewal is received no later than 60 days prior to expiration of the current IHA.
- The request for Renewal must include the following:

(1) An explanation that the activities to be conducted beyond the initial dates either are identical to the previously analyzed activities or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, take estimates, or mitigation and monitoring requirements; and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation