

of Incorporation for Apex Frozen; (6) the affidavits related to company conversion; (7) the Notice of Extraordinary General Meeting for Apex; (8) the Articles of Association of Apex Frozen; (9) the online printout from the Ministry of Corporate Affairs showing the approved name change; (10) the Certificate of Registration of Processing Plants for Apex, as issued by the Marine Products Export Development Authority of India (MPEDA); (11) the Certificate of Registration of Storage Premises for Apex, as issued by MPEDA; (12) the Certificate of Importer Exporter Code for Apex Frozen; (13) the Certificate of Importer Exporter Code for Apex; (14) a list of the company's main suppliers before/after the name change; and (15) a list of the company's main customers before/after the name change.

Based on the evidence reviewed, we preliminarily find that Apex Frozen is the successor-in-interest to Apex because Apex's conversion from a partnership firm to a limited liability company resulted in no significant changes to management, production facilities, supplier relationships, and customers. As a result, we preliminarily find that Apex Frozen operates as the same business entity as Apex. Thus, we preliminarily find that Apex Frozen should receive the same antidumping duty cash-deposit rate (*i.e.*, 2.51 percent) with respect to the subject merchandise as Apex, its predecessor company. For further details of our analysis, see the October 17, 2012, Memorandum from David Crespo, Analyst, Office 2, to James Maeder, Director, Office 2, entitled, "Changed Circumstances Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from India: Successor-In-Interest Determination for Apex Exports and Apex Frozen Foods Private Limited."

However, because cash deposits are only estimates of the amount of antidumping duties that will be due, changes in cash deposit rates are not made retroactive and therefore no change will be made to Apex Frozen's cash deposit rate as a result of these preliminary results. If Apex Frozen believes that the deposits paid exceed the actual amount of dumping, it is entitled to request an administrative review during the anniversary month of the publication of the order of those entries to determine the proper assessment rate and receive a refund of any excess deposits. See *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom: Final Results of Changed-Circumstances Antidumping and Countervailing Duty*

*Administrative Reviews*, 64 FR 66880 (Nov. 30, 1999). As a result, if these preliminary results are adopted in our final results of this changed circumstances review, we will instruct U.S. Customs and Border Protection to suspend shipments of subject merchandise made by Apex Frozen at Apex's cash deposit rate (*i.e.*, 2.51 percent) effective on the publication date of our final results.

#### Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. See 19 CFR 351.310(c). A hearing, if requested, will be held 44 days after the date of publication of this notice, or the first working day thereafter. Interested parties may submit case briefs and/or written comments not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, which must be limited to issues raised in such briefs or comments, may be filed not later than 37 days after the date of publication of this notice. Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Consistent with 19 CFR 351.216(e), we will issue the final results of this changed circumstances review no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary finding. We are issuing and publishing this finding and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216.

Dated: October 17, 2012.

#### Paul Piquado,

*Assistant Secretary for Import Administration.*

[FR Doc. 2012-26217 Filed 10-23-12; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-987]

#### Hardwood and Decorative Plywood From the People's Republic of China: Initiation of Countervailing Duty Investigation

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

**DATES:** *Effective Date:* October 24, 2012.

**FOR FURTHER INFORMATION CONTACT:** David Lindgren and Toni Page, AD/CVD Operations, Import Administration,

International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-3870 and (202) 482-1398, respectively.

#### SUPPLEMENTARY INFORMATION:

##### The Petition

On September 27, 2012, the Department of Commerce (Department) received a countervailing duty (CVD) petition concerning imports of hardwood and decorative plywood from the People's Republic of China (PRC)<sup>1</sup> filed in proper form by the Coalition for Fair Trade of Hardwood Plywood and its individual members (Petitioners).<sup>2</sup> On October 3, 2012, the Department issued requests to Petitioners for additional information and for clarification of certain areas of the CVD Petition. Petitioners informed the Department on October 10, 2012, that they would not provide any additional information regarding the matter raised by the Department.

