

Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties will be notified of the schedule for the hearing and parties should confirm the time, date, and place of the hearing 48 hours before the scheduled time. Requests for a public hearing should contain: (1) party's name, address, and telephone number; (2) the number of participants; and (3) to the extent practicable, an identification of the arguments to be raised at the hearing.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: June 29, 2009.

**John M. Andersen,**

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

[FR Doc. E9-15967 Filed 7-2-09; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-807]

#### **Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review**

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

**SUMMARY:** The Department of Commerce is conducting an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet and strip (PET film) from the Republic of Korea (Korea). This review covers one company, Kolon Industries Inc. (Kolon) and the period October 2, 2007, through May 31, 2008. We preliminarily determine that Kolon has not made sales below normal value (NV). If these preliminary results are adopted in the final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries.

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

**DATES:** *Effective Date:* July 6, 2009.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Heaney or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4475 or (202) 482-0649, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On June 9, 2008, the Department published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" of the antidumping duty order on PET film from Korea. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 73 FR 32557 (June 9, 2008).

In accordance with Section 751 (a)(1) of the Tariff Act, as amended (the Act) and 19 CFR 351.213(b)(2), on June 30, 2008, Kolon requested an administrative review of the antidumping duty order on PET film from Korea. On June 30, 2008, DuPont Teijin Films (DuPont), Mitsubishi Polyester Film, Inc. (Mitsubishi), and Toray Plastics America Inc. (Toray) (collectively "Petitioners"), also requested a review of Kolon.

On July 30, 2008, the Department initiated an administrative review for Kolon covering the period October 2, 2007, through May 31, 2008. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferment of Administrative Review*, 73 FR 44220 (July 30, 2008).

On June 30, 2008, we issued our antidumping questionnaire to Kolon. We received Kolon's response to our questionnaire on September 10, 2008 (Section A) and October 3, 2008 (Sections B, C, and D). During the period December 18, 2008, through April 1, 2009, we issued supplemental questionnaires to Kolon. We received responses to those questionnaires from January 23, 2009, through April 24, 2009.

On February 23, 2009, we extended the deadline for the preliminary results of this review until no later than June 30, 2009. See *Polyethylene Terephthalate Film, Sheet and Strip from the Republic of Korea: Extension of Time Limit for the Preliminary Results of the 2007/2008 Administrative Review*, 74 FR 8054 (February 23, 2009).

On May 26, 2009, Petitioners submitted comments concerning the profitability of Kolon's home market and U.S. sales and the model match methodology that should be employed in this review. On June 9, 2009, Kolon submitted rebuttal comments to Petitioner's May 26, 2009 letter. See the "Product Comparisons" section of this

Notice, *infra*, for a discussion of the Model match methodology that we have employed in this review.

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

Imports covered by this review are shipments of all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The films excluded from this review are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick.

PET film is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 3920.62.00. The HTS subheading is provided for convenience and for customs purposes. The written description remains dispositive as to the scope of the product coverage.

##### **Period of Review**

On August 20, 2008, Kolon requested that the Department amend the time frame covered by the review to the period April 3, 2008, to May 31, 2008. See Kolon's August 20, 2008, letter. Kolon noted that April 3, 2008, is the date that the Department published its final results of the changed circumstances review in which Kolon was formally reinstated within the order. See *Polyethylene Terephthalate Film, Sheet, and Strip from Korea: Final Results of Antidumping Duty Changed Circumstances Review and Reinstatement of the Antidumping Duty Order*, 73 FR 18259 (April 3, 2008) (*Final Results of CC Review*). Kolon asserted the Department has no basis to review transactions prior to the date Kolon was formally reinstated into the order.

On August 27, 2008, Petitioners filed a rebuttal to Kolon's August 20, 2008 letter. See Petitioners' August 27, 2008, letter. Petitioners noted the Department ordered CBP to suspend liquidation of Kolon's entries on October 2, 2007, which is the date the Department issued its Preliminary Results of the Changed Circumstances Review. See *Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea: Preliminary Results of Changed Circumstances Review and Intent to Reinstatement Kolon Industries, Inc. in the Antidumping Duty Order*, 72 FR 56048 (October 2, 2007). Petitioners assert that because the Department ordered suspension of liquidation with respect to Kolon's entries effective October 2, 2007, that date is the proper date for the beginning of the review period.

