

should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act and 19 CFR 351.203(c).

Dated: May 13, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix

### Scope of the Investigation

The scope of this investigation covers dried tart cherries, which may also be referred to as, *e.g.*, dried sour cherries or dried red tart cherries. Dried tart cherries may be processed from any variety of tart cherries. Tart cherries are generally classified as *Prunus cerasus*. Types of tart cherries include, but are not limited to, Amarelle, Kutahya, Lutowka, Montmorency, Morello, and Oblacinska. Dried tart cherries are covered by the scope of this investigation regardless of the horticulture method through which the cherries were produced (*e.g.*, organic or not), whether or not they contain any added sugar or other sweetening matter, whether or not they are coated in oil or rice flour, whether infused or not infused, and regardless of the infusion ingredients, including sugar, sucrose, fruit juice, and any other infusion ingredients. The scope includes partially rehydrated dried tart cherries that retain the character of dried fruit. The subject merchandise covers all shapes, sizes, and colors of dried tart cherries, whether pitted or unpitted, and whether whole, chopped, minced, crumbled, broken, or otherwise reduced in size. The scope covers dried tart cherries in all types of packaging, regardless of the size or packaging material.

Included in the scope of this investigation are dried tart cherries that otherwise meet the definition above that are packaged with non-subject products, including, but not limited to, mixtures of dried fruits and mixtures of dried fruits and nuts, where the smallest individual packaging unit of any such product contains a majority (*i.e.*, 50 percent or more) of dried tart cherries by dry net weight. Only the dried tart cherry components of such products are covered by this investigation; the scope does not include the non-subject components of such products.

Included in the scope of this investigation are dried tart cherries that have been further processed in a third country, including but not limited to processing by stabilizing, preserving, sweetening, adding oil or syrup, coating, chopping, mincing, crumbling, packaging with non-subject products, or other packaging, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the dried tart cherries.

Excluded from the scope of this investigation are dried tart cherries that have been incorporated as an ingredient in finished bakery and confectionary items (cakes, cookies, candy, granola bars, etc.).

The subject merchandise is currently classifiable under 0813.40.3000 of the Harmonized Tariff Schedule of the United States (HTSUS). The subject merchandise may also enter under subheadings 0813.40.9000, 0813.50.0020, 0813.50.0060, 2006.00.2000, 2006.00.5000, and 2008.60.0060. The HTSUS subheadings set forth above are provided for convenience and U.S. customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2019-10438 Filed 5-17-19; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-910]

#### **Circular Welded Carbon Quality Steel Pipe From the People's Republic of China: Preliminary Results of Antidumping Administrative Review and Partial Rescission; 2017-2018**

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

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that none of the companies under review have demonstrated eligibility for a separate rate during the period of review (POR) July 1, 2017, through June 30, 2018. Interested parties are invited to comment on these preliminary results.

**DATES:** Applicable May 20, 2019.

**FOR FURTHER INFORMATION CONTACT:** Aleksandras Nakutis, AD/CVD Operations, Office IV, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3147.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

After initiating this review of 128 companies, the following events occurred.<sup>1</sup> Zekelman Industries (Zekelman), a domestic interested party, timely withdrew its request for an administrative review of 20 companies. Commerce issued an antidumping duty questionnaire to Beijing Bell Plumbing Manufacturing Ltd (Beijing Bell). Beijing Bell did not respond to the questionnaire. 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>2</sup> If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the preliminary results of review is now May 13, 2019. For a complete description of the events that followed the initiation of this administrative review, *see* the Preliminary Decision Memorandum hereby adopted by this notice.<sup>3</sup>

#### **Scope of the Order**

The merchandise subject to the order is certain welded carbon quality steel pipes and tubes, of circular cross-section, and with an outside diameter of 0.372 inches (9.45 mm) or more, but not more than 16 inches (406.4 mm), whether or not stenciled, regardless of wall thickness, surface finish (*e.g.*, black, galvanized, or painted), end finish (*e.g.*, plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (*e.g.*, ASTM, proprietary, or other), generally known as standard pipe and structural pipe (they may also be referred to as circular, structural, or mechanical tubing).