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (Act), Petitioners allege that producers/exporters of hardwood and decorative plywood from the PRC received countervailable subsidies within the meaning of sections 701 and 771(5) of the Act, and that imports from these producers/exporters materially injure, or threaten material injury to, an industry in the United States.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because Petitioners are interested parties, as defined in section 771(9)(C) of the Act, and have demonstrated sufficient industry support with respect to the investigation that it requests the Department to initiate.<sup>3</sup>

##### Period of Investigation

The period of investigation is January 1, 2011, through December 31, 2011.

##### Scope of Investigation

The products covered by this investigation are hardwood and decorative plywood from the PRC. For a full description of the scope of the investigation, please see the "Scope of

<sup>1</sup> See Petition for the Imposition of Antidumping and Countervailing Duties: Hardwood Plywood from the People's Republic of China, dated September 27, 2012 (Petition).

<sup>2</sup> The members of the Coalition for Fair Trade of Hardwood Plywood are: Columbia Forest Products, Commonwealth Plywood Inc., Murphy Plywood, Roseburg Forest Products Co., States Industries Inc., and Timber Products Company.

<sup>3</sup> See "Determination of Industry Support for the Petition" below.

the Investigation” Appendix I to 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. As a result, the “Scope of Investigation” language has been modified from the language in the Petition to reflect these clarifications.<sup>4</sup>

Moreover, as discussed in the preamble to the regulations,<sup>5</sup> we are setting aside a period of time for interested parties to raise issues regarding product coverage. The Department encourages interested parties to submit such comments by 5:00 p.m. EST on Tuesday, November 6, 2012, which is twenty calendar days from the signature date of this notice. All comments must be filed on the records of both the PRC antidumping duty (AD) investigation as well as the PRC CVD investigation.

### Filing Requirements

All submissions to the Department must be filed electronically using Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). An electronically filed document must be received successfully in its entirety by the Department’s electronic records system, IA ACCESS, by the time and date set by the Department. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with the Import Administration’s APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above.<sup>6</sup>

### Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, on September 28, 2012, the Department invited representatives of the Government of the PRC (GOC) for consultations with respect to the CVD

petition.<sup>7</sup> Those consultations were held on October 15, 2012.<sup>8</sup>

### 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 to poll the industry.

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 (*see* 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)).

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 title.” 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 investigations. Based on our analysis of the information submitted on the record, we have determined that hardwood and decorative plywood 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: Hardwood and Decorative Plywood from the People’s Republic of China” (“Initiation Checklist”), at Attachment II, Analysis of Industry Support for the Petitions Covering Hardwood and Decorative Plywood from the People’s Republic of China, on file in the Central Records Unit (CRU), Room 7046 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 in 2011 and compared this to the estimated total production of the domestic like product for the entire domestic industry. *See* Volume I of the Petitions, at 3–5, and Exhibits I–3A, I–3B, and I–3C; *see also* Supplement to the CVD Petition dated October 5, 2012, at 3 and Exhibit I–9; *see also* Second Supplement to the CVD Petition dated October 9, 2012, at 2–8. Petitioners estimated 2011 production of the domestic like product by non-petitioning companies based on their knowledge of the industry. We have relied upon data Petitioners provided for purposes of measuring industry support. For further discussion, *see* Initiation Checklist at Attachment II.

<sup>4</sup> See October 15, 2012, letter from Petitioner regarding Hardwood Plywood from the People’s Republic of China: Petitioner’s Revision to the Proposed Scope of Investigations.

<sup>5</sup> *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

<sup>6</sup> *See* <http://www.gpo.gov/fdsys/pkg/FR-2011-07-06/pdf/2011-16352.pdf> for details of the Department’s Electronic Filing Requirements, which went into effect on August 5, 2011. Information on help using IA ACCESS can be found at <https://iaaccess.trade.gov/help.aspx> and a handbook can be found at <https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

<sup>7</sup> *See* Letter to Wang Xin, Embassy of the PRC regarding “Countervailing Duty Petition on Hardwood Plywood from the People’s Republic of China,” dated September 28, 2012.