We have preliminarily defined the period covered by this review as October 2, 2007, through May 31, 2008. In our *Preliminary Results of CC Review*, we indicated the effective date for suspension of liquidation would be the date of the publication of the *Preliminary Results of CC Review*. See *Preliminary Results of CC Review at 56048*. Furthermore, Kolon was aware of the possibility of reinstatement into the order at the initiation of the changed circumstances review, and the potential imposition of antidumping duties if the Department found that Kolon had resumed dumping. See *Initiation of Antidumping Duty Changed Circumstances Review: Polyethylene Terephthalate Film, Sheet, and Strip from Korea*, 72 FR 527 (January 5, 2007). In order to provide for the imposition of duties at a later point, the Department suspended liquidation of entries on the date of publication of the *Preliminary Results of CC Review*. This is consistent with our practice in changed circumstances reviews. See, e.g., *Sebacic Acid from the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review and Reinstatement of the Antidumping Order*, 70 FR 16218 (March 30, 2005) and *Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results of Antidumping Duty Changed Circumstances Review and Reinstatement in the Antidumping Order*, 74 FR 22885 (May 15, 2009).

In addition, 19 CFR 351.222(b)(2)(i) states that in considering whether to revoke an antidumping order, the Secretary will, *inter alia*, consider whether the respondent has agreed in writing to an immediate reinstatement into the order if the Secretary concludes that the respondent sold merchandise at less than fair value. In determining to revoke the order as to Kolon, the Department noted that Kolon provided a statement agreeing to the immediate reinstatement of the order if the Department determines that Kolon sold merchandise at less than fair value. See *Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Notice of Revocation in Part*, 61 FR 58374, 58375 (November 14, 1996). Therefore, Kolon was aware of the potential for "immediate" reinstatement in the order if dumping resumed and the necessity of suspending liquidation in order to impose duties at a later point. The inclusion in the period of review of Kolon's U.S. sales made beginning October 2, 2007, through May 31, 2008, is therefore reasonable. This is also in

keeping with our practice in other contexts, in which the period of review covers entries, exports and sales during the period beginning with the date of suspension of liquidation. See 19 CFR 351.213(e)(1)(ii). Based on the foregoing, we have included in this review all of Kolon's U.S. sales made during the period October 2, 2007, through May 31, 2008.

#### Comparisons to Normal Value

To determine whether sales of PET film from Korea to the United States were made at less than NV, we compared Kolon's constructed export price (CEP) or export price (EP) sales made in the United States to unaffiliated purchasers, to NV, as described in the "United States Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(2) of the Act, we compared the CEP and EP of individual transactions to monthly weighted-average NVs.

In accordance with section 771(16) of the Act we considered all products produced by Kolon covered by the description in the "Scope of the Order" section, above, and sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We first attempted to compare contemporaneous U.S. and comparison-market sales of products that are identical with respect to the following characteristics: (1) Specification; (2) thickness; (3) surface treatment; and (4) grade. Consistent with the methodology employed in *Final Results of CC Review*, and in the recent investigation of PET film from Thailand, we used the actual thicknesses of the film rather than a range of thicknesses for product comparison purposes. See *Final Results of CC Review and Accompanying Issues and Decision Memorandum at Comment 7*. See also, *Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from Thailand* 73 FR 24565, 24567 (May 5, 2008) (unchanged in final determination). Where we were unable to compare sales of identical merchandise, we compared U.S. sales to home market sales of the most similar merchandise based on the above characteristics. Where there were no sales of the foreign like product of the identical merchandise in the ordinary course of trade in the home market to compare to a U.S. sale, we compared the price of the U.S. sale to constructed value (CV).

#### Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we base NV on sales made in the home market at the same level of trade (LOT) as the CEP or EP sales in the U.S. market. The NV LOT is defined as the starting-price sales in the home market or, when NV is based CV, as the sales from which selling, general, and administrative (SG&A) expenses and profit are derived. See 19 CFR 351.412(b)(2)(c). The EP LOT is defined as the starting price in the United States to the unaffiliated U.S. customer. With respect to CEP transactions in the U.S. market, the CEP LOT is defined as the level of the constructed sale from the exporter to the importer. See 773(a)(7)(A) of the Act.

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. See 19 CFR 351.412(c)(2). If the home-market sales are at different LOTs, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). See, e.g., *Preliminary CC Review at 56050*; see also *Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil; Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 17406, 17410 (April 6, 2005); unchanged in *Notice of Final Results of Antidumping Duty Administrative Review of Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil*, 70 FR 58683 (October 7, 2005). For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Tariff Act. See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001). We expect that if the LOTs claimed by the respondent are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that the LOTs are different for different groups of sales, the functions and activities of the seller should be

dissimilar. See *Porcelain-on-Steel Cookware from Mexico: Final Results of Administrative Review*, 65 FR 30068 (May 10, 2000) and accompanying Issues and Decisions Memorandum at Comment 6.

We obtained information from Kolon regarding the marketing stages involved in making its reported foreign market and U.S. sales to unaffiliated customers. Kolon provided a description of all selling activities performed, along with a flowchart and tables comparing the levels of trade among each channel of distribution and customer category for both markets. See Kolon's September 10, 2008, questionnaire response at A-12.

For the home market, Kolon identified two channels of distribution described as follows: (1) Direct shipments (*i.e.*, products produced to order); and (2) warehouse shipments from inventory. *Id.* Within each of these two channels of distribution, Kolon made sales to unaffiliated customers. *Id.* We reviewed the level at which Kolon performed each of these selling functions with respect to each claimed channel of distribution and customer category. For all of the activities listed (which included sales forecasting, strategic and economic planning, sales promotion, order processing, and technical assistance), the level of performance for both direct shipments and warehouse shipments was identical across all types of customers. Based on our analysis of all of Kolon's home market selling functions, we find all home market sales were made at the same LOT, the NV LOT. We also found that Kolon provided a similar level of selling functions on all of its EP sales, and that the level of these EP selling functions was comparable to the level of selling functions that Kolon performed on its home market sales. *Id.* Based on the foregoing, we determine that there is one level of trade for Kolon's EP sales and that the EP LOT is comparable to the home market LOT.

Kolon also indicated it made CEP sales through its U.S. affiliate, Kolon USA. *Id.* We then compared the CEP LOT to the NV LOT. The CEP LOT is based on the selling activities associated with the transaction between Kolon and its affiliated importer, Kolon USA, whereas the NV LOT is based on the selling activities associated with the transactions between Kolon and unaffiliated customers in the home market. Our analysis indicates the selling functions performed for unaffiliated home market customers are either performed at a higher degree of intensity or are greater in number than the selling functions performed for

Kolon USA. For example, in comparing Kolon's selling activities, we find there are more functions performed in the home market which are not a part of CEP transactions (*e.g.*, sales promotion, inventory maintenance, sales and marketing support). For selling activities performed for both home market sales and CEP sales (*e.g.*, processing customer orders, freight and delivery arrangements), we find Kolon actually performed each activity at a higher level of intensity in the home market. We note that CEP sales from Kolon to Kolon USA generally occur at the beginning of the distribution chain, representing essentially a logistical transfer of inventory that resembles ex-factory sales. In contrast, all sales in the home market occur closer to the end of the distribution chain and involve smaller volumes and more customer interaction which, in turn, require the performance of more selling functions. *Id.* Based on the foregoing, we conclude that the NV LOT is at a more advanced stage than the CEP LOT. Because we found the home market and U.S. sales were made at different LOTs, we examined whether a LOT adjustment or a CEP offset may be appropriate in this review. As we found only one LOT in the home market, it was not possible to make a LOT adjustment to home market prices, because such an adjustment is dependent on our ability to identify a pattern of consistent price differences between the home market sales on which NV is based and home market sales at the LOT of the export transaction. See 19 CFR 351.412(d)(1)(ii). Furthermore, we have no other information that provides an appropriate basis for determining a LOT adjustment. Because the data available do not form an appropriate basis for making a LOT adjustment, and because the NV LOT is at a more advanced stage of distribution than the CEP LOT, we have made a CEP offset to NV in accordance with section 773(a)(7)(B) of the Act.

