

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-909]

Certain Steel Nails From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision

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

SUMMARY: On August 3, 2021, the U.S. Court of International Trade (CIT) issued its final judgment in *Simpson Strong-Tie Company v. United States*, Court No. 17-00287, sustaining the Department of Commerce (Commerce)'s remand redetermination pertaining to a scope ruling in which Commerce found Simpson Strong-Tie Company's (Simpson's) split-drive anchors to be outside the scope of the antidumping duty (AD) order on certain steel nails (nails) from the People's Republic of China (China). Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's scope ruling, and that Commerce is amending the scope ruling to find that split-drive anchors are not covered by the order.

DATES: Applicable August 13, 2021.

FOR FURTHER INFORMATION CONTACT: Kelsie Hohenberger, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2517.

Background

On December 1, 2017, Commerce found Simpson's split-drive anchors, which consist of a split shank and a blunt tip, to be within the scope of the AD order on nails from China.¹

Simpson appealed Commerce's *Final Scope Ruling*. On June 12, 2019, and July 22, 2019, the CIT stayed the case pending a final and conclusive determination from the U.S. Court of Appeals for the Federal Circuit (CAFC) in a case involving a similar product. On August 28, 2020, the CAFC issued a final ruling that case.² In light of the CAFC's decision, Commerce requested that the CIT remand this matter for further consideration. On November 18,

2020, the CIT remanded the *Final Scope Ruling* to Commerce.³

In its final remand redetermination, issued in February 2021, Commerce found Simpson's split-drive anchors to be outside the scope of the AD order on nails from China.⁴ The CIT sustained Commerce's final redetermination.⁵

Timken Notice

In its decision in *Timken*,⁶ as clarified by *Diamond Sawblades*,⁷ the CAFC held that, pursuant to sections 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's August 3, 2021, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Scope Ruling*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Scope Ruling

In accordance with the CIT's August 3, 2021, final judgment, Commerce is amending its *Final Scope Ruling* and finds that the scope of the AD order on nails from China does not cover the products addressed in the *Final Scope Ruling*.

Liquidation of Suspended Entries

Commerce will instruct U.S. Customs and Border Protection (CBP) that, pending any appeals, Simpson's split-drive anchors will not be subject to a cash deposit requirement. In the event that the CIT's final judgment is not appealed or is upheld on appeal, Commerce will instruct CBP to liquidate entries of Simpson's split-drive anchors without regard to antidumping duties and to lift suspension of liquidation of such entries.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) of the Act.

³ See *Simpson Strong-Tie Co. v. United States*, Court No. 17-00287, ECF No. 50 (CIT November 18, 2020).

⁴ See Final Results of Redetermination Pursuant to *Simpson Strong-Tie Co. v. United States*, Court No. 17-00287, ECF No. 50 (CIT November 18, 2020), dated February 16, 2021.

⁵ See *Simpson Strong-Tie Co. v. United States*, Slip Op. 21-95, Court No. 17-00269 (CIT 2021).

⁶ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁷ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

Dated: August 5, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XB215]

Magnuson-Stevens Fishery Conservation and Management Act; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit

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

ACTION: Notice; request for comments.

SUMMARY: NMFS has determined that seven exempted fishing permit (EFP) applications warrant further consideration and is requesting public comment on the applications. All EFP applicants request an exemption from a single prohibition (the use of unauthorized gear to harvest highly migratory species (HMS)) under the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP) to test the effects and efficacy of using standard deep-set buoy gear (DSBG), and/or deep-set linked buoy gear (DSLBG), to harvest swordfish and other HMS off of the U.S. West Coast.

DATES: Comments must be submitted in writing by September 10, 2021.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2020-0070, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2020-0070, in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Attn: Chris Fanning, NMFS West Coast Region, 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier "NOAA-NMFS-2020-0070" in the comments.

- **Email:** wcr.hms@noaa.gov.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record

¹ See Memorandum, "Final Scope Ruling on Simpson Strong-Tie Company's Anchors," dated December 1, 2017 (*Final Scope Ruling*).

² See *OMG, Inc. v. United States*, 972 F.3d 1358 (Fed. Cir. 2020).

and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Chris Fanning, NMFS, West Coast Region, 562-980-4198.

