

## LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[4/22/2021 through 5/6/2021]

Firm name	Firm address	Date accepted for investigation	Product(s)
3P Processing, LLC .....	1702 South Knight Street, Wichita, KS 67213.	4/28/2021	The firm provides metal processing services, including coating and anodizing services.
Morris Bean & Company .....	777 East Hyde Road, Yellow Springs, OH 45387.	4/28/2021	The firm manufactures miscellaneous aluminum parts.
Schutte-Buffalo Hammermill, LLC ..	61 Depot Street, Buffalo, NY 14206.	5/3/2021	The firm manufactures industrial machinery for shredding, crushing, and grinding.
United Steel, Inc. ....	164 School Street, East Hartford, CT 06108.	5/5/2021	The firm manufactures structural steel columns.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.8 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

**Bryan Borlik,**

*Director.*

[FR Doc. 2021-10554 Filed 5-18-21; 8:45 am]

**BILLING CODE 3510-WH-P**

## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

[B-39-2021]

**Foreign-Trade Zone (FTZ) 27—Boston, Massachusetts; Notification of Proposed Production Activity; Wyeth Pharmaceuticals, LLC (mRNA Bulk Drug Substance); Andover, Massachusetts**

Wyeth Pharmaceuticals, LLC (Wyeth) submitted a notification of proposed production activity to the FTZ Board for its facility in Andover, Massachusetts. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on May 13, 2021.

The Wyeth facility is located within Subzone 27R. The facility is used for the production of mRNA bulk drug substance. Pursuant to 15 CFR

400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished product described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Wyeth from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Wyeth would be able to choose the duty rate during customs entry procedures that applies to mRNA bulk drug substance (duty rate—6.5%). Wyeth would be able to avoid duty on foreign-status materials/components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials and components sourced from abroad include: 2-Hexyldecanoic Acid; 4-Amino-1-Butanol; 2,2,6,6-Tetramethylpiperidine-1-Oxyl; ATP—adenosine 5'-triphosphate; CTP—cytidine 5'-triphosphate; GTP—guanosine 5'-triphosphate; Proteinase K; T7 RNA Polymerase; EAM1104L enzyme; and, Ribolock Rnase-Free (Animal Origin Free) (duty rate ranges from duty-free to 6.5%). The request indicates that certain materials/components are subject to duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: [ftz@trade.gov](mailto:ftz@trade.gov). The closing period for their receipt is June 28, 2021.

A copy of the notification will be available for public inspection in the

"Reading Room" section of the Board's website, which is accessible via [www.trade.gov/ftz](http://www.trade.gov/ftz).

For further information, contact Diane Finver at [Diane.Finver@trade.gov](mailto:Diane.Finver@trade.gov) or (202) 482-1367.

Dated: May 13, 2021.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2021-10514 Filed 5-18-21; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

## International Trade Administration

[C-570-991]

**Chlorinated Isocyanurates From the People's Republic of China: Notice of Court Decision Not in Harmony With the Results of Countervailing Duty Administrative Review; Notice of Amended Final Results**

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

**SUMMARY:** On May 6, 2021, the U.S. Court of International Trade (CIT) issued its final judgment in *Clearon Corporation et al v. United States*, Consol. Court No. 17-00171, sustaining the Department of Commerce (Commerce)'s final remand results pertaining to the administrative review of the countervailing duty (CVD) order on chlorinated isocyanurates (chlorinated isos) from the People's Republic of China (China) covering the period February 4, 2014, through December 31, 2014. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the countervailable subsidy rate assigned to Heze Huayi Chemical Co., Ltd. (Heze Huayi).

**DATES:** Applicable May 17, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Justin Neuman, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0486.