#### United States Price

Section 772(a) of the Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser \* \* \* for exportation to the United States, as adjusted under subsection (c) of this section." Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or

exporter of the subject merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d)." For purposes of this administrative review, Kolon classified all of its U.S. sales shipped directly from Korea to the United States as EP sales. Kolon reported all sales that were invoiced through its U.S. subsidiary Kolon USA as CEP transactions. For these preliminary results, we have accepted these classifications. The merchandise shipped directly to unaffiliated customers in the U.S. market was not sold through an affiliated U.S. importer, and we find no other grounds for treating these transactions as CEP sales. We, therefore, preliminarily determine that these transactions were EP sales. We have classified as CEP transactions the merchandise that was invoiced through Kolon USA because these sales were "sold in the United States" within the meaning of 772(b) of the Act.

#### Export Price

We calculated EP in accordance with section 772(a) of the Act. We based EP on packed prices to customers in the United States. We made deductions for billing adjustments and early payment discounts. We also made adjustments for the following movement expenses in accordance with section 772(c)(2)(A) of the Act: foreign inland freight, foreign brokerage and handling charges, ocean freight, marine insurance, U.S. inland freight, U.S. brokerage and handling, and U.S. customs duties. Finally, we made an addition to U.S. price for duty drawback in accordance with section 772(c)(1)(B) of the Act based upon Kolon's demonstration that it received duty drawback on imported materials used in the production of PET film. See Kolon October 3, 2008, Section C response at C-31.

#### Constructed Export Price

In accordance with section 772(b) of the Act, for those sales to the first unaffiliated purchaser that took place after importation into the United States, we calculated CEP. We based CEP on packed prices to unaffiliated purchasers in the United States. We made adjustments for billing adjustments and early payment discounts. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included foreign inland freight, foreign brokerage and handling charges, U.S. brokerage and handling, ocean freight, marine insurance, U.S. inland freight, and U.S. customs duties. As further directed by section 772(d)(1) of the Act, we deducted those selling

expenses associated with economic activity in the United States including direct selling expenses (*i.e.*, commissions, warranties, warehousing, and U.S. credit expenses), inventory carrying costs, and other U.S. indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act. Finally, we made an addition to U.S. price for duty drawback in accordance with section 772(c)(1)(B) of the Act based upon Kolon's demonstration that it received duty drawback on imported materials used in the production of PET film. *See* Kolon October 3, 2008, Section C response at C-31.

### Normal Value

#### A. Selection of Comparison Market

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared Kolon's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Because Kolon's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for subject merchandise, we determined the home market was viable. *See* Kolon's September 10, 2008, questionnaire response at Appendix A-1.

#### B. Cost of Production Analysis

Pursuant to 773(b)(2)(A)(ii) of the Act, because the Department had disregarded certain of Kolon's sales in the *Final Results of CC Review* (the most recently completed review in which Kolon participated), the Department had reasonable grounds to believe or suspect that Kolon made home market sales at prices below Kolon's costs of production (COP) in this review. As a result, the Department was directed under section 773(b) of the Act to determine whether Kolon made home market sales during the POR at prices below its COP.

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Kolon's cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses (SG&A), interest expenses, and home market packing costs. We relied on the COP information provided by Kolon.

To determine whether Kolon's home market sales had been made at prices below the COP, we computed weighted-average COPs during the POR, and compared the weighted-average COP figures to home market sales prices of the foreign like product as required under section 773(b) of the Act. On a product-specific basis, we compared the COP to the home market prices net of billing adjustments, discounts and rebates, any applicable movement charges, selling expenses, and packing expenses.