The pipe products that are the subject of the order are currently classifiable in HTSUS statistical reporting numbers 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, 7306.30.50.90, 7306.50.10.00, 7306.50.50.50, 7306.50.50.70, 7306.19.10.10, 7306.19.10.50, 7306.19.51.10, and 7306.19.51.50. However, the product description, and not the Harmonized Tariff Schedule of the United States (HTSUS) classification, is dispositive of whether merchandise imported into the United States falls within the scope of the order.<sup>4</sup>

#### **Partial Rescission**

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in

<sup>2</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>3</sup> See the Memorandum from Commerce, "Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Circular Welded Carbon Quality Steel Pipe from the People's Republic of China," dated concurrently with this notice (Preliminary Decision Memorandum).

<sup>4</sup> See Preliminary Decision Memorandum for full scope language.

<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 45596 (September 10, 2018) (*Initiation Notice*).

part, if a party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. Zekelman withdrew its request to review 20 companies within 90 days of the date of publication of *Initiation Notice*;<sup>5</sup> however, Independence Tube Corporation, and Southland Tube Incorporated, which are Nucor companies (collectively, the petitioners), did not withdraw their request to review 122 companies, including all but three of the companies for which Zekelman withdrew its review request. Thus, Zekelman, the only party to request a review of the six companies listed below, timely withdrew its request for an administrative review of these three companies. Accordingly, Commerce is rescinding this review, in part, with respect to the following companies, in accordance with 19 CFR 351.213(d)(1):<sup>6</sup>

- (1) Beijing Jia Mei Ao Trade Co., Ltd.;
- (2) Beijing Jinghau Global Trading Co.;
- (3) Benxi Northern Steel Pipes, Co., Ltd.;
- (4) ETCO (China) International Trading Co., Ltd.;
- (5) Huludao City Steel Pipe Industrial; and
- (6) Tianjin Shuangjie Steel Pipe Co., Ltd.

#### Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying these preliminary results of review, see the Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is provided in Appendix I to this notice.

The Preliminary 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

<sup>5</sup> See Letter from Zekelman, "Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Withdrawal of Request for Administrative Review," dated October 17, 2018.

<sup>6</sup> As stated in *Change in Practice in NME Reviews*, Commerce will no longer consider the non-market economy (NME) entity as an exporter conditionally subject to administrative reviews. See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013) (*Change in Practice in NME Reviews*). The China-wide entity is not subject to this administrative review because no interested party requested a review of the entity. See *Initiation Notice*.

building. In addition, a complete version of the Preliminary Results Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/index.html>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

#### Separate Rates

In proceedings involving NME countries, Commerce begins with a rebuttable presumption that all companies within the NME country are subject to government control and that a single weighted-average dumping margin (e.g., the China-wide rate) is applicable to all exporters under review unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. None of the companies under review filed a separate rate application, separate rate certification, or no shipment certification. Moreover, the sole mandatory respondent, Beijing Bell, did not respond to the AD questionnaire. Therefore, Commerce preliminarily determines that none of the companies under review are entitled to a separate rate and has treated them as part of the China-wide entity. For additional information regarding Commerce's separate rates determination, see the Preliminary Decision Memorandum.

#### Preliminary Results of Review

As noted above, none of the companies under review are entitled to a separate rate and thus we have treated them as part of the China-wide entity.<sup>7</sup> Because no party requested a review of the China-wide entity, the entity is not under review and the entity's rate (i.e., 85.55 percent) is not subject to change in this review.<sup>8</sup> The companies under review that are being treated as part of the China-wide entity are listed in Appendix II to this notice.

#### Public Comment

Interested parties are invited to comment on the preliminary results of this review and may submit case briefs and/or written comments, filed electronically using ACCESS, within 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days after the due date for case briefs, pursuant to 19 CFR

<sup>7</sup> See Preliminary Decision Memorandum.

<sup>8</sup> See *Circular Welded Carbon Quality Steel Pipe From the People's Republic of China: Notice of Court Decision Not in Harmony with Final Determination and Amended Final Determination Under Section 129 of the Uruguay Round Agreements Act*, 80 FR 70758 (November 16, 2015).

351.309(d). Parties who submit case or rebuttal briefs in this review are requested to submit with each argument a statement of the issue, a summary of the argument not to exceed five pages, and a table of statutes, regulations, and cases cited, in accordance with 19 CFR 351.309(c)(2).

