

Manufacturer / Exporter	Weighted Average Margin (percentage)
CP Kelco	12.00%

Assessment Rates

Pursuant to these final results, the Department has determined, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions for CP Kelco to CBP 15 days after the date of publication of these final results. Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific (or customer-specific) *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific (or customer-specific) assessment rate calculated in the final results of this review are above *de minimis*.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment of Antidumping Duties*). This clarification will apply to entries of subject merchandise during the POR produced by CP Kelco for which CP Kelco did not know the merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate un-reviewed entries at the 6.65 percent all-others rate if there is no company-specific rate for an intermediary involved in the transaction. See *Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands and Sweden*, 70 FR 39734 (July 11, 2005) (*Purified Carboxymethylcellulose Orders*). See *Assessment of Antidumping Duties* for a full discussion of this clarification.

Cash Deposit Requirements

Furthermore, the following deposit requirements will be effective upon publication of these final results for all shipments of CMC from Finland entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: 1) the cash deposit rate for CP Kelco will be the rate established in the final results of review; 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 conducted by the Department, the cash deposit rate will be the all-others rate of 6.65 percent *ad valorem* from the LTFV investigation. See *Purified Carboxymethylcellulose Orders*. These deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final 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 POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

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

Dated: June 11, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-836]

Preliminary Results of Antidumping Duty Changed Circumstances Review: Light-Walled Rectangular Pipe and Tube From Mexico

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

SUMMARY: On October 27, 2008, the Department of Commerce (the Department) published in the **Federal Register** a notice of initiation of a changed circumstances review of the antidumping duty order on light-walled rectangular pipe and tube (LWRPT) from Mexico in order to determine whether Ternium Mexico, S.A. de C.V. (Ternium) is the successor-in-interest to Hylsa S.A. de C.V. (Hylsa) for purposes of determining antidumping duty liability. See *Notice of Initiation of Antidumping Duty Changed Circumstances Review: Light-Walled Rectangular Pipe and Tube from Mexico*, 73 FR 63686 (October 27, 2008) (*Notice of Initiation*). We have preliminarily determined that Ternium is the successor-in-interest to Hylsa for purposes of determining antidumping duty liability in this proceeding. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 18, 2009.

FOR FURTHER INFORMATION CONTACT: John Drury or Brian Davis, 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) 482-0195 or (202) 482-7924, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order of LWRPT from Mexico on August 5, 2008. See *Light-Walled Rectangular Pipe and Tube from Mexico, the People's Republic of China, and the Republic of Korea (Korea): Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from Korea: Notice of Amended Final Determination of Sales at Less Than Fair Value*, 73 FR 45403 (August 5, 2008).

On September 3, 2008, Ternium filed a request for a changed circumstances review of the antidumping duty order of LWRPT from Mexico (Initial Submission), claiming that Hylsa, a Mexican producer of LWRPT, changed its name to Ternium. Ternium requested

that the Department determine whether it is the successor-in-interest to Hylsa, in accordance with section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216. In its request, Ternium indicated that effective April 1, 2008, the production and sales operations of Hylsa were transferred to Ternium (the transfer).¹ In response to this request the Department initiated a changed circumstances review of the antidumping duty order of LWRPT from Mexico. *See Notice of Initiation.*

On November 13, 2008, the Department issued a questionnaire to Ternium requesting additional information regarding its successor-in-interest changed circumstances review request. On December 9, 2008, Ternium submitted its response to the Department's questionnaire (SQR). On January 16, 2009, the Department issued a second supplemental questionnaire and on February 9, 2009, Ternium submitted its response (SSQR). On April 8, 2009, the Department issued a third supplemental questionnaire, and on April 22, 2009, Ternium submitted its response (SSSQR). In our *Notice of Initiation*, we invited interested parties to comment. We did not receive any comments.

Scope of the Order

The merchandise subject to this order is certain welded carbon quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium.

The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to this order is currently classified under the Harmonized Tariff

Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Successor-in-Interest Determination

In making a successor-in-interest determination, the Department typically examines several factors including, but not limited to, changes in: (1) management, (2) production facilities, (3) supplier relationships, and (4) customer base. *See, e.g., Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber from Japan*, 67 FR 58 (January 2, 2002); *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460, 20462 (May 13, 1992). While no single factor or combination of factors will necessarily provide a dispositive indication of a successor-in-interest relationship, the Department will generally consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor. *See, e.g., Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979 (March 1, 1999); *Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review*, 59 FR 6944 (February 14, 1994). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the former company, the Department will accord the new company the same antidumping treatment as its predecessor.

Preliminary Results

In accordance with 19 CFR 351.221(c)(3)(i), we preliminarily determine that Ternium is the successor-in-interest to Hylsa.² In its September 3, 2008, December 9, 2008, February 9, 2009, and April 22, 2009, submissions, Ternium provided evidence supporting its claim to be the successor-in-interest to Hylsa.