**SUPPLEMENTARY INFORMATION:****Background**

On June 15, 2017, Commerce published its *Final Results* in the 2014 CVD administrative review of chlorinated isos from China.<sup>1</sup> In the *Final Results*, Commerce determined that the use of adverse facts available (AFA) under sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), was warranted in determining the countervailability of the Export Buyer's Credit Program, because the Government of China (GOC) had failed to provide the necessary information Commerce required to analyze the program.<sup>2</sup> Commerce also determined that it could not rely on statements of non-use provided by the respondents and their customers because of the GOC's failure to provide the necessary information with respect to the operation of the program.<sup>3</sup> Consistent with Commerce's CVD AFA hierarchy, Commerce selected the highest calculated rate for the same or similar program as the AFA rate for this program, 0.87 percent, in accordance with section 776(d) of the Act and Commerce's established practice.<sup>4</sup> Commerce calculated a total net subsidy rate of 1.91 percent for Heze Huayi.<sup>5</sup>

Heze Huayi appealed Commerce's *Final Results*. On January 25, 2019, Commerce's rate selection for the Export Buyer's Credit Program was sustained by the CIT in *Clearon I*.<sup>6</sup> However, in *Clearon I*, the CIT also remanded the *Final Results* to Commerce with four specific instructions: (1) Explain why certain requested information "is necessary to make a determination of whether the 'manufacture, production, or export' of {Heze Huayi's} merchandise has been subsidized, pursuant to {section 701(a) of the Act}," and "{i}n doing so, Commerce shall tie its inquiries to {Heze Huayi}, its products, and/or its customers;" (2)

"either provide an adequate answer relating to why the information it seeks 'to fully understand the operation of the program' fills a gap as to {Heze Huayi's} products and their sale, or rely on the information it has on the record;" (3) "comply with the statute by tying its facts available and adverse facts available determinations to Heze Huayi, its products, or its customers;" and (4) "support with substantial evidence its necessary conclusion that there were gaps in the record evidence that could only be filled with the GOC's responses to its questionnaires."<sup>7</sup>

In its first remand redetermination, issued in May 2019, Commerce continued to find that, without the information that the GOC withheld about the operation of the Export Buyer's Credit Program, the use of facts available was required because "necessary" information was missing from the record, under section 776(a) of the Act.<sup>8</sup> Commerce further found that the application of an adverse inference was justified because the GOC failed to cooperate with Commerce's information requests to "the best of its ability."<sup>9</sup> Using AFA, Commerce thus determined that Heze Huayi used and benefitted from the Export Buyer's Credit Program, and we continued to use 0.87 percent as the AFA rate for the program.<sup>10</sup> In response to the CIT's instruction, Commerce explained why it was necessary to know whether the China Export Import Bank uses third-party banks to disburse/settle export buyer's credits, stating that conducting "a thorough verification of Heze Huayi's customers' nonuse of this program without understanding the identity of these correspondent banks would be unreasonably onerous, if not impossible."<sup>11</sup>

In October 2020, the CIT again remanded Commerce's decision with respect to the Export Buyer's Credit Program.<sup>12</sup> The CIT noted that it had previously rejected Commerce's position that information about the operation of the Export Buyer's Credit Program is necessary for it to verify a respondent's claimed non-use of the program.<sup>13</sup> The CIT remanded Commerce's decision for a second time,

instructing Commerce and Heze Huayi "to confer and jointly devise a procedure . . . by which {Commerce} can conduct verification of the declarations of non-use."<sup>14</sup> Alternatively, the CIT stated that Commerce may find, based on existing record evidence, "that neither {Heze Huayi} nor its customers used or received a benefit under the program."<sup>15</sup>

In its final remand redetermination, issued in January 2021, Commerce found, under respectful protest,<sup>16</sup> that there was no use of the Export Buyer's Credit Program with respect to Heze Huayi in this review and removed the subsidy rate for the Export Buyer's Credit Program from Heze Huayi's final CVD subsidy rate, resulting in a 1.04 percent rate for Heze Huayi.<sup>17</sup> On May 6, 2021, the CIT sustained Commerce's final redetermination.<sup>18</sup>

**Timken Notice**

In its decision in *Timken*,<sup>19</sup> as clarified by *Diamond Sawblades*,<sup>20</sup> the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Act, Commerce must publish a notice of court decision that is not "in harmony" with a Commerce determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's May 6, 2021, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

**Amended Final Results**

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Heze Huayi as follows:

Company	Subsidy rate (percent <i>ad valorem</i> )
Heze Huayi Chemical Co., Ltd .....	1.04

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> See *Viraj Group, Ltd. v. United States*, 343 F.3d 1371, 1376 (Fed. Cir. 2003).

