

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: June 26, 2006.

Brad Exton,

Deputy Forest Supervisor, Black Hills National Forest.

[FR Doc. 06-5971 Filed 7-3-06; 8:45 am]

BILLING CODE 3410-11-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Washington, DC from Monday through Wednesday, July 24-26, 2006, at the times and location noted below.

DATES: The schedule of events is as follows:

Monday, July 24, 2006

8:30-9:30 a.m. Technical Programs Committee (Closed Session).
9:30-11 Planning and Evaluation Committee.
11-Noon Budget Committee.
3 p.m.-5 Planning and Evaluation Committee.

Tuesday, July 25, 2006

9 a.m.-Noon Information Meeting on Transportation Vehicle Access.
1:30-4:30 p.m. Information Meeting on Communications Access.

Wednesday, July 26, 2006

3-4 p.m. Board Meeting.

ADDRESSES: All meetings will be held at the Crowne Plaza Hotel, 1001 14th Street, NW., Washington, DC, 20005.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272-0001 (voice) and (202) 272-0082 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items:

- Approval of the May 10, 2006 draft Board Meeting Minutes.
- Technical Programs Committee Report.
- Planning and Evaluation Committee Report.
- Budget Committee Report.
- Public Rights-of-Way Access Advisory Committee Report.

- Transportation Vehicle Access Information Meeting Report.
- Communications Access Issues Information Meeting Report.
- Special Election; Access Board Vice Chair.

The Technical Programs Committee session will be closed to the general public; all remaining meetings are open. All meetings are accessible to persons with disabilities. Persons attending Board meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants.

Lawrence W. Roffee,

Executive Director, Architectural and Transportation Barriers Compliance Board.

[FR Doc. E6-10413 Filed 7-3-06; 8:45 am]

BILLING CODE 8150-01-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 05-BIS-20]

In the Matter of MUTCO International Kelenbergweg 37 1101 EX Amsterdam, Netherlands; Respondent

Decision and Order

In a charging letter dated November 22, 2005, the Bureau of Industry and Security ("BIS") alleged that Respondent, MUTCO International ("MUTCO"), committed two violations of the Export Administration Regulations ("Regulations"),¹ issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 (2000)) (the "Act").² BIS alleged that MUTCO conspired to obtain toxins, including Aflatoxin (M1, P1, Q1) and Staphylococcal Enterotoxin (A and B), items subject to the Regulations and

¹ The Regulations are currently codified at 15 CFR Parts 730-774 (2006). The charged violations occurred in 2000 through 2002. The Regulations governing the violations at issue are found in the 2000 through 2002 versions of the Code of Federal Regulations (15 CFR Parts 730-774 (2000-2002)). The 2006 Regulations establish the procedures that apply to this matter.

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR Part 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701-1706 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR Part 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2005 (70 FR 45,273 (August 5, 2005)), has continued the Regulations in effect under IEEPA.

classified under export control classification number ("ECCN") 1C351, on behalf of a North Korean end-user and to export those toxins to North Korea. The charging letter also alleged that MUTCO solicited a violation of the Regulations by ordering the aforementioned toxins from a United States company and by agreeing to complete the shipment of the toxins through the Netherlands to North Korea.

In accordance with § 766.3(b)(1) of the Regulations, on November 22, 2005, BIS mailed the notice of issuance of the charging letter by registered mail to MUTCO at its last known address. BIS has established that this charging letter by registered mail to MUTCO at its last known address. BIS has established that this charging letter was served in accordance with § 766.3 of the Regulations and that BIS received the signed mail return receipt on January 9, 2006. MUTCO did not file an answer to the charging letter with the ALJ, as required by § 766.6(a) of the Regulations.

In accordance with § 766.7 of the Regulations, BIS filed a Motion for Default Order on April 17, 2006. This Motion for Default Order recommended that MUTCO be denied export privileges under the Regulations for a period of six years. Under § 766.7(a) of the Regulations, "[f]ailure of the respondent to file an answer within the time provided constitutes a waiver of the respondent's right to appear," and "on BIS's motion and without further notice to the respondent, [the ALJ] shall find the facts to be as alleged in the charging letter."

On June 8, 2006, based on the record before him, the ALJ found the Respondent to be in default, and issued a Recommended Decision and Order in which he found that MUTCO committed one violation of § 764.2(d) and one violation of § 764.2(c) of the Regulations. The ALJ recommended the penalty of denial of MUTCO's export privileges for a period of six years.

The ALJ's Recommended Decision and Order, together with the entire record in this case, has been referred to me for final action under § 766.22 of the Regulations.