² In our *Notice of Initiation*, we referred to Ternium's request as a "name change." However, as explained above it is related to the transfer of production and sales functions from Hylsa to Ternium (*i.e.*, an acquisition). Effective April 1, 2008, Hylsa exists solely as a service company which employs workers at the former Hylsa facilities and provides its services to Ternium on a contract basis. *See* Ternium's Initial Submission at page 2.

Documentation attached to Ternium's September 3, 2008, December 9, 2008, February 9, 2009, and April 22, 2009, submissions shows that the transfer of production and sales operations from Hylsa to Ternium resulted in little or no change in management, production facilities, supplier relationships, or customer base. This documentation is identified and discussed further below.

In its Initial Submission, Ternium stated that Ternium S.A., a Luxembourg corporation (Ternium Luxembourg), acquired ownership of 99.3 percent of Hylsamex S.A. de C.V.'s (Hylsamex)³ (and as a result, Hylsamex's subsidiary Hylsa) outstanding shares on August 22, 2005. *See* Ternium's Initial Submission at page 2. Ternium also stated that following this acquisition, Hylsa's operating and corporate structure were reorganized in several stages, the most recent of which took effect April 1, 2008, when the production and sales operations of Hylsa were transferred to Ternium. *Id.* at page 2. Ternium also explained in its Initial Submission that the corporation now known as Ternium was a holding company that was acquired by Ternium Luxembourg in July 2007, when it acquired Grupo IMSA, SAB de C.V. (Grupo IMSA). *Id.* at page 2. According to Ternium, the name of that holding company was changed from Grupo IMSA to Ternium, effective December 13, 2007. *Id.* at page 2. Ternium stated that through Ternium Luxembourg's acquisition of Grupo IMSA/Ternium, Ternium Luxembourg also acquired ownership of Grupo IMSA's subsidiary IMSA, S.A. de C.V. (IMSA), a producer of LWRPT. *See* Ternium's Initial Submission at page 2.

The Department requested information relating to Ternium Luxembourg's acquisition of Grupo IMSA (and its subsidiary IMSA) including: (1) 2006, 2007, and 2008 annual capacity and annual production data for the former IMSA facility (as well as the former Hylsa facilities) that produces subject merchandise (*see* pages 2–3 and appendix S–1 of Ternium's SSQR) and (2) documentation of the change in corporate name from Grupo IMSA to Ternium (*see* Ternium's SQR at appendix S–2).

The Department also requested that Ternium provide a current (as of March 2009) management chart of Ternium, listing the former employers of each director/senior management personnel as well as a pre-transfer (June 2007) Hylsa management chart. *See* Ternium's

³ Hylsamex is the former parent company of Hylsa. On August 22, 2005, Ternium Luxembourg (the corporate parent of Ternium (*see* Ternium's SQR at page 7)), acquired Hylsamex. *See* Ternium's Initial Submission at page 2.

¹ Prior to the reorganization effective April 1, 2008, Ternium was a holding company and did not have any production or sales operations. *See* Ternium's Initial Submission at page 2.

SSSQR at appendices S-2 and S-1, respectively. In reviewing the March 2009 and June 2007 management charts, we found that Ternium Luxembourg's acquisition of IMSA resulted in minimal changes to the composition of Hylsa's/Ternium's directors/senior management personnel. Specifically, with regard to the March 2009 chart, of Ternium's 51 directors/senior management personnel, 7 are former IMSA employees, 31 are former Hylsa employees, and the remaining 13 transferred from other Ternium Luxembourg affiliates. Thus, we preliminarily find that former Hylsa employees occupy the majority of director/senior management positions at Ternium.

Ternium presented the following documentation in support of its assertion that it is the successor-in-interest to Hylsa: (1) a copy of documentation of the acquisition of Hylsamex by Ternium Luxembourg (*see* Ternium's SQR at appendix S-3), (2) diagrams depicting Ternium Luxembourg's corporate structure throughout the different stages of its acquisition of Hylsa, *see* Ternium's Initial Submission at attachment 3-A for corporate structure as of September 30, 2006 (*i.e.*, Ternium Luxembourg's corporate structure prior to the transfer) (*see also* Ternium's Initial Submission at attachment 3-D for corporate structure as of April 30, 2008 (*i.e.*, Ternium Luxembourg's corporate structure after the transfer)), (3) tables depicting the management structure of Hylsa as of June, 2007, *i.e.*, prior to the transfer (*see* Ternium's SSSQR at appendix S-1) and the current management structure of Ternium Luxembourg as of March 2009, *i.e.*, after the transfer of Hylsa (*see* Ternium's SSSQR at appendix S-2), (4) listings of Hylsa's suppliers of major inputs for production of subject merchandise in 2007 (*i.e.*, before the final transfer took place) and of Ternium's suppliers of inputs for production of subject merchandise in the second quarter of 2008, *i.e.*, after the transfer took effect (*see* Ternium's Initial Submission at attachment 6), (5) a list of Hylsa and Ternium facilities which have the capacity to produce subject merchandise (*see* Ternium's Initial Submission at attachment 4), (6) data on annual capacity and actual production of LWRPT for 2006, 2007, and 2008 (*see* Ternium's SSQR at appendix S-1) at said facilities, and (7) listings of (a) Hylsa's LWRPT customers in the home market and United States during 2007 (prior to the final transfer) (*see* Ternium's Initial Submission at attachment 5-A), (b) IMSA's LWRPT