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether, within an extended period of time, such sales were made in substantial quantities, and whether such sales were made at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade. Where less than 20 percent of the respondent's home market sales of a given model were at prices below the COP, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made within an extended period of time and in "substantial quantities." *See* section 773(b)(2)(c) of the Act. Where 20 percent or more of the respondent's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because: (1) They were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Our cost test for Kolon revealed that, for home market sales of certain models, less than 20 percent of the sales of those models were at prices below the COP. We therefore retained all such sales in our analysis and used them as the basis for determining NV. Our cost test also indicated that for home market sales of other models, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we excluded these below-cost sales from our analysis and used the remaining above-cost sales as the basis for determining NV.

#### C. Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Kolon's material and fabrication costs, SG&A expenses, profit, and U.S. packing costs. We calculated the cost of materials for CV as described above in the "Cost of Production Analysis" section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

#### D. Price-to-Price Comparisons

We calculated NV based on prices to unaffiliated customers in Korea. We used Kolon's adjustments and deductions as reported. We made deductions, where appropriate, for foreign inland freight pursuant to section 773(a)(6)(B) of the Act. In addition, for comparisons involving similar merchandise, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise compared pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also made adjustments for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made COS adjustments for imputed credit expenses. As noted above in the "Level of Trade" section of this notice, we also made an adjustment for the CEP offset in accordance with section 773(a)(7)(B) of the Act. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

#### E. Price-to-CV Comparisons

If we were unable to find a home market match of such or similar merchandise, in accordance with section 773(a)(4) of the Act, we based NV on CV. Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act.

#### Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Act.

#### Preliminary Results of Review

We preliminarily determine the following weighted-average dumping margin exists for the period October 2, 2007 through May 31, 2008:

Manufacturer/exporter	Weighted average margin (percentage)
Kolon Industries, Inc. ...	0.15% ( <i>de minimis</i> )

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. See 19 CFR 351.224(b). Pursuant to 19 CFR 351.309, interested parties may submit case briefs not later than 30 days after the publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument; and (3) a table of authorities.

Interested parties who wish to request a hearing or to participate if one is requested must submit a written request to the Assistant Secretary for Import Administration, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. See 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in the case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment

Pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP 15 days after the date of publication of the final results of this review. For assessment purposes, where possible, we calculated importer-specific *ad valorem* assessment rates for PET film from Korea based on the ratio of the total amount of the dumping duties calculated for the examined sales to the total entered value of those same sales. See 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any assessment rate calculated in the final results of this review is above *de minimis*. The final results of this review shall be the basis for the assessment of antidumping duties on

entries of merchandise covered by the final results of these reviews and for future deposits of estimated duties, where applicable.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective 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 this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Kolon will be the rate established in the final results of review (except, if the rate is zero or *de minimis*, *i.e.*, less than 0.5 percent, no cash deposit will be required for Kolon); (2) if the exporter is not a firm covered in this review or the less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be the all-others rate of 4.82 percent from the LTFV investigation. See *Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea*, 56 FR 25669 (June 5, 1991).

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties. These preliminary results of administrative review are issued and this notice is published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 30, 2009.

**John M. Andersen,**

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

[FR Doc. E9-15961 Filed 7-2-09; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XO84

#### Small Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Construction and Operation of a Liquefied Natural Gas Facility off Massachusetts

**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 Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to Neptune LNG, L.L.C. (Neptune) to take, by harassment, small numbers of several species of marine mammals incidental to construction and operations of an offshore liquefied natural gas (LNG) facility in Massachusetts Bay for a period of 1 year.

**DATES:** Effective July 1, 2009, through June 30, 2010.

**ADDRESSES:** A copy of the IHA and application are available by writing to P. Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225 or by telephoning the contact listed here. A copy of the application containing a list of references used in this document may be obtained by writing to this address, by telephoning the contact listed here (**FOR FURTHER INFORMATION CONTACT**) or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

The Maritime Administration (MARAD) and U.S. Coast Guard (USCG) Final Environmental Impact Statement (Final EIS) on the Neptune LNG Deepwater Port License Application is available for viewing at <http://www.regulations.gov> by entering the search words "Neptune LNG."

**FOR FURTHER INFORMATION CONTACT:** Candace Nachman, Office of Protected Resources, NMFS, (301) 713-2289 ext. 156.