I find that the record supports the ALJ's findings of fact and conclusions of law. I also find that the penalty recommended by the ALJ is appropriate, given the nature of the violations, the lack of mitigating circumstances, and the importance of preventing future unauthorized exports.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the ALJ's Recommended Decision and Order.

Accordingly, *it is therefore ordered, first*, that, for a period of six years from the date this Order is published in the **Federal Register**, MUTCO International, Kelenbergweg 37 1101, EX Amsterdam, Netherlands, and all of its successors and assigns, and when acting for on behalf of MUTCO, its officers, representatives, agents, and employees ("Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, sorting, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that

has been or will be exported from the United States and that is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in § 766.23 of the Regulation, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that this Order shall be served on the Denied Person and on BIS, and shall be published in the **Federal Register**. In addition, the ALJ's Recommended Decision and Order, except for the section related to the Recommended Order, shall be published in the **Federal Register**.

This Order which constitutes the final agency action in this matter, is effective upon publication in the **Federal Register**.

Dated: June 27, 2006.

David H. McCormick,

Under Secretary of Commerce for Industry and Security.

Recommended Decision and Order

On November 22, 2005, the Bureau of Industry and Security, U.S. Department of Commerce ("BIS"), issued a charging letter initiating this administrative enforcement proceeding against MUTCO International ("MUTCO"). The charging letter alleged that MUTCO committed two violations of the Export Administration Regulations (currently codified at CFR Parts 730-774 (2006)) (the "Regulations"),¹ issued under the Export Administration Act of 1979, as

¹ The charged violations occurred in 2000 through 2002. The Regulations governing the violations at issue are found in the 2000 through 2002 versions of the Code of Federal Regulations (15 CFR Parts 730-774 (2000-2002)). The 2006 Regulations establish the procedures that apply to this matter.

amended (50 U.S.C. App. 2401–2420 (2000)) (the “Act”).²

Specifically, the charging letter alleged that MUTCO conspired and acted in concert with others, known and unknown, to export toxins from the United States to North Korea without the required Department of Commerce license. BIS alleged that the goal of the conspiracy was to obtain toxins, including Aflatoxin (M1, P1, Q1) and Staphylococcal Enterotoxin (A and B), items subject to the Regulations and classified under export control classification number (“ECCN”) 1C351, on behalf of a North Korean end-user and to export those toxins to North Korea. BIS alleged that, in furtherance of the conspiracy, MUTCO ordered the toxins from a co-conspirator in the United States and agreed to complete the export to North Korea once the toxins were delivered to the Netherlands from the United States. BIS alleged that, contrary to § 742.2 of the Regulations, no Department of Commerce license was obtained for the export from the United States to North Korea. (Charge 1).

The charging letter filed by BIS also alleged that, in or about July 2002, MUTCO solicited a violation of the Regulations by ordering toxins, including Aflatoxin (M1, P1, Q1) and Staphylococcal Enterotoxin (A and B), items subject to the Regulations and classified under export control classification number (“ECCN”) 1C351, from a co-conspirator in the United States and agreeing to complete the export of the toxins to North Korea. BIS also alleged that, contrary § 742.2 of the Regulations, no Department of Commerce license was obtained for the export from the United States to North Korea. (Charge 2).

Section 766.3(b)(1) of the Regulations provides that notice of the issuance of a charging letter shall be served on a respondent by mailing a copy by registered or certified mail addressed to the respondent at the respondent’s last known address. In accordance with the Regulations, on November 22, 2005, BIS

mailed the notice of issuance of a charging letter by registered mail to MUTCO at its last known address: MUTCO International, Kelenberweg 37 1101, EX Amsterdam, Netherlands. BIS has submitted evidence that establishes that this charging letter was served in accordance with § 766.3 of the Regulations and that BIS received the signed return receipt on January 9, 2006.

Section 766.6(a) of the Regulations provides, in pertinent part, that “[t]he respondent must answer the charging letter within 30 days after being served with notice of issuance of the charging letter” initiating the administrative enforcement proceeding. To date, MUTCO has not filed an answer to the charging letter.

Pursuant to the default procedures set forth in § 766.7 of the Regulations, the undersigned finds the facts to be as alleged in the charging letter, and hereby determines that those facts establish that MUTCO committed one violation of § 764.2(d), and one violation of § 764.2(c) of the Regulations.