home market customers during 2007 (*see* Ternium's Initial Response at attachment 5-B), and (c) of Ternium's LWRPT home market and U.S. customers during the second quarter of 2008 (after the transfer took effect) (*see* Ternium's Initial Submission at attachment 5-C).

We examined the diagrams depicting Ternium Luxembourg's corporate structure throughout the different stages of its acquisition of Hylsa. *See* Ternium's Initial Submission at attachment 3 for diagrams of Ternium Luxembourg's corporate structure as of (1) September 2006 (attachment 3-A), (2) September 30, 2007 (attachment 3-B), (3) December 31, 2007 (attachment 3-C), and (4) April 30, 2008 (attachment 3-D).

We reviewed tables depicting the management structure of Hylsa as of June, 2007, *i.e.*, prior to the transfer of production and sales operations from Hylsa to Ternium (*see* Ternium's SSSQR at appendix S-1), and the current management structure of Ternium as of March 2009, *i.e.*, after the transfer of Hylsa's production and sales operations (*see* Ternium's SSSQR at appendix S-2). As noted in Ternium's Initial Submission on page 3 at footnote 2, the only significant changes involve: (1) transfers of personnel from other Ternium Luxembourg affiliates, (2) the promotion of former Hylsa employees to higher positions, and (3) changes to the structure of the organization chart (*i.e.*, the creation of new positions). Based on our examination of the diagrams and tables described above, we preliminarily find that Ternium's management structure, for the most part, resembles Hylsa's prior to its acquisition by Ternium Luxembourg. *See* Ternium's SSSQR at appendices S-1 and S-2.

We also reviewed the list of major input suppliers that Ternium provided at attachment 6 of its Initial Submission. We compared Hylsa's 2007 (*i.e.*, prior to the transfer) suppliers for each input to Ternium's second quarter 2008 (*i.e.*, after the transfer) suppliers for each input. We noted no changes in suppliers between Hylsa and Ternium's lists, except changes relating to input suppliers that supply the former IMSA facility of Apodaca.

We examined the customer lists that Ternium provided in its Initial Submission at attachment 5. Specifically, we compared Hylsa's 2007 (*i.e.*, prior to the transfer) list of home and export customers (including U.S. customers) for LWRPT (*see* attachment 5-A) to Ternium's second quarter 2008 (*i.e.*, after the transfer) list of home and export market customers (including U.S. customers) (*see* attachment 5-C) and

also examined IMSA's 2007 home market customer list (*see* attachment 5-B). Ternium affirmed in their SQR at page 11 and in their SSSQR at page 8, that none of the former Hylsa customers discontinued their relationship with Ternium due to the acquisition of Hylsamex by Ternium Luxembourg. The Department requested clarification as to why certain customer's appeared on Hylsa's 2007 and IMSA's 2007 customer lists but did not appear on Ternium's second quarter 2008 customer list and *vice versa*. Ternium explained in its SSSQR at pages 6 and 7 that the customer lists in its Initial Submission at attachment 5 identified: (1) the home market and U.S. customers that actually purchased subject merchandise from Hylsa during 2007 and the home market customers that actually purchased subject merchandise from IMSA during 2007, and (2) the home market and U.S. customers that actually purchased subject merchandise from Ternium during the second quarter of 2008. In other words, the lists did not purport to reflect all of the customers that maintained relationships with Hylsa, IMSA, and Ternium during each period which is why several of the names on each list did not match. Ternium also explained that all former Hylsa customers were maintained as customers in Ternium's sales computer following the merger and were eligible to make purchases at any time. *See* Ternium's SSSQR at page 7. While we note that some of the customers from IMSA's 2007 customer list are present in Ternium's second quarter 2008 customer list (and were not present in Hylsa's 2007 list), given the overall Ternium second quarter 2008 customer list, we preliminarily find that Ternium's customer list is representative of Hylsa's prior to its acquisition by Ternium Luxembourg. Therefore, based on record information, we preliminarily find that Ternium's customer base resembles Hylsa's prior to its acquisition by Ternium Luxembourg.

