

## Background

On November 24, 2008, the Department of Commerce (“the Department”) published a notice of initiation of an administrative review of the antidumping duty order on certain helical spring lock washers from the People’s Republic of China covering the period October 1, 2007, through September 30, 2008. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 73 FR 70964 (November 24, 2008). The preliminary results for this administrative review are currently due no later than July 3, 2009.

## Extension of Time Limits for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (“the Act”), requires the Department to issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of an antidumping duty order for which a review is requested and issue the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Because the Department is analyzing the questionnaire response and will issue a supplemental questionnaire shortly, it is not practicable to complete the preliminary results of this review within the original time limit (*i.e.*, July 3, 2009). Therefore, the Department is extending the time limit for completion of the preliminary results to no later than November 2, 2009,<sup>1</sup> in accordance with section 751(a)(3)(A) of the Act.

We are issuing and publishing this notice in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: June 12, 2009.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. E9–14730 Filed 6–22–09; 8:45 am]

**BILLING CODE 3510–DS–S**

<sup>1</sup> 120 days from July 3, 2009, is October 31, 2009. However, Department practice dictates that where a deadline falls on a weekend, the appropriate deadline is the next business day. *See Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C–570–946]

### Prestressed Concrete Steel Wire Strand From the People’s Republic of China: Initiation of Countervailing Duty Investigation

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** *Effective Date:* June 16, 2009.

**FOR FURTHER INFORMATION CONTACT:** Robert Copyak, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 4014, Washington, DC 20230; telephone: (202) 482–2209.

#### SUPPLEMENTARY INFORMATION:

#### The Petition

On May 27, 2009, the Department of Commerce (“Department”) received a petition filed in proper form by American Spring Wire Corp., Insteel Wire Products Company, and Sumiden Wire Products Corp (collectively, “Petitioners”), domestic producers of prestressed concrete steel wire strand (“PC Strand”). On June 1, 2009, the Department issued a request for additional information and clarification of certain areas of the Petition. Based on the Department’s request, Petitioners filed supplements to the Petition on June 4, 2009 (“Supplement to the AD Petition” and “Supplement to the AD/CVD Petitions”). On June 4, 2009, the Department requested further clarification of Petitioners’ subsidy allegations. Based on the Department’s request, Petitioners filed supplements to the countervailing duty (“CVD”) petition on June 11, 2009 (“Supplement to the CVD Petition”). On June 8, 2009, the Department requested further clarifications of industry support and producers/exporters identified in the Petitions. Based on the Department’s request, Petitioners filed supplements to the Petition on June 9, 2009 (“Second Supplement to the AD/CVD Petitions”). On June 12, 2009 the Department again asked for clarification regarding the scope. Based on the Department’s request, Petitioners filed an additional supplement to the Petition on June 15, 2009 (“Third Supplement to the AD/CVD Petitions”).

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (“the Act”), Petitioners allege that manufacturers, producers, or exporters of PC Strand in the People’s Republic of

China (“PRC”) receive countervailable subsidies within the meaning of section 701 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act, and Petitioners have demonstrated sufficient industry support with respect to the CVD investigation (*see* “Determination of Industry Support for the Petition” section below).

#### Period of Investigation

The period of investigation is January 1, 2008, through December 31, 2008.

#### Scope of Investigation

The products covered by this investigation are PC Strand from the PRC. For a full description of the scope of the investigation, please see the “Scope of the Investigation” in Appendix I of this notice.

#### Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by July 6, 2009, twenty calendar days from the signature date of this notice. Comments should be addressed to Import Administration’s APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

#### Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of the PRC for consultations with respect to the CVD Petition. The Department held these consultations in Washington, DC, on June 1, 2009. *See* the Memorandum from Dana S. Mermelstein to the Files, entitled, “Countervailing Duty Petitions on Pre-Stressed Concrete Steel Wire

Strand and Certain Grating from the People's Republic of China:

Consultations with the Government of the People's Republic of China," (June 3, 2009), which is on file in the Central Records Unit ("CRU") of the main Department of Commerce building, Room 1117.

#### Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865

F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioners do not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that PC strand constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, see Countervailing Duty Investigation Initiation Checklist: PC Strand from the PRC ("Initiation Checklist") at Attachment II ("Industry Support"), dated concurrently with this notice and on file in the Central Records Unit ("CRU"), Room 1117 of the main Department of Commerce building.

In determining whether Petitioners have standing, under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of Investigation" section above. To establish industry support, Petitioners provided their production of the domestic like product for the year 2008, and compared this to total production of the domestic like product for the entire domestic industry. See Volume I of the Petition, at 4, and Exhibit General-1. Petitioners calculated total domestic production based on their own production plus information provided by the two other non-petitioning companies that produce the domestic like product in the United States, who are supporters of the Petition. See Volume I of the Petition, at Exhibit General-1, and Supplement to the AD/CVD Petitions, at 5-6, and Attachment 3, and Second Supplement to the AD/CVD Petitions, dated June 9, 2009, at 5, and Attachment 1; see also Initiation Checklist as Attachment II, Industry Support.

Our review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioners have established industry support. First, the Petition established

support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). See section 702(c)(4)(D) of the Act and Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product. See Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. See *id.*

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the antidumping investigation that they are requesting the Department initiate. See *id.*

#### Allegations and Evidence of Material Injury and Causation

Petitioners allege that imports of PC strand from the PRC are benefitting from countervailable subsidies and that such imports are causing or threaten to cause, material injury to the domestic industries producing PC strand. In addition, Petitioners allege that subsidized imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

Petitioners contend that the industry's injured condition is illustrated by reduced market share, increased import penetration, underselling and price depressing and suppressing effects, lost sales and revenue, reduced production, capacity, and capacity utilization, reduced employment, and an overall decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the

statutory requirements for initiation. See Initiation Checklist at Attachment III (Analysis of Allegations and Evidence of Material Injury and Causation for the Petition).

### Initiation of Countervailing Duty Investigation

Section 702(b) of the Act requires the Department to initiate a CVD proceeding whenever an interested party files a petition on behalf of an industry that: (1) Alleges the elements necessary for an imposition of a duty under section 701(a) of the Act; and (2) is accompanied by information reasonably available to the petitioner(s) supporting the allegations.

The Department has examined the CVD Petition on PC Strand from the PRC and finds that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a CVD investigation to determine whether manufacturers, producers, or exporters of PC Strand in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, see Initiation Checklist.

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in the PRC:

#### A. Loan Programs

1. Policy Lending at the Federal Level to PC Strand Industry.
2. Policy Lending at the Provincial and Municipal Level.
3. Preferential Loans for State-Owned Enterprises.
4. Treasury Bond Loans.
5. Honorable Enterprises Program.
6. Preferential Loans for Key Projects and Technologies.

#### B. Government Provision of Goods and Services for Less Than Adequate Remuneration (LTAR)

1. Government Provision of Wire Rod for LTAR.
2. Provision of Land Use Rights for LTAR to Foreign Invested Enterprises ("FIEs") in Jiangxi and the City of Xinyu.
3. Federal Provision of Electricity for LTAR.
4. Provision of Electricity and Water at LTAR for FIEs and "Technologically Advanced" Enterprises by Jiangsu Province.

#### C. Income and Other Direct Taxes

1. Income Tax Credits for Domestically Owned Companies

Purchasing Domestically Produced Equipment.

2. Income Tax Exemption for Investment in Domestic Technological Renovation.

3. Reduction in or exemption from Fixed Assets Investment Orientation Regulatory Tax.

#### D. Indirect Tax and Tariff Exemption Programs

1. Stamp Exemption on Share Transfers Under Non-Tradable Share Reform.
2. Deed Tax Exemption for State Owned Enterprises (SOEs) Undergoing Mergers or Restructurings.
3. Export Incentive Payments Characterized as "VAT Rebates."
4. Import Tariff and VAT Exemptions for FIEs and Certain Domestic Enterprises Using Imported Equipment in Encouraged Industries.
5. Import Tariff and VAT Refunds to Promote the Development of Equipment Manufacturing in China.

#### E. Grant Programs

1. The State Key Technology Project Fund.
2. Subsidies for Development of Famous Export Brands and China World Top Brands.
3. Sub-Central Government Programs to Promote Famous Export Brands and China World Top Brands.
4. Exemptions for SOEs from Distributing Dividends to the State.
5. Grants to Loss-Making SOEs.
6. Program to Rebate Antidumping Fees.