<sup>8</sup> *See* Ex-Parte Memorandum on Consultations with Officials from the Government of the People’s Republic of China on the Countervailing Duty Petition regarding Hardwood Plywood, dated October 16, 2012.

On October 9, 2012, we received a submission on behalf of an importer of hardwood and decorative plywood, an interested party to this proceeding as defined in section 771(9)(A) of the Act, questioning the industry support calculation. On October 11, 2012, we received a second submission on behalf of that importer of hardwood and decorative plywood, supplementing the importer's October 9, 2012, challenge to Petitioners' industry support calculation. On October 15, 2012, Petitioners filed their response to the importer's industry support challenge.<sup>9</sup> On October 16, 2012, we received a third submission on behalf of the importer of hardwood and decorative plywood. On October 17, 2012, Petitioners submitted an additional response to the importer's industry support challenge.

Based on information provided in the Petition, supplemental submissions, and other information readily available to the Department, we determine that Petitioners 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 Petition account for at least 25 percent of the total production of the domestic like product. *See* Initiation Checklist at Attachment II. Based on information provided in the Petition and supplemental submissions, the domestic producers and 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* Initiation Checklist at Attachment II.

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

#### Injury Test

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act,

section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry.

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

Petitioners allege that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, Petitioners allege that subject 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; underselling and price depression or suppression; lost sales and revenue; reduced capacity and capacity utilization; increased inventories; decline in financial performance; and employment data. *See* Volume I of the Petition, at 14–57 and Exhibits I–9 through I–27, and Supplement to the AD Petition, at 1, 3–4, and Exhibits Supp I–2 through Supp I–4. 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.

#### Initiation of Countervailing Duty Investigation

Section 702(b)(1) 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 Petition on hardwood and decorative plywood 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 hardwood and decorative plywood in the PRC receive countervailable subsidies. For a discussion of evidence supporting our initiation determination, *see* the CVD 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. Income Tax Programs
  1. Tax Exemptions and Reductions for "Productive" Foreign Invested Enterprises (FIEs) (*i.e.*, the "Two Free, Three Half" Program)
  2. Provincial Tax Exemptions and Reductions for "Productive" FIEs
  3. Tax Reductions for FIEs in Designated Geographic Locations
- B. Other Tax Programs
  1. VAT and Tariff Exemptions on Imported Equipment
- C. Government Provision of Goods or Services For Less Than Adequate Remuneration (LTAR)
  1. Electricity

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

1. Provision of Timber at LTAR
- For further information explaining why the Department is not investigating this program, *see* CVD Initiation Checklist.

#### 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 and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the representatives of the GOC. Because of the particularly large number of producers/exporters identified at Exhibit I–7 of the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the GOC, consistent with 19 CFR 351.203(c)(2).

#### 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 45 days after the date on which

<sup>9</sup> For further discussion of these submissions, *see* Initiation Checklist at Attachment II.

the Petition is filed, whether there is a reasonable indication that imports of subsidized hardwood and decorative plywood from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry.<sup>10</sup> A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

#### Notification to Interested Parties

Interested parties must submit applications for disclosure under protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634. Parties wishing to participate in this investigation 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)).

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>11</sup> Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD or CVD proceedings initiated on or after March 14, 2011.<sup>12</sup> The formats for the revised certifications are provided at the end of the *Interim Final Rule*. Foreign governments and their officials may continue to submit certifications in either the format that was in use prior to the effective date of the *Interim Final Rule*, or in the format provided in the *Interim Final Rule*.<sup>13</sup> The Department intends to reject factual information submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

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

<sup>10</sup> See section 703(a)(2) of the Act.

<sup>11</sup> See section 782(b) of the Act.

<sup>12</sup> See *Certification of Factual Information for Import Administration during Antidumping and Countervailing Duty Proceedings: Interim Final Rule*, 76 FR 7491 (February 10, 2011) (*Interim Final Rule*), amending 19 CFR 351.303(g)(1) and (2).