Section 764.3 of the Regulations sets forth the sanctions BIS may seek for violations of the Regulations. The applicable sanctions are: (i) A monetary penalty, (ii) suspension from practice before the Bureau of Industry and Security, and (iii) a denial of export privileges under the Regulations. See 15 CFR 764.3 (2000–2002). Because MUTCO solicited the export of toxins, items controlled by BIS for Anti-Terrorism reasons for export to North Korea, BIS requests that the undersigned recommends to the Under Secretary of Commerce for Industry and Security³ that MUTCO’s export privileges be denied for six years.

BIS has suggested these sanctions because MUTCO’s role in conspiring to export toxins to North Korea, as well as its role in ordering toxins for export to North Korea, represents a significant potential harm to the essential national interests protected by U.S. export controls.⁴ BIS has noted that the items involved in the attempted export in this case involved Aflatoxins (M1, P1, Q1)

and Staphylococcal Enterotoxins (A and B). These items are controlled by BIS for Anti-Terrorism reasons. Furthermore, BIS has noted that MUTCO’s role in conspiring and soliciting the export of these items for delivery to North Korea—a country that the United States Government has designated a state sponsor of international terrorism—represents significant harm to the national interests protected by U.S. export controls.⁵ Furthermore, BIS believes that the imposition of a six-year denial order is particularly appropriate in this case since BIS may face difficulties in collecting a monetary penalty, as MUTCO is not located in the United States. Finally, BIS believes that the recommended denial order is particularly appropriate in this case, since MUTCO has failed to respond to the charging letter filed by BIS. In light of these circumstances, BIS believes that the denial of MUTCO’s export privileges for six years is an appropriate sanction.

On this basis, the undersigned concurs with BIS and recommends that the Under Secretary enter an Order denying MUTCO’s export privileges for a period of six years. Such a denial order is consistent with penalties imposed in past cases under the Regulations involving shipments to countries designated as “Terrorist Supporting Countries.”⁶ See *In the Matter of Petrom GmbH International Trade*, 70 FR 32,743 (June 6, 2005) (affirming the recommendations of the Administrative Law Judge that a twenty-year denial order and a civil monetary sanction of \$143,000 were appropriate where knowing violations involved a shipment of EAR99 items to Iran); *In the Matters of Yaudat Mustafa Talyi a.k.a. Yaudat Mustafa a.k.a. Joseph Talyi*, 69 FR 77,177 (Dec. 27, 2004) (affirming the ALJ’s recommendations that a twenty-year denial order and the maximum civil penalty of \$11,000 per violation were appropriate where an individual exported oil field parts to Libya without authorization, in violation of a BIS order temporarily denying his export privileges and with knowledge that a violation would occur; and solicited a violation of the Regulations by ordering oil field parts from a U.S. manufacturer without authorization and with knowledge that a violation would occur); *In the Matter of Arian*

² From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which was extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR part 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–06 (2000)) (“IEEPA”). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, The Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR part 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005 (70 FR 45,273 (Aug. 5, 2005)), has continued the Regulations in effect under IEEPA.

³ Pursuant to Section 13(c)(1) of the Export Administration Act and § 766.17(b)(2) of the Regulations, in export control enforcement cases, the Administrative Law Judge makes recommended findings of fact and conclusions of law that the Under Secretary must affirm, modify or vacate. The Under Secretary’s action is the final decision for the U.S. Commerce Department.

⁴ See 15 CFR Part 766, Supp. No. 1, III, A. (Stating that a denial order may be considered even in matters involving simple negligence or carelessness, if the violation(s) involves “harm to the national security or other essential interests protected by the export control system,” if the violations are of such a nature and extent that a monetary fine alone represents an insufficient penalty. * * *) (emphasis added).

⁵ See *id.* (“Destination Involved: BIS is more likely to seek a greater monetary penalty and/or denial or export privileges * * * in cases involving: (1) exports or reexports to countries subject to anti-terrorism controls. * * *”) (emphasis in original).

⁶ BIS’s list of Terrorist Supporting Countries is set forth in 15 CFR Part 740, Supp. No. 1, Country Group E:1.

Transportvermittlungs, GmbH, 69 FR 28,120 (May 18, 2004) (affirming the recommendation of the Administrative Law Judge that a ten-year denial order was appropriate where knowing violations involved a shipment of a controlled item to Iran); *In the Matter of Jabal Damavand General Trading Company*, 67 FR 32,009 (May 13, 2002) (affirming the recommendation of the Administrative Law Judge that a ten-year denial order was appropriate where knowing violations involved shipments of EAR99 items to Iran); *In the Matter of Adbulmir Mahdi*, 68 FR 57,406 (Oct. 3, 2003) (affirming the recommendation of the Administrative Law Judge that a twenty-year denial order was appropriate where knowing violations involved shipments of EAR99 items to Iran as part of a conspiracy to ship such items through Canada to Iran). A six-year denial of MUTCO's export privileges is warranted because MUTCO's violations, like those of the respondents in the above-cited case, involved exports made to Terrorist Supporting Countries in violation of U.S. export control laws.