#### F. Preferential Income Tax Subsidies for Foreign Invested Entities (FIEs)

1. Two Free, Three Half Program.
2. Income Tax Exemption Program for Export-Oriented FIEs.
3. Local Income Tax Exemption and Reduction Programs for "Productive" Foreign-Invested Enterprises.
4. Preferential Tax Programs for Foreign-Invested Enterprises Recognized as High or New Technology Enterprises.
5. Income Tax Subsidies for FIE's Based on Geographic Location.
6. VAT Refunds for FIE's Purchasing Domestically-Produced Equipment.

For further information explaining why the Department is investigating these programs, see the Initiation Checklist.

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in the PRC:

#### A. Export Loans

Petitioners allege that in *Line Pipe from the PRC*, the Department found that a number of companies benefitted from export-contingent loans from SOCBs and that Chinese PC strand producers would be eligible for such loans. See *Circular Welded Carbon Quality Steel Line Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 70961 (Nov. 24, 2008) ("*Line Pipe from the PRC*"), and accompanying Issues and Decision Memorandum (Line Pipe from PRC Decision Memorandum) at "Export Loans" section. According to Petitioners, this program has not been eliminated by any reforms to the Chinese banking system. Petitioners support their allegation by citing to *Line Pipe from the PRC*. However, in a subsequent initiation of a CVD investigation, the Department made clear the producers identified in that petition were the same as those investigated in *Line Pipe from the PRC*. See *Certain Oil Country Tubular Goods from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 74 FR 20678 (May 5, 2009) ("*OCTG Initiation*"), and accompanying Initiation Checklist (OCTG Initiation Checklist) at "Export Loans" section. The producers investigated in *Line Pipe from the PRC* and identified in the *OCTG Initiation* are not identified in the petition filed on the record of this proceeding. Therefore, we find that the support relied on in the OCTG Initiation to initiate an investigation of export loans does not apply to the facts of this proceeding. The petitioners have provided insufficient evidence indicating that PC strand producers can benefit from this alleged program.

#### B. Stamp Tax Exemption and Waiver of Administrative Charges for SOEs Undergoing Mergers or Restructurings

Petitioners allege that the GOC imposes charges on companies that undergo a restructuring or reorganization in China for various administrative items that include a business registration change, trademark registration change, tax registration, property rights, and land registration. Petitioners allege that, pursuant to Cai Shui (2003) No. 184 and Ji Jia Fei (1998) No. 1077, SOEs are exempted from certain fees associated with land registration, such as land registration fees, survey fees, and measurement registration fees. The legislation cited by petitioners refers to stamp tax exemptions provided by the

municipality of Shenzhen. The petitioners did not provide copies of Cai Shui (2003) No. 184 and Ji Jia Fei (1998) No. 1077. The only documentation provided by petitioners refers to stamp tax exemptions provided by the municipality of Shenzhen. However, petitioners have not identified a producer of PC strand that is located in the municipality of Shenzhen.

### C. Export Assistance Grants

Petitioners allege that the Department found this program conferred countervailable benefits on Chinese pipe producers in the *CWP from the PRC* investigation.<sup>1</sup> Petitioners contend that there is no reason to believe this program has been terminated, and the Department should investigate it accordingly. Aside from citing to *CWP from the PRC*, petitioners have not identified the administering authority that is allegedly providing the export assistance grants. Therefore, Petitioners have not provided any indication whether the program is administered at the municipal, provincial, or Federal level. Nor have the petitioners shown that PC strand producers are located within the area or regions in which these assistance grants are made available.

### D. Provision of Land to SOEs for Less Than Adequate Remuneration

According to petitioners, the Department initiated an investigation of the provision of land to SOEs for LTAR in *OTR Tires from the PRC*.<sup>2</sup> Petitioners contend that, to the extent that it does not consider this program a subset of the provision of land for LTAR generally, the Department should investigate this as a separate program. Petitioners' sole support for this allegation is the Department's initiation in the *OTR from the PRC Initiation*, which we find does not constitute sufficient evidence that PC strand producers can benefit from this alleged program. We note that the information reviewed by the Department in the *OTR from the PRC Initiation*, included company-specific

<sup>1</sup> See *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances*, 73 FR 31966 (June 5, 2008) ("*CWP from the PRC*"), and accompanying Issues and Decision Memorandum (CWP from the PRC Decision Memorandum) at "Export Assistance Grants."