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, U.S. Department of Commerce, filed electronically using ACCESS. Electronically filed case briefs/written comments and hearing requests must be received successfully in their entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.<sup>9</sup> Hearing 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 issues raised in the respective case briefs. If a request for a hearing is made, parties will be notified of the time and date of the hearing which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington DC 20230.

Unless extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.<sup>10</sup> Commerce intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. If our preliminary results of review are unchanged in the final results of review, Commerce intends to instruct CBP to liquidate all POR entries of subject merchandise from any of the 121 companies under review at 85.55 percent (the China-wide rate).

For companies for which the review has been rescinded, Commerce will instruct CBP to assess antidumping duties on entries of subject merchandise at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from

<sup>9</sup> See 19 CFR 351.310(c).

<sup>10</sup> See 19 CFR 351.212(b)(1).

warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i).

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed Chinese and non-Chinese exporters which are not under review in this segment of the proceeding but which have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (2) for all Chinese exporters of subject merchandise that have not been granted a separate rate, including Beijing Bell, the cash deposit rate will be the China-wide rate of 85.55 percent; and (3) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

### Notification to Importers

This notice also serves as a preliminary 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 Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(d)(4) and 351.221(b)(4).

Dated: May 13, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix I

#### List of Sections in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Partial Rescission
- V. Discussion of the Methodology
  - A. Non-Market Economy Country Status
  - B. Separate Rates
  - C. Allegation of Duty Evasion

### VI. Recommendation

#### Appendix II

The following companies are being treated as part of the China-wide entity:

A&T Industry Co., Ltd.  
 Allied Transport System Inc.  
 AM Global Shipping Lines  
 Ample Star Enterprises  
 Apex Maritime (Tianjin) Co., Ltd.  
 Artson Fuzhou Co., Ltd.  
 Baoshan Iron & Steel Co., Ltd.  
 Bazhou Dongsheng Hot-Dipped Galvanized Steel Pipe Co., Ltd.  
 Bazhou Zhuofa Steel Pipe Co. Ltd.  
 Beijing Bell Plumbing Manufacturing Ltd  
 Beijing Jia Mei Ao Trade Limited  
 Beijing Jinghua Shunqi Trading Co., Ltd.  
 Beijing Kaishengao Import & Export  
 Beijing Kang Jie Kong International Cargo Agent Co., Ltd.  
 Beijing Sai Lin Ke Hardware Co., Ltd.  
 Beijing Zhongxingtong Technology Company Limited  
 Benxi Northern Pipes Co., Ltd.  
 Bestar Steel Co., Ltd.  
 Boyu M/E Company Limited  
 Cangzhou Huasheng Modern Casting Company Limited  
 Chaoteng Group Ltd.  
 CI Consolidators Services Limited  
 CNOOC Kingland Pipeline Co., Ltd.  
 Dalian Brollo Steel Tubes Ltd.  
 Dalian Shipbuilding Import Export Company  
 DSC Quanzhou Dongshan Machine Co., Ltd  
 Etco International Trading Co., Ltd.  
 Feel Light Co., Ltd.  
 Giant-Move Equipment Co., Ltd.  
 Guangdong Walsall Steel Pipe Industrial Co., Ltd.  
 Guangzhou Juyi Steel Pipe Co., Ltd.  
 Hainan Standard Stone Company Ltd.  
 Hangzhou Chaoteng International  
 Hangzhou Shunlan Trading Company Limited  
 Hebei Machinery Import & Export Co., Ltd.  
 Hebei Metals & Engineering Products Co., Ltd.  
 Hefei Ziking Steel Pipe Co., Ltd.  
 Hengshui Jinghua Steel Pipe Co., Ltd.  
 Hengyang Valin Steel Tube Group Trading Co. Ltd.  
 Herede Engineering Ltd.  
 Hubei Xin Yegang Special Tube Co.  
 Hulado City Steel Pipe Industrial Co., Ltd.  
 Hunan Henyang Steel Tube (Group) Co., Ltd.  
 Jiangsu Changbao Steel Tube Co., Ltd.  
 Jiangsu Hen-Yuan Garden Supplies Company Ltd.  
 Jiangsu Yulong Steel Pipe Co., Ltd.  
 Jiangsu Zhongheng Dyeing & Finishing Co., Ltd.  
 Jiangyin Jianye Metal Products Co., Ltd.  
 Jinan Meide Casting Co. Ltd.  
 Jinan Meide Piping Technology Company Ltd.  
 Jiangsu Guoqiang Zinc-Plating Industrial Company, Ltd.  
 Kun Shan Sandia Special Steel Pipe Co., Ltd.  
 Kunshan City Yuan Han Electronic Co., Ltd.  
 Kunshan Lets Win Steel Machinery Co., Ltd.  
 Kunshan Taiheiyu Precision Machinery Co., Ltd.  
 LF Logistics (China) Co., Ltd.  
 Lianji Chemical Industry Co Limited  
 Liaoning Northern Steel Pipe Co., Ltd.