<sup>17</sup> See *Final Results of Redetermination Pursuant to Court Remand, Clearon Corp. v. United States*, Court No. 17-00171, Slip Op. 20-141, dated January 4, 2021, at 9, available at <https://enforcement.trade.gov/remands/20-141.pdf>.

<sup>18</sup> See *Clearon Corp. v. United States*, Consol. Court No. 17-00171, Slip Op. 21-56 (CIT 2021).

<sup>19</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>20</sup> See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

<sup>1</sup> See *Chlorinated Isocyanurates from the People's Republic of China: Final Results of Countervailing Duty Administrative Review, and Partial Rescission of Countervailing Duty Administrative Review*, 2014, 82 FR 27466 (June 15, 2017) (*Final Results*), and accompanying Issues and Decision Memorandum.

<sup>2</sup> *Id.* at Comment 2.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> See *Final Results*, 82 FR at 27467.

<sup>6</sup> See *Clearon Corp. v. United States*, 359 F. Supp. 3d 1344, 1361-62 (CIT 2019) (*Clearon I*).

<sup>7</sup> *Id.*, 359 F. Supp. 3d at 1363.

<sup>8</sup> See *Final Results of Redetermination Pursuant to Court Remand, Clearon Corp. v. United States*, Court No. 17-00171, Slip Op. 19-13, dated May 16, 2019 at 38 and Comment 2, <https://enforcement.trade.gov/remands/19-13.pdf>.

<sup>9</sup> *Id.* at 29-30.

<sup>10</sup> *Id.* at 40.

<sup>11</sup> *Id.* at 27-28.

<sup>12</sup> See *Clearon Corp. v. United States*, Court No.

17-00171, Slip Op. 20-141, (CIT 2020).

<sup>13</sup> *Id.* at 20 (citing *Guizhou Tyre Co. v. United States*, 348 F. Supp. 3d 1261, 1270 (CIT 2018)).

### Cash Deposit Requirements

Because Heze Huayi has a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

### Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: Were produced and/or exported by Heze Huayi, and were entered, or withdrawn from warehouse, for consumption during the period February 4, 2014, through December 31, 2014. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess countervailing duties on unliquidated entries of subject merchandise produced and/or exported by Heze Huayi in accordance with 19 CFR 351.212(b). We will instruct CBP to assess countervailing duties on all appropriate entries covered by this review when the *ad valorem* rate is not zero or *de minimis*. Where an *ad valorem* subsidy rate is zero or *de minimis*,<sup>21</sup> we will instruct CBP to liquidate the appropriate entries without regard to countervailing duties.

### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: May 14, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2021-10675 Filed 5-18-21; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XB096]

### Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to U.S. Navy Construction at Naval Station Newport, Rhode Island

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

**ACTION:** Notice; receipt of application for letter of authorization; request for comments and information.

**SUMMARY:** NMFS has received a request from the U.S. Navy (Navy) for authorization to take small numbers of marine mammals incidental to construction activities including bulkhead replacement and pile driving activities at Naval Station Newport over the course of 5 years from the date of issuance. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of the Navy's request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on the Navy's application and request.

**DATES:** Comments and information must be received no later than June 18, 2021.

**ADDRESSES:** Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be sent by electronic mail to [ITP.Egger@noaa.gov](mailto:ITP.Egger@noaa.gov).

**Instructions:** NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments must not exceed a 25-megabyte file size, including all attachments. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Egger, Office of Protected Resources, NMFS, (301) 427-8401. An electronic copy of the Navy's application may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>. In case of problems accessing these documents, please call the contact listed above.

### SUPPLEMENTARY INFORMATION:

#### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated

to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An incidental take authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term "take" means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: Any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

### Summary of Request

In May 2020, NMFS received an application from the Navy requesting authorization for take of marine mammals incidental to construction activities including bulkhead replacements and repairs at Naval Station Newport. NMFS reviewed the Navy's application, and the Navy provided responses to NMFS' questions and comments on February 22, 2021. The requested regulations would be valid for 5 years, from 2022 through 2027. The Navy plans to conduct necessary work, including impact and vibratory pile driving, to repair and replace bulkheads. The proposed action may incidentally expose marine mammals occurring in the vicinity to elevated levels of underwater sound, potentially resulting in incidental take,

<sup>21</sup> See 19 CFR 351.106(c)(2).