<sup>13</sup> See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule*, 76 FR 54697 (September 2, 2011).

Dated: October 17, 2012.

**Paul Piquado,**

*Assistant Secretary for Import Administration.*

#### Appendix I

##### Scope of the Investigation

Hardwood and decorative plywood is a panel composed of an assembly of two or more layers or plies of wood veneer(s) in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a finished product. A hardwood and decorative plywood panel can be composed of one or more species of hardwoods, softwoods, or bamboo, (in addition to other materials that are used for the core, as detailed below).

Hardwood and decorative plywood is generally manufactured to American National Standard for Hardwood and Decorative Plywood, ANSI/HPVA HP-1-2009; it is differentiated from "structural plywood" (also known as "industrial plywood" or "industrial panels"), which must meet the "bond performance" requirements set forth at paragraph 5.8.6.4 of U.S. Products Standard PS 1-09 for Structural Plywood.

Hardwood and decorative plywood is primarily manufactured as a panel. The most common panel sizes are 1219 x 1829 mm (48 x 72 inches), 1219 x 2438 mm (48 x 96 inches), and 1219 x 3048 mm (48 x 120 inches). However, these panels may be cut-to-size by the manufacturer in accordance with a customer's requirements, or made to other sizes.

A "veneer" is a thin slice of wood, rotary cut, sliced or sawed from a log, bolt or flitch. The face veneer is the exposed veneer of a hardwood and decorative plywood product which is of a superior grade than that of the other exposed veneer of the product (i.e., as opposed to the inner veneers). The face veneer is also either side of the product when the two exposed veneers are of the same grade. The face veneer is also the side of the product that is intended to be exposed for view after installation.

The core of hardwood and decorative plywood consists of the layer or layers of material(s) that are situated between the front and back veneers. The core may be composed of a range of materials, including but not limited to veneers, particleboard, and medium-density fiberboard (MDF).

All hardwood and decorative plywood is included within the definition of subject merchandise regardless whether or not the face and/or back veneers are surface coated. Additionally, the face veneer of hardwood and decorative plywood may be sanded, smoothed or given a "distressed" appearance through such methods as hand-scraping or wire brushing. The face veneer may also be stained (i.e., to achieve a particular color).

Unless subject to a specifically enumerated exclusion detailed below, all hardwood and decorative plywood is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face veneer thickness of back veneer, thickness of core, and thickness of inner veneers; width; and length); wood

species used for the face, back and inner veneers (including hardwoods, softwoods or bamboo); core composition; the grade of the face and back veneers; and whether or not surface coated (i.e., "unfinished" or "prefinished"). The face and/or back veneers of the product may be sanded, smoothed, scraped or stained.

Hardwood and decorative plywood is generally manufactured to American National Standard for Hardwood and Decorative Plywood, ANSI/HPVA HP-1-2009. Regardless of whether the product meets the ANSI/HPVA standard, all hardwood and decorative plywood is included within this definition if it meets the physical description set forth therein.

The scope of the investigation excludes the following items: (1) Structural plywood that is manufactured and stamped to meet U.S. Products Standard PS 1-09 for Structural Plywood (including any revisions to that standard or any substantially equivalent international standard intended for structural plywood), including but not limited to the "bond performance" requirements set forth at paragraph 5.8.6.4 of that Standard and the performance criteria detailed at Table 4 through 10 of that Standard; (2) plywood platforms with a face and back ply of cork; (3) multilayered wood flooring, as described in the antidumping duty and countervailing duty orders on Multilayered Wood Flooring from the People's Republic of China, Import Administration, International Trade Administration, U.S. Department of Commerce Investigation Nos. A-570-970 and C-570-971 (published December 8, 2011); (4) plywood further manufactured or further worked aside from sanding, surface coating (i.e., "prefinishing"), scraping or staining (e.g., bent or molded plywood; bent or molded plywood is defined as a flat panel that is purposely further manufactured through whatever means to achieve a shape or design other than a flat plane).