Longyou Yilaida Electric Appliance Co., Ltd.  
 Myriad Treasure Trading Co., Ltd  
 Nb Bedding & Living Company Limited  
 Ningbo Acei Screw Plug Inc.  
 Ningbo Haishu Jiayong Xingyo Import & Export Co., Ltd.  
 Ningbo Sunny Foreign Trade Co., Ltd.  
 Orient Express Container Co., Ltd.  
 Pacific Star Express Corporation  
 Pangang Chengdu Group Iron & Steel Co., Ltd.  
 Panyu Chu Kong Steel Pipe Co., Ltd.  
 Pudong Prime International Company Limited  
 Qingdao Ocean Master Steel & Plastic Co., Ltd.  
 Qingdao Xiangxing Steel Pipe Co., Ltd.  
 Qingdao Yongjie Import & Export Co., Ltd.  
 Ritime Group Inc.  
 Rizhao Xingye Import & Export Co., Ltd.  
 Rogers Corporation  
 Shandong Liancheng Auto Parts Company  
 Shandong Xinyuan Group Co., Ltd.  
 Shanghai Freeland International Trading Co. Ltd.  
 Shanghai Golden Bridge Int'l Logistic Co., Ltd.  
 Shanghai ITPC Import & Export Co. Ltd  
 Shanghai Metals & Minerals Import & Export Corporation  
 Shanghai Pudong International Transportation  
 Shanghai Wor-Biz Trading Co., Ltd.  
 Shanghai Zhongyou TIPO Steel Pipe Co., Ltd.  
 Shaoxing Xinyue Trade Co., Ltd.  
 Shenyang Boyu M/E Co., Ltd.  
 Shenyang Machinery Import & Export Co., Ltd.  
 Shijiazhuang Zhongqing Imp & Exp Co., Ltd.  
 Sichuan Y&J Industries Company Limited  
 Spat Steel International Hong Kong Limited  
 Suzhou Hongsheng Lighting Products Co. Ltd  
 Tangshan Fengnan District Xinlida Steel Pipe Co., Ltd.  
 The Huludao Steel Tube Industry Co., Ltd.  
 Tianjin Baolai Int'l Trade Co., Ltd.  
 Tianjin Haoyou Industry Trade Co., Ltd.  
 Tianjin Hongshengxiang Paper Company  
 Tianjin Lifengyuanda Steel Group Co. Ltd.  
 Tianjin Lituo Steel Products Co., Ltd.  
 Tianjin Longshenghua Import & Export  
 Tianjin No. 1 Steel Rolled Co., Ltd.  
 Tianjin Pipe International Economic & Trading Corporation  
 Tianjin Ruitong Steel Co., Ltd.  
 Tianjin Shenzhoutong Steel Pipe Co., Ltd.  
 Tianjin Vision International Trading Co., Ltd.  
 Tianjin Xingyuda Import and Export Co., Ltd.  
 Tianjin Xingyunda Steel Pipe Co., Ltd.  
 Tianjin Yayi Industrial Co., Ltd.  
 Translink Shipping, Inc.  
 Weifang East Steel Pipe Co., Ltd.  
 Wisco And Crm Wuhan Materials & Trading Co., Ltd.  
 Wuhan Bosen Trade Co., Ltd.  
 Wuxi Eric Steel Pipe Co., Ltd.  
 Wuxi Fastube Industry Co., Ltd.  
 Wuxi Marca International Imports And Exports  
 Xuzhou Global Pipe & Fitting Manufacturing Co., Ltd.  
 Xuzhou Guang Huan Steel Tube Products Co., Ltd.  
 Xuzhou Yongsheng Pipe & Fitting Co., Ltd.  
 Yangzhou Lontrin Steel Tube Co., Ltd.  
 Zhangjiagang Hengchang Welding Materials Co., Ltd.