The terms of the denial of export privileges against MUTCO should be consistent with the standard language used by BIS in such orders. The language is:

[REDACTED SECTION]

This Order, which constitutes the final agency action in this matter, is effective upon publication in the **Federal Register**.

Accordingly, the undersigned refers this Recommended Decision and Order to the Under Secretary of Commerce for Industry and Security for review and final action for the agency, without further notice to the respondent, as provided in § 766.7 of the Regulations.

Within 30 days after receipt of this Recommended Decision and Order, the Under Secretary shall issue a written order affirming, modifying, or vacating the Recommended Decision and Order. See 15 CFR 766.22(c).

Dated: June 8, 2006.

The Honorable Joseph N. Ingolia,
Chief Administrative Law Judge.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing RECOMMENDED DECISION & ORDER by DHL Express to the following person:

James C. Pelletier, Esq., Office of Chief Counsel for Industry and Security, U.S. Department of Commerce, Room H-3839, 14th Street & Constitution Avenue, NW., Washington, D.C. 20230.

I hereby certify that I have served the foregoing RECOMMENDED DECISION & ORDER by U.S. First Class Mail to the following person:

MUTCO International, Kelenberweg 37
1101, EX Amsterdam, Netherlands
Attn: Kailash Muttreja, President
Done and dated June 8, 2006 at Baltimore, Maryland.
Debra Gundy,
Paralegal Specialist.

[FR Doc. 06-5986 Filed 7-3-06; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062606A]

Endangered Species; File Nos. 1079-1828, 1053-1825, 1095-1837

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

ACTION: Notice; receipt of applications for permits.

SUMMARY: Notice is hereby given that the following three individuals have applied in due form for permits for scientific research on marine mammals: Peter M. Scheifele, MD(r), Ph.D., University of Connecticut, Department of Animal Science, Bioacoustics and Neuroaudiology, 3636 Horsebarn Hill Road Ext., Unit 4040, Storrs, CT 06269 (File No. 1079-1828); David Mann, Ph.D., College of Marine Science, The University of South Florida, College of Marine Science, 140 Seventh Avenue South, St. Petersburg, FL 33701 (File No. 1053-1825); and Dorian S. Houser, Ph.D., Biomimetica, 7951 Shantung Drive, Santee, CA 92071 (File No. 1095-1837).

DATES: Written, telefaxed, or e-mail comments on these applications must be received on or before August 4, 2006.

ADDRESSES: The applications and related documents are available for review upon written request or by appointment (See **SUPPLEMENTARY INFORMATION**).

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on a particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427-2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is NMFS.Pr1Comments@noaa.gov. Include in the subject line of the e-mail comment the appropriate document identifier: File No. 1079-1828, 1053-1825, or 1095-1837.

FOR FURTHER INFORMATION CONTACT:

Andrew Wright or Amy Sloan,
(301)713-2289

SUPPLEMENTARY INFORMATION: The subject permits are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-227).

All three applicants are all seeking permits to conduct hearing measurements on either permanently captive marine mammals, or those that are stranded, entrapped, or in a rehabilitation center. Marine mammals use sound for communication in a number of behaviors critical to survival and reproduction. Results of this work would increase our knowledge of the abilities of marine mammals to perceive natural sounds and variations in those sounds, and improve our understanding of how anthropogenic sounds affect them in order to facilitate their conservation. These types of recordings are routinely used to measure the hearing of other animals, including human infants, and do not represent a risk to the marine mammals.

File No. 1079-1828: Dr. Scheifele seeks a 5-year permit to use auditory evoked potential recordings with non-invasive suction cup sensors on up to 15 individuals of certain species of cetaceans in the U.S. (see application for specific cetacean species and stocks requested) and subdermal needle electrodes on up to 15 each of harbor seals (*Phoca vitulina*), gray seals (*Halichoerus grypus*), and harp seals (*Phoca groenlandica*). The research would be conducted on stranded and public display animals held at Mystic Aquarium and Institute for Exploration, Mystic, CT.

File No. 1053-1825: Dr. Mann seeks a 5-year permit to use auditory evoked