

Dated: April 19, 2004.

Lee Ann Carpenter,

Committee Liaison Officer.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 040419121-4121-01]

Request for Public Comment on the Receipt by the Department of Commerce of a Written Petition Requesting the Imposition of Short Supply Export Controls and Monitoring on Recyclable Metallic Materials Containing Copper

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Request for comments on a petition requesting the imposition of short supply export controls.

SUMMARY: On April 7, 2004, the Bureau of Industry and Security (BIS) received a written petition requesting the imposition of export monitoring and export controls on copper scrap and copper-alloy scrap; the petitioner also requested a public hearing on the issue. This notice describes the Department's intended proceeding on the petition, and invites public comment on the subject of the petition.

DATES: In order to ensure ample time for the consideration of the views of interested persons, the Department requests submission of initial written comments by May 13, 2004. Written comments that respond to the initial comments should be submitted by May 27, 2004. All written comments must be received by no later than 5 p.m. e.d.t. June 7, 2004.

ADDRESSES: Written comments (three copies) should be sent to Copper Short Supply Petition, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

Alternatively, comments may be e-mailed to

coppershortsupplypetition@bis.doc.gov.

All public comments on the subject of this proceeding, including the petition, will be made a matter of public record and will be available for review on the BIS Web site at www.bis.doc.gov. If requesters cannot access the BIS Web site, please call the Regulatory Policy Division at (202) 482-2440 for assistance.

FOR FURTHER INFORMATION CONTACT:

Daniel O. Hill, Director of the Office of Strategic Industries and Economic

Security, Bureau of Industry and Security, who may be reached at (202) 482-4506.

SUPPLEMENTARY INFORMATION: Under the provisions of section 7(c) of the Export Administration Act of 1979, as amended (EAA) (50 U.S.C. app. 2406(c)), as implemented by section 754.7 of the Export Administration Regulations (EAR) (15 CFR 754.7), any entity, including a trade association, firm, or certified or recognized union or group of workers that is representative of an industry, or a substantial segment of an industry, that processes metallic materials capable of being recycled may file a petition with BIS requesting that the Department of Commerce impose monitoring on the export of such material, controls on the export of such material, or both, in order to carry out the policy set forth in section 3(2)(C) of the EAA.

On April 7, 2004, a petition was received from the member companies of the Copper & Brass Fabricators Council, Inc., and the Non-Ferrous Founders' Society requesting that the Department impose monitoring and controls on exports of recycled metallic materials containing copper pursuant to the provisions of section 7(c) of the EAA and section 754.7 of the EAR. The petitioner also requested that the Department hold a hearing on the subject of the petition.

In this notice, BIS is seeking comments on the justification for and merits of the actions requested in the petition, and the impact of such actions on affected exporters, the recyclable metallic metals industry, the recyclable copper industry, the economy, and the public at large. The commodities to be considered by the Department in this proceeding, identified by Schedule B number in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, are listed under subheadings 7404.00.0020, 7404.00.0045, 7404.00.0062, and 7404.00.0080.

Public Comments

To assist the Department in its evaluation of this petition, interested persons are encouraged to submit written comments and data regarding the criteria set forth in section 7(c)(3)(A)(i)-(v) of the EAA; the need for and consequences of export monitoring or controls at this time on one or more of the commodities under consideration; and any other matters that interested persons believe to be relevant to the subject of this proceeding. All written comments should contain an executive summary of no more than five (5) pages.

In order to take into account the views of all interested persons in making its determination, the Department encourages parties to submit their comments at the earliest possible date. Early submission will ensure that persons are able to address the areas identified by the Department as well as comment, expand upon, and, if applicable, rebut the comments submitted by other persons. To fulfill this objective, the Department will accept initial comments and comments that respond to previously submitted comments. The Department requests that initial comments be submitted by May 13, 2004. Written comments that respond to the initial comments should be submitted by May 27, 2004. The period for submission of written comments on the action under consideration will end as of 5 p.m. e.d.t. June 7, 2004.

Public Hearing

The Department has received a request for a hearing pursuant to the provisions of section 7(c)(2) of the EAA. Persons desiring to make presentations at the public hearing must make a written request to BIS at the address listed above. Requests must be filed by May 13, 2004. The request should contain a telephone number where the presenter can be reached before the hearing. All requests to make an oral presentation should describe the presenter's interest in the proceeding, explain why that person is an appropriate representative of a group or class of persons that has such an interest, and should enclose a concise summary of the proposed oral presentation. The Department will notify each person selected to be heard prior to the hearing. Persons selected to be heard should bring 25 copies of their statement to the hearing.

The Department will attempt to ensure that all interested parties have an opportunity to be heard at the public hearing. The Department reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation will be limited. Only members of the Department's hearing panel may ask questions of the presenters.