Zhangjiangang Zhongyuan Pipe-Making Co., Ltd.  
Zhejiang Kingland Pipeline Industry Co., Ltd.  
Zhejiang Machinery & Equipment Import & Export Co., Ltd.

[FR Doc. 2019-10437 Filed 5-17-19; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XG627

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Aldo's Seawall Replacement Project in Santa Cruz, California

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

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

**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) to the Santa Cruz Port District (Port District) to incidentally harass, by Level A and Level B harassment only, marine mammals during pile driving activities associated with the Aldo's Seawall Replacement Project in Santa Cruz, California (CA).

**DATES:** This authorization is effective from June 1, 2019 through May 31, 2020.

**FOR FURTHER INFORMATION CONTACT:** Amy Fowler, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>. In case of problems accessing these documents, please call the contact listed above.

#### SUPPLEMENTARY INFORMATION:

##### Background

The MMPA prohibits the "take" of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) 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 may be 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 in shorthand as "mitigation"); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

##### Summary of Request

On August 27, 2018, NMFS received a request from the Port District for an IHA to take marine mammals incidental to the Aldo's Seawall Replacement Project in the Santa Cruz Small Craft Harbor (harbor). The application was deemed adequate and complete on March 21, 2019. The Port District's request was for take of four species of marine mammals by Level B harassment and Level A harassment. Neither the Port District nor NMFS expect serious injury or mortality to result from this activity and therefore, an IHA is appropriate.

##### Description of Activity

The Port District is planning to replace the existing seawall located below Aldo's Restaurant along the southwest bank of the Santa Cruz Small Craft Harbor. The project involves demolishing the existing restaurant structure and timber pile supported restaurant deck, modifying a dock gangway landing, removing timber piles supporting the public wharf, removing and reinstalling rip-rap to accept the new sheet pile wall, predrilling for new sheet piles, and installing a new steel sheet pile seawall with concrete pile cap and tie-backs in front of the existing seawall. Four 16-inch (in) (40.6 centimeter (cm)) timber piles supporting the public wharf will be permanently removed using a vibratory hammer. Ninety steel sheet piles will be installed

using vibratory and impact hammers. Sounds produced by these activities may result in take, by Level A and Level B harassment, of marine mammals within and outside of the harbor.

In-water work associated with the project is expected to occur on 28 non-consecutive days between June 15, 2019 and November 1, 2019. Work will be limited to daylight hours only, and timed to occur at low tide, as feasible.

A detailed description of the planned activities is provided in the **Federal Register** notice announcing the proposed IHA (84 FR 13892; April 8, 2019). Since that time, no changes have been made to the Port District's planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

##### Comments and Responses

A notice of NMFS' proposal to issue an IHA to the Port District was published in the **Federal Register** on April 8, 2019 (84 FR 13892). That notice described, in detail, the Port District's activity, the marine mammal species that may be affected by the activity, the anticipated effects on marine mammals and their habitat, proposed amount and manner of take, and proposed mitigation, monitoring and reporting measures. On May 6, 2019, NMFS received a comment letter from the Marine Mammal Commission (Commission); the Commission's recommendations and our responses are provided here, and the comments have been posted online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>. The Commission recommended that NMFS issue the IHA, subject to inclusion of the proposed mitigation, monitoring, and reporting measures.

*Comment 1:* The Commission questioned whether the public notice provisions for IHA Renewals fully satisfy the public notice and comment provision in the MMPA and discussed the potential burden on reviewers of reviewing key documents and developing comments quickly. Therefore, the Commission recommended that NMFS use the IHA Renewal process sparingly and selectively for activities expected to have the lowest levels of impacts to marine mammals and that require less complex analysis.

*Response:* NMFS has taken a number of steps to ensure the public has adequate notice, time, and information to be able to comment effectively on IHA Renewals within the limitations of