SUPPLEMENTARY INFORMATION: DSBG fishing trials have occurred for the past 11 years (2011–2015, research years; 2015–2021, EFP years) in the U.S. West Coast Exclusive Economic Zone (EEZ) off California. The data collected from this fishing activity have demonstrated DSBG to achieve about a 95 percent marketable catch composition. Non-marketable catch rates have remained low and all non-marketable catch were released alive. Due to DSBG being actively tended, strikes are capable of being detected within minutes of a hooking on the line; as a result, all catches can be tended quickly, with catch brought to the vessel in good

condition. To date, DSBG has had five observed or reported interactions with protected species, four Northern elephant seals and one loggerhead sea turtle, which were not seriously injured and were released alive due to the quick strike detection of the gear. Northern elephant seals are protected by the Marine Mammal Protection Act, and loggerhead sea turtles are protected by the Endangered Species Act.

DSLBG trials have produced similar data to DSBG activities. Swordfish and other marketable species have represented about 90 percent of the catch. Non-marketable species are released alive due to DSLBG quick strike detection and active gear tending. To date, there have been no observed or reported interactions with protected species using DSLBG.

At its June 2021 meeting, the Pacific Fishery Management Council (Council) received ten applications for EFPs in time for review and recommended that NMFS issue seven of these EFPs to authorize use of DSBG and/or DSLBG (see Table 1), and recommended further Council consideration of the remaining three EFP applications at its September 2021 meeting. Council recommendations can be found on the

June 2021 meeting Decision Document here, <https://www.pcouncil.org/june-2021-decision-document/#HMS>.

At this time, NMFS is requesting public comment on the seven DSBG EFP applications recommended by the Council in June 2021. NMFS will take the Council's comments into consideration along with public comments on whether or not to issue these EFPs. If all seven of the June 2021 Council recommended applications are approved, a total of 52 vessels would be allowed to fish with permitted exemptions from the prohibitions related to unauthorized fishing gears used to target swordfish within the U.S. EEZ under the Fishery Management Plan for U.S. West Coast Fisheries for (HMS FMP) throughout the duration of their respective EFPs. Thirty-seven of the vessels would be permitted to fish with DSBG only and 15 of the vessels would be permitted to fish using both DSBG and DSLBG. Aside from the exemption described above, vessels fishing under an EFP would be subject to all other regulations implemented in the HMS FMP, including measures to protect sea turtles, marine mammals, and seabirds.

TABLE 1—SUMMARY OF DEEP-SET BUOY GEAR EXEMPTED FISHING PERMIT APPLICATIONS RECOMMENDED AT THE JUNE 2021 COUNCIL MEETING *

F.3 attachment No.	Applicant name	Number of vessels	Fishing method
1	Austin and Robert Ashe	1	Standard DSBG.
3	Austin Brown	1	Standard and Linked DSBG.
5	Miguel Ferre	1	Standard DSBG.
6	Scott and Wyatt Hawkins	1	Linked DSBG.
7	Blake Hermann	1	Standard DSBG.
8	Markus Medak, Brian Sims, and Daniel Fuller	1	Linked DSBG.
10	Mathew Rimmel	1	Standard DSBG.

* Linked DSBG vessels can also use standard deep-set buoy gear (<https://www.pcouncil.org/june-2021-briefing-book/#F>).

NMFS will consider all public comments submitted in response to this **Federal Register** notice prior to issuance of any EFP. Additionally, NMFS has analyzed the effects of issuing DSBG and DSLBG EFPs in accordance with the National Environmental Policy Act and NOAA's Administrative Order 216-6, as well as for compliance with other applicable laws, including Section 7(a)(2) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*), which requires the agency to consider whether the proposed action is likely to jeopardize the continued existence and recovery of any endangered or threatened species or result in the destruction or adverse modification of critical habitat.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 6, 2021.
Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XB301]

East Coast Fisheries of the United States; Public Meetings; Request for Comments

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: Several fishery management bodies on the East Coast of the Atlantic Ocean are convening three public webinars to introduce a project called *East Coast Climate Change Scenario Planning*. This is a joint effort of the Atlantic States Marine Fisheries Commission (ASMFC), the New England Fishery Management Council (NEFMC), the Mid-Atlantic Fishery Management Council (MAFMC), the South Atlantic Fishery Management Council (SAFMC), and NOAA Fisheries. These webinars will introduce stakeholders to the overall initiative, present draft objectives, discuss potential outcomes, explain the general