

13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 FR 41,325 (August 14, 2009)), continues the EAR and, to the extent permitted by law, the provisions of the EAA, in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)). The Department of Commerce, insofar as appropriate, is following the provisions of Section 6 by reviewing its foreign policy-based export controls, requesting public comments on such controls, and preparing a report to be submitted to Congress. In January 2009, the Secretary of Commerce, on the recommendation of the Secretary of State, extended for one year all foreign policy-based export controls then in effect. BIS is now soliciting public comment on the effects of extending or modifying the existing foreign policy-based export controls for another year. Among the criteria considered in determining whether to continue or revise U.S. foreign policy-based export controls are the following:

1. The likelihood that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods, software or technology proposed for such controls;
2. Whether the foreign policy objective of such controls can be achieved through negotiations or other alternative means;
3. The compatibility of the controls with the foreign policy objectives of the United States and with overall United States policy toward the country subject to the controls;
4. Whether the reaction of other countries to the extension of such controls is not likely to render the controls ineffective in achieving the intended foreign policy objective or be counterproductive to United States foreign policy interests;
5. The comparative benefits to U.S. foreign policy objectives versus the effect of the controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology; and
6. The ability of the United States to enforce the controls effectively.

BIS is particularly interested in receiving comments on the economic impact of proliferation controls. BIS is also interested in industry information relating to the following:

1. Information on the effect of foreign policy-based export controls on sales of

U.S. products to third countries (*i.e.*, those countries not targeted by sanctions), including the views of foreign purchasers or prospective customers regarding U.S. foreign policy-based export controls.

2. Information on controls maintained by U.S. trade partners. For example, to what extent do U.S. trade partners have similar controls on goods and technology on a worldwide basis or to specific destinations?

3. Information on licensing policies or practices by our foreign trade partners that are similar to U.S. foreign policy-based export controls, including license review criteria, use of conditions, requirements for pre- and post-shipment verifications (preferably supported by examples of approvals, denials and foreign regulations).

4. Suggestions for revisions to foreign policy-based export controls that would bring them more into line with multilateral practice.

5. Comments or suggestions as to actions that would make multilateral controls more effective.

6. Information that illustrates the effect of foreign policy-based export controls on trade or acquisitions by intended targets of the controls.

7. Data or other information on the effect of foreign policy-based export controls on overall trade at the level of individual industrial sectors.

8. Suggestions as to how to measure the effect of foreign policy-based export controls on trade.

9. Information on the use of foreign policy-based export controls on targeted countries, entities, or individuals.

BIS is also interested in comments relating generally to the extension or revision of existing foreign policy-based export controls.

Parties submitting comments are asked to be as specific as possible. All comments received before the close of the comment period will be considered by BIS in reviewing the controls and developing the report to Congress.

All comments must be in writing (either e-mail or on paper). All comments will be a matter of public record and will be available for public inspection and copying.

These comments will be displayed on BIS's Freedom of Information Act (FOIA) Web site at www.bis.doc.gov/foia.

Dated: September 2, 2009.

Matthew S. Borman,
Acting Assistant Secretary for Export Administration.

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1644]

Grant of Authority for Subzone Status; Cellusuede Products, Inc. (Flock Fiber), Rockford, IL

Pursuant to its authority under the Foreign-Trade Zones 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 Zones Act provides for “* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,” and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Greater Rockford Airport Authority, grantee of Foreign-Trade Zone 176, has made application to the Board for authority to establish a special-purpose subzone at the flock fiber manufacturing and distribution facility of Cellusuede Products, Inc., located in Rockford, Illinois, (FTZ Docket 48–2008, filed 9–3–2008);

Whereas, notice inviting public comment has been given in the **Federal Register** (73 FR 52816–52817, 9–11–08) 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 Board's regulations would be satisfied, and that the proposal would be in the public interest if subject to the restriction listed below;

Now, therefore, the Board hereby grants authority for subzone status for activity related to the manufacturing and distribution of flock fiber at the facility of Cellusuede Products, Inc., located in Rockford, Illinois (Subzone 1'76F), as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.28, and further subject to the following restriction:

Privileged foreign status (19 CFR 146.41) shall be elected on foreign status nylon,

polyester and polypropylene fibers and tow (HTSUS 5501.10, 5501.20, 5501.40, 5503.20, 5503.40).

Signed at Washington, DC, this 27th day of August 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. E9-21616 Filed 9-4-09; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XQ10

Incidental Takes of Marine Mammals During Specified Activities; Blasting and Dredging Operations by the U.S. Army Corps of Engineers and U.S. Marine Corps in the U.S. Marine Corps Slipway at the Blount Island Facility, Duval County, FL

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

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

SUMMARY: NMFS has received an application from the U.S. Army Corps of Engineers (ACOE) and U.S. Marine Corps (USMC) for an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals, by harassment, incidental to blasting and dredging operations in the USMC slipway at the Blount Island facility (MCSF-BI Slipway) in Duval County, FL. NMFS has reviewed the application, including all supporting documents, and determined that it is adequate and complete. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to ACOE and USMC to incidentally harass, by Level B harassment only, marine mammals during the specified activities within the specified geographic region.

DATES: Comments and information must be received no later than October 8, 2009.

ADDRESSES: Comments on the application should be addressed to 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. The mailbox address for providing email comments is *PR1.0648-XQ10@noaa.gov*. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.nmfs.noaa.gov/pr/permits/incidental.htm> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, 301-713-2289, ext. 172.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(D) of the MMPA (16 U.S.C. 1361 (a)(5)(D)) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals for periods not more than one year 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 if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization to take small numbers of marine mammals by harassment 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 to achieve the least practicable adverse impact. 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."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. 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].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a publication in the **Federal Register** and other relevant media proposed authorizations for the incidental harassment of marine mammals. The publication of the proposed authorization initiates a 30-day public comment period. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On January 16, 2009, NMFS received a letter from the ACOE and USMC, requesting an IHA. The requested IHA would authorize the take, by Level B (behavioral) harassment, of small numbers of Atlantic bottlenose dolphins (*Tursiops truncatus*) incidental to blasting and dredging operations in the MCSF-BI Slipway. Proposed activities will include the removal of concrete sill/cemented rock by blasting and advanced maintenance dredging. The ACOE proposed to use blasting to fracture ("pre-treat") an existing concrete sill and cemented rock in the slipway, then completely remove the pre-treated sill and cemented rock by dredging, and dredge the entire slipway from its current depth of -37 ft mean low low water (MLLW) to -47 ft MLLW. The dredging will likely be completed using a mechanical dredge (i.e., clamshell or backhoe), cutterhead dredge, and blasting. The dredging will remove approximately 750,000 cubic yards of material from the slipway. Material removed from the dredging will be placed in Dayson Island Dredge Material Management Area located at Little Marsh Island. Concrete from the sill will be removed to an offsite