<sup>2</sup> *Citation to Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Initiation of Countervailing Duty Investigation*, 72 FR 44122, 44124 (August 7, 2007) ("*OTR from the PRC Initiation*"), and accompanying Initiation Checklist (OTR from the PRC Initiation Checklist) at "Provision of Land and Utilities to SOEs for Less than Adequate Remuneration."

information pertaining to OTR producers as well as other documentation that is not on the record of the current proceeding.

### E. Government Provision of Land at Less Than Adequate Remuneration to Companies Located in Development Zones

Petitioners allege that local and provincial governments sell land for LTAR to firms located in designated geographical areas. We have recommended initiating an investigation into the Province of Jiangxi and the City of Xinyu's provision of land to FIEs for less than adequate remuneration in the context of the "Provision of Land Use Rights for Less Than Adequate Remuneration" program. Further, petitioner has provided no additional information to support its allegation of the provision of land for LTAR to companies located in other geographical regions outside the Province of Jiangxi and the City of Xinyu.

### F. Government Restraints on Exports of Wire Rod

Petitioners allege that the GOC imposes export restrictions, such as export quotas, related export licensing and bidding requirements, minimum export prices and export duties, on the raw materials used for producing PC strand. Petitioners contend that these restrictions have resulted in artificially suppressing raw material prices of wire rod within the PRC. Petitioners have not adequately shown how these particular export taxes and licenses constitute entrapment or direction of private entities by the GOC to provide a financial contribution to producers of subject merchandise. Moreover, petitioners have not provided sufficient data regarding historic price and export trends demonstrating, *e.g.*, price decreases or decreased exports (as a whole, from China) correlated with the imposition of the alleged export restraints.

### G. Tax Reduction for Enterprises Making Little Profit

According to China's WTO subsidies notification, enterprises with annual taxable incomes between RMB 30,000 and 100,000 are eligible for a 3 percent reduction in their annual income tax rate. Petitioners have not established with reasonably available information that "enterprises making little profit" are a *de jure* specific group because petitioners have provided no explanation of why companies with access to this program comprise an enterprise or industry, or group of enterprises or industries. *See, e.g.*,

*Preamble to Countervailing Duty Regulations*, 63 FR 65348, 65357 (November 25, 1998) "'\* \* \* because the user represented numerous and diverse industries, the program was found not to be specific.'"

### H. China's Enforced Undervaluation of Its Currency

Petitioners allege that the GOC-maintained exchange rate effectively prevents the appreciation of the Chinese currency ("RMB") against the U.S. dollar. In addition, petitioners allege that the GOC requires that foreign exchange earned from export activities be converted to RMB at the government prescribed rate. Therefore, when producers in the PRC sell their dollars at official foreign exchange banks, as required by law, the producers receive more RMB than they otherwise would if the value of the RMB were set by market mechanisms. Petitioners have not sufficiently alleged the elements necessary for the imposition of a countervailing duty and did not support the allegation with reasonably available information.

### Respondent Selection

For this investigation, the Department expects to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of investigation. We intend to make our decision regarding respondent selection within 20 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within seven calendar days of publication of this **Federal Register** notice.

### Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the petition has been provided to the Government of the PRC. As soon as and to the extent practicable, we will attempt to provide a copy of the public version of the petition to each exporter named in the petition, consistent with section 351.203(c)(2) of the Department's regulations.

### ITC Notification

We have notified the ITC of our initiation, as required by section 702(d) of the Act.

### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of the initiation, whether there is a reasonable indication that imports of subsidized PC Strand from the PRC are causing material

injury, or threatening to cause material injury, to a U.S. industry. See section 703(a)(2) of the Act. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: June 16, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

## Appendix I

### Scope of the Investigation

For purposes of this investigation, prestressed concrete steel wire strand (PC strand) is steel wire strand, other than of stainless steel, which is suitable for use in, but not limited to, prestressed concrete (both pretensioned and post-tensioned) applications. The scope of this investigation encompasses all types and diameters of PC strand whether uncoated (uncovered) or coated (covered) by any substance, including but not limited to, grease, plastic sheath, or epoxy. This merchandise includes, but is not limited to, PC strand produced to the American Society for Testing and Materials (ASTM) A-416 specification, or comparable domestic or foreign specifications. PC strand made from galvanized wire is excluded from the scope if the zinc and/or zinc oxide coating meets or exceeds the 0.40 oz./ft<sup>2</sup> standard set forth in ASTM-A-475.

The PC strand subject to this investigation is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

[FR Doc. E9-14743 Filed 6-22-09; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XP88

### Magnuson-Stevens Act Provisions; 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:** The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS, has made a preliminary determination that the

subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow four commercial fishing vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP, which would enable the applicants to land more than one standard tote of female red crabs and to conduct at-sea sampling and tagging, would allow for exemptions for up to four vessels from the Atlantic Deep-sea Red Crab Fishery Management Plan (FMP).

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

**DATES:** Comments must be received on or before July 8, 2009.

**ADDRESSES:** Comments on this notice may be submitted by e-mail to [RedCrabEFP@noaa.gov](mailto:RedCrabEFP@noaa.gov). Include in the subject line of the e-mail comment the following document identifier: "Comments on Red Crab EFP." Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Red Crab EFP." Comments may also be sent via facsimile (fax) to (978) 281-9135.

**FOR FURTHER INFORMATION CONTACT:** Moira Kelly, Fishery Policy Analyst, phone: 978-281-9218, fax: 978-281-9135.

**SUPPLEMENTARY INFORMATION:** An application for an EFP was submitted on November 19, 2008, by Dr. Richard Wahle of the Bigelow Laboratory for Ocean Sciences; Dr. Yong Chen of the School of Marine Sciences, University of Maine; and Mr. Jon Williams of the New England Red Crab Harvesters' Association. A supplementary proposal was received on February 10, 2009, that provided greater detail on the harvest of female red crabs (*Chaceon quinquidens*).

This project is fully funded by the New England Red Crab Harvesters' Association. The primary goal of the experimental fishery is to begin harvesting non-egg bearing females to expand the red crab market and increase efficiency in the harvesting process. In addition, an experimental fishery that includes non-egg bearing females would provide an opportunity to

conduct at-sea sampling, renewed tagging, and model development to better evaluate the growth and reproductive performance of the population, as well as the impact of current and proposed harvesting on yields and egg production. This aspect of the project would be conducted by an on-board researcher under the direction of Dr. Wahle. The objectives of this project are as follows:

1. Characterize regional variability in the reproductive characteristics of the red crab population along the geographic range of the fishery on the New England and mid-Atlantic shelf break;

2. Conduct tagging to evaluate growth rates that will facilitate the development of growth and yield and egg production models for the fishery; and

3. Develop yield and egg per recruit models to identify potential biological reference points for red crab stock assessment and to evaluate impacts of fishing on the female red crab resource.

The experimental design calls for normal commercial fishing operations, with the addition of retaining females. The research and experimental fishing would occur within the constraints of the current management measures, including possession limits and days-at-sea limits. The research would occur during normal fishing operations by sampling the catch to evaluate the size and sex composition of the catch, including the number of egg-bearing females. Further, the applicants propose to tag up to 20,000 crabs over 2 years to analyze growth. In order to allow for sufficient numbers of crabs for the tagging project, a small number of traps would be fitted with small mesh to trap smaller crabs. All crabs would be sorted and weighed, and crabs of marketable size would be retained for sale. All discards would be released as quickly as practicable to reduce incidental mortality. All at-sea research would be conducted from one of the four active red crab fishing vessels, fishing under that vessel's DAS.

The applicant may make requests to NMFS for minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted by NMFS without further notice if they are deemed essential to facilitate completion of the proposed research and result in only a minimal change in the scope or impact of the initially approved EFP request. In accordance with NOAA Administrative Order 216-6, a Categorical Exclusion or other appropriate NEPA document would be completed prior to the issuance of the EFP. Further review and consultation may be necessary before a