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 4412.10.0500; 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.5175; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; and 4412.99.9000. While HTSUS subheadings are provided for

convenience and customs purposes, the written description of the subject merchandise as set forth herein is dispositive.

[FR Doc. 2012-26220 Filed 10-23-12; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XC014

#### Marine Mammals; File Nos. 15777 and 17670

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

**ACTION:** Notice; withdrawal of application and receipt of application.

**SUMMARY:** Notice is hereby given that the NMFS Northeast Fisheries Science Center, Woods Hole, MA (Responsible Party: Michael Simpkins), has withdrawn application File No. 15777 and submitted a new application (File No. 17670) for a permit to take marine mammals during scientific research in coastal waters and adjacent waters off the northeast U.S.

**DATES:** Written, telefaxed, or email comments must be received on or before November 23, 2012.

**ADDRESSES:** The application and related documents are available for review by selecting "Records Open for Public Comment" from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 15777 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427-8401; fax (301) 713-0376;

Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978) 281-9328; fax (978) 281-9394; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727) 824-5312; fax (727) 824-5309.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713-0376, or by email to [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov). Please

include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Tammy Adams or Amy Sloan, (301) 427-8401.

#### SUPPLEMENTARY INFORMATION:

*File No. 15777.* The application, submitted under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216) was made available for public comment on May 4, 2012 (77 FR 26513). In response to public comments, the applicant proposed substantial changes to the numbers of and manner in which marine mammals may be taken. The changes, which are equivalent to a major permit amendment as defined in the regulations, require additional public review and comment. The application is hereby withdrawn and replaced with a revised version, referred to as File No. 17670.

*File No. 17670.* The subject permit is requested under the authority of the MMPA, and the regulations governing the taking and importing of marine mammals (50 CFR part 216). The applicant requests a five-year permit to take harbor seals (*Phoca vitulina concolor*), gray seals (*Halichoerus grypus*), harp seals (*Pagophilus groenlandicus*), and hooded seals (*Cystophora cristata*) during conduct of stock assessment research, including estimation of distribution and abundance, determination of stock structure, habitat requirements, foraging ecology, health assessment and effects of natural and anthropogenic factors. Types of take include harassment during shipboard, skiff, and aircraft transect and photo-identification surveys, and scat collection; and capture with tissue sampling and instrument or tag attachment. The applicant proposes to capture up to 175 harbor seals and 225 gray seals annually for measurement of body condition, collection of tissue samples (e.g., blood, blubber biopsy, skin, hair, swab samples, vibrissae), and attachment of telemetry devices. Up to 200 harp seals, 50 hooded seals, 59,000 harbor seals, and 67,000 gray seals could be harassed annually incidental to surveys, scat collections and capture operations. The applicant also requests research-related

mortality of up to 8 gray seals, 8 harbor seals, 2 harp seals, and 2 hooded seals per year. Permission is also sought to import and export pinniped specimen material (including soft and hard tissue, blood, extracted DNA, and whole dead animals or parts thereof) to/from any country. The study area includes waters within or proximal to the U.S. EEZ from North Carolina northward to Maine, and Canadian waters in the Gulf of Maine.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: October 18, 2012.

**P. Michael Payne,**

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XC284

#### Endangered and Threatened Species; Initiation of 5-Year Review for the Southern Distinct Population Segment of North American Green Sturgeon

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

**ACTION:** Notice of initiation of 5-year review; request for information.

**SUMMARY:** NMFS announces a 5-year review of the Southern Distinct Population Segment (DPS) of North American green sturgeon (*Acipenser medirostris*) (hereafter, Southern DPS) under the Endangered Species Act of 1973, as amended (ESA). On April 7, 2006, NMFS issued a final listing determination for the Southern DPS as threatened under the ESA. The purpose of the 5-year review is to ensure the accuracy of the listing classification for this species. A 5-year review is based on the best scientific and commercial data available; therefore, we are requesting submission of any such information on the Southern DPS that has become available since the listing determination in 2006. We are also requesting information regarding the status of the Northern DPS of the North American green sturgeon (hereafter, Northern