The Department will provide more details on the procedures governing the conduct of the hearing in a notice to be published in the **Federal Register**.

Areas of Interest

Pursuant to the provisions of section 7(c) of the EAA, in making the determination as to whether to impose

monitoring or controls on the exports of recyclable metallic materials, the Department is required to determine whether:

1. There has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply and demand.

2. There has been a significant increase in domestic price of such material or a domestic shortage of such material relative to demand.

3. Exports of such material are as important as any other cause of a domestic price increase or shortage relative to demand.

4. A domestic price increase or shortage relative to demand has significantly adversely affected or may significantly adversely affect the national economy or any sector thereof, including a domestic industry.

5. Export monitoring or controls, or both, are necessary in order to carry out the policy set forth in section 3(2)(C) of the EAA. Section 3(2)(C) of the EAA states that it is the policy of the United States to restrict the export of goods where necessary to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of foreign demand.

To assist the Department in making these determinations, the Department is interested in any information that can be provided on the following subjects:

1. Information describing the current economic profile of the U.S. copper industry, including information on the number of producers, smelters, refiners, users, and exporters of copper scrap, and the number of employed workers engaged in these activities by industry and occupation.

2. Quantitative information characterizing the effect of copper scrap exports on industries that mine copper; smelt and refine copper; companies that roll, draw, and extrude copper; companies that produce copper wire; and the secondary smelting, refining, and copper alloying industry.

3. Data on the materials used in the manufacturing process for copper products; the percentage, by measure and price, of these materials, including the energy used, in manufactured copper products.

4. Data on the impact of exports on the domestic price of products containing copper, including an assessment of the direct economic impact of exports on user industries, such as construction, electronics, and transportation.

5. Quantitative information on the global copper industry, including the

current and anticipated world supply, demand, imports, and exports of copper and copper scrap, and the effect of copper scrap prices and supply on the U.S. copper industry involving mining.

6. Historical information comparing consumption, demand, prices, and exports of copper and copper scrap during the expanding economy from the mid-1990s through 2000, in comparison to the contraction of the economy in 2001 and 2002, and again in comparison to the current economic expansion of 2003–2004.

7. Information on any factors, other than exports, that may have contributed to domestic shortages and increased prices for copper scrap. For example, this information could include seasonal effects, reduction in smelting capacity, declines in domestic consumption, changes in technology, consumer preferences, and disruptions in the supply, production or distribution chains.

8. The effect that copper scrap shortages, by type or grade of scrap, have had on any segments of the copper industry that only utilize scrap as an input to their manufactured goods, and are unable to convert to other forms of copper.

9. Information on the trade and other practices of other countries that have had a direct impact on the U.S. copper industry's ability to compete globally.

10. Comments regarding the effectiveness or ineffectiveness of the requested monitoring and controls, and comments or suggestions as to actions that would make the requested actions more effective, if imposed.

11. Economic analyses of the likely effect of export monitoring and/or export controls on the price and availability of copper scrap in the domestic market, as well as the likely effect on other domestic industries and the U.S. economy at large.

The Department will reach a decision on this matter within 45 days of the close of the comment period. This decision and any regulations necessary to implement it, together with a detailed statement of the reasons for the Department's decision, will be published in the **Federal Register**.

Dated: April 19, 2004.

Peter Lichtenbaum,

Assistant Secretary for Export Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 022304A]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Conducting the Precision Strike Weapon (PSW) Testing and Training by Eglin Air Force Base in the Gulf of Mexico

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

ACTION: Notice of receipt of application for an incidental take authorization; request for comments and information.

SUMMARY: NMFS has received a request from Eglin Air Force Base (Eglin AFB), for authorization to harass marine mammals incidental to testing and training during Precision Strike Weapons (PSW) tests in the Gulf of Mexico (GOM), a military readiness activity. As a result of this request, NMFS is proposing to issue a 1-year incidental harassment authorization (IHA) to take marine mammals by Level B harassment incidental to this activity and will propose regulations at a later time that would govern the incidental taking of marine mammals under a Letter of Authorization (LOA) issued to Eglin AFB for a period of up to 5 years after the 1-year IHA expires. In order to issue IHAs and promulgate regulations and LOAs thereunder, NMFS must determine that these takings will have a negligible impact on the affected species and stocks of marine mammals. NMFS invites comment on Eglin AFB's application, NMFS' preliminary determinations on the impact of the activity on marine mammals and suggestions on the content of the regulations.

DATES: Comments and information must be received no later than May 24, 2004.

ADDRESSES: Comments should be addressed to P. Michael Payne, Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226. The mailbox address for providing email comments on this action is PR2.022304A@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: 022304A. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size. A copy of the application containing a list of references used in this document may