We also examined Ternium's list of production facilities that are capable of producing LWRPT (including merchandise that falls within the scope of the antidumping duty order on LWRPT) provided at attachment 4 of its Initial Submission. Ternium stated in its SSQR at page 3 that none of the LWRPT produced at the facility formerly operated by IMSA is certified to meet any ASTM A-500 or A-513 standards for LWRPT or any other industry specifications for LWRPT, and as a result, are not exported to the United States. Because the former IMSA facility is limited in its abilities to produce

subject merchandise that is appealing to customers in the United States, *i.e.*, not certified to meet ASTM, and its capacity to produce subject merchandise is relatively small when compared to both former Hylsa facilities, we preliminarily determine that although production facilities for LWRPT have changed between pre-transfer Hylsa and post-transfer Ternium (which includes both the former Hylsa facilities and the facility formerly operated by IMSA), the post-transfer Ternium's production facilities are not so significantly different from the former Hylsa production facilities that Ternium would be precluded from being a successor to Hylsa.

The documentation and analysis thereof described above, both with regard to the transfer of production and sales operations from Hylsa to Ternium as well as Ternium Luxemburg's acquisition of Grupo IMSA (and its subsidiary IMSA), demonstrates that there was little to no change in management structure, supplier relationships, production facilities, or customer base between pre-acquisition Hylsa and post-acquisition (after the acquisitions of Hylsamex and Grupo IMSA) Ternium. For these reasons, we preliminarily find that Ternium is the successor-in-interest to Hylsa and, thus, should be accorded the same antidumping duty treatment with respect to LWRPT from Mexico as Hylsa. If the above preliminary results are affirmed in the Department's final results, the cash deposit rate from this changed circumstances review will apply to all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this changed circumstances review. *See Granular Polytetrafluoroethylene Resin from Italy; Final Results of Antidumping Duty Changed Circumstances Review*, 68 FR 25327 (May 12, 2003).

Public Comment

In accordance with 19 CFR 351.310(c), any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held no later than 37 days after the date of publication of this notice, or the first workday thereafter. Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice, in accordance with 19 CFR 351.309(c)(ii). Rebuttal briefs, limited to the issues raised in those comments, may be filed not later than 5 days after the time limit for filing the case brief, in accordance with 19 CFR 351.309(d). All

written comments shall be submitted in accordance with 19 CFR 351.303. Persons interested in attending the hearing, if one is requested, should contact the Department for the date and time of the hearing. In accordance with 19 CFR 351.216(e), the Department will issue the final results of its antidumping duty changed circumstances review not later than 270 days after the date on which the review is initiated.

During the course of this antidumping duty changed circumstances review, deposit requirements for the subject merchandise exported and manufactured by Ternium will continue to be the all-others rate established in the investigation. *See Light-Walled Rectangular Pipe and Tube from Mexico, the People's Republic of China, and the Republic of Korea (Korea): Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from Korea: Notice of Amended Final Determination of Sales at Less Than Fair Value*, 73 FR 45403 (August 5, 2008). The cash deposit rate will be altered, if warranted, pursuant only to the final results of this review.

We are issuing and publishing these preliminary results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Act and 19 CFR 351.216.

Dated: June 11, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9-14369 Filed 6-17-09; 8:45 am]

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1615]

Expansion and Reorganization of Foreign-Trade Zone 147, Reading, Pennsylvania Area

Pursuant to its authority under the Foreign-Trade Zones (FTZ) Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zone Corporation of Southern Pennsylvania, grantee of Foreign-Trade Zone No. 147, submitted an application to the Board for authority to expand and reorganize FTZ 147 by deleting Site 4—Parcels A and C (632 acres total) and adding four additional sites (Sites 16-19) in Franklin and Cumberland Counties, Pennsylvania, adjacent to the Harrisburg Customs and Border Protection port of entry (FTZ Docket 35-2008, filed 5/27/2008);

Whereas, notice inviting public comment was given in the **Federal Register** (73 FR 31812, 6/4/2008) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand and reorganize FTZ 147 is approved, subject to the Act and the Board's regulations, including Section 400.28, subject to the Board's standard 2,000-acre activation limit for the overall general-purpose zone project, and further subject to a sunset provision that would terminate authority on May 31, 2014, for Sites 16-19 where no activity has occurred under FTZ procedures before that date.

Signed at Washington, DC, this 29th day of May 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9-14245 Filed 6-17-09; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XO99

Incidental Takes of Marine Mammals During Specified Activities; Low-Energy Marine Seismic Survey in the Northwest Atlantic Ocean, August 2009

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

ACTION: Notice; proposed incidental take authorization; request for comments.

SUMMARY: NMFS has received an application from Rice University (Rice), for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to conducting a marine seismic survey in the Northwest Atlantic during August 2009. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS requests comments on its proposal to authorize Rice to