

Department of Commerce CZMA  
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(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance.)

Dated: August 7, 2008.

**Joel La Bissonniere,**  
*Assistant General Counsel for Ocean Services.*  
[FR Doc. E8-18658 Filed 8-11-08; 8:45 am]  
**BILLING CODE 3510-08-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XG81

#### Marine Mammals; File No. 1121-1900

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

**ACTION:** Notice; issuance of permit amendment.

**SUMMARY:** Notice is hereby given that NOAA Fisheries Office of Science and Technology (Principal Investigator: Dr. Brandon Southall), Silver Spring, MD, has been issued an amendment to Permit No. 1121-1900 to conduct research on marine mammals.

**ADDRESSES:** The permit amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521; <http://www.nmfs.noaa.gov/pr/permits/review.htm>; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, Florida 33701; phone (727)824-5312; fax (727)824-5309.

**FOR FURTHER INFORMATION CONTACT:** Tammy Adams or Jolie Harrison, (301)713-2289.

**SUPPLEMENTARY INFORMATION:** On April 2, 2008, notice was published in the *Federal Register* (73 FR 17957) that a request for an amendment to Scientific Research Permit No. 1121-1900 to take beaked whales (*Ziphius cavirostris* and *Mesoplodon* spp.) and other odontocete species had been submitted by the above-named institution (permit holder). The requested permit amendment has been issued 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 (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

The permit amendment extended the duration of the permit to allow conduct of three additional annual field seasons, and modified the protocols for playback experiments as requested by the permit holder. The amended permit authorizes research involving temporary attachment of scientific instruments (digital archival recording tags), photo-identification, and exposure to controlled levels of natural and anthropogenic underwater sounds, including signals simulating mid-frequency sonar. Sloughed skin samples collected from the detached instrument would be imported into the U.S. for analysis. The permit is valid through January 1, 2011.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a supplemental environmental assessment was prepared analyzing the effects of the permitted activities. After a Finding of No Significant Impact, the determination was made that it was not necessary to prepare an environmental impact statement.

Issuance of this permit, as required by the ESA, was based on a finding that such permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: August 6, 2008.

**P. Michael Payne,**  
*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. E8-18617 Filed 8-11-08; 8:45 am]

**BILLING CODE 3510-22-S**

## CONSUMER PRODUCT SAFETY COMMISSION

(CPSA Docket No. 08-COO 16)

### A & R Knitwear, Inc., Provisional Acceptance of a Settlement Agreement and Order

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the

*Federal Register* in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally accepted Settlement Agreement with A & R Knitwear, Inc., containing a civil penalty of \$35,000.00.

**DATES:** Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by August 27, 2008.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 08-C0016, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 502, Bethesda, Maryland 20814-4408.

**FOR FURTHER INFORMATION CONTACT:** Dennis C. Kacoyanis, Trial Attorney, Legal Division, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814-4408; telephone (301) 504-7587.

**SUPPLEMENTARY INFORMATION:** The text of the Agreement and Order appears below.

August 5, 2008.

**Todd A. Stevenson,**  
*Secretary.*

## United States of America

### Consumer Product Safety Commission

In the Matter of A & R Knitwear, Inc., CPSA Docket No. 08-C0016

#### Settlement Agreement

1. In accordance with 16 CFR 1118.20, A & R Knitwear, Inc. ("A & R") and the staff ("Staff") of the United States Consumer Product Safety Commission ("Commission") enter into this Settlement Agreement ("Agreement"). The Agreement and the incorporated attached Order ("Order") settle the Staff's allegations set forth below.

#### Parties

2. The Commission is an independent federal regulatory agency established pursuant to, and responsible for the enforcement of, the Consumer Product Safety Act, 15 U.S.C. 2051-2084 ("CPSA").

3. A & R is a corporation organized and existing under the laws of New York, with its principal offices located in New York, NY. At all times relevant hereto, A & R imported and sold apparel.

#### Staff Allegations

4. In 2007, A & R imported and sold to a nationwide retailer at least 5,214 Personal Identity V-neck sweaters with hood and neck drawstrings ("Drawstring Sweaters").

5. The nationwide retailer sold the Drawstring Sweaters to consumers.

6. The Drawstring Sweaters are "consumer product[s]," and, at all times relevant hereto, A & R was a "manufacturer" of those

consumer products, which were "distributed in commerce," as those terms are defined in CPSA sections 3(a)(1), (4), (11), and (12), 15 U.S.C. 2052(a)(1), (4), (11), and (12).

7. In February 1996, the Staff issued the Guidelines for Drawstrings on Children's Upper Outerwear ("Guidelines") to help prevent children from strangling or entangling on neck and waist drawstrings. The Guidelines state that drawstrings can cause, and have caused, injuries and deaths when they catch on items such as playground equipment, bus doors, or cribs. In the Guidelines, the Staff recommends that there be no hood and neck drawstrings in children's upper outerwear sized 2T to 12.

8. In June 1997, ASTM adopted a voluntary standard, ASTM F1816-97, that incorporated the Guidelines. The Guidelines state that firms should be aware of the hazards and should be sure garments they sell conform to the voluntary standard.

9. On May 19, 2006, the Commission posted on its Web site a letter from the Commission's Director of the Office of Compliance to manufacturers, importers, and retailers of children's upper outerwear. The letter urges them to make certain that all children's upper outerwear sold in the United States complies with ASTM F1816-97. The letter states that the Staff considers children's upper outerwear with drawstrings at the hood or neck area to be defective and to present a substantial risk of injury to young children under Federal Hazardous Substances Act ("FHSA") section 15(c), 15 U.S.C. 1274(c). The letter also notes the CPSA's section 15(b) reporting requirements.

10. The Commission was not informed of any incidents or injuries from the Drawstring Sweaters.

11. A & R's distribution in commerce of the Drawstring Sweaters did not meet the Guidelines or ASTM F1816-97, failed to comport with the Staff's May 2006 defect notice, and posed a strangulation hazard to children.

12. On December 6, 2007, the Commission and the nationwide retailer announced a recall of the Drawstring Sweaters, informing consumers that they should immediately remove the drawstrings to eliminate the hazard.

13. A & R had presumed and actual knowledge that the Drawstring Sweaters distributed in commerce posed a strangulation hazard and presented a substantial risk of injury to children under FHSA section 15(c)(1), 15 U.S.C. 1274(c)(1). A & R had obtained information that reasonably supported the conclusion that the Drawstring Sweaters contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. CPSA sections 15(b)(2) and (3), 15 U.S.C. 2064(b)(2) and (3), required A & R to immediately inform the Commission of the defect and risk.

14. A & R knowingly failed to immediately inform the Commission about the Drawstring Sweaters as required by CPSA sections 15(b)(2) and (3), 15 U.S.C. 2064(b)(2) and (3), and as the term "knowingly" is defined in CPSA section 20(d), 15 U.S.C. 2069(d). This failure violated CPSA section 19(a)(4), 15 U.S.C. 2068(a)(4). Pursuant to CPSA section

20, 15 U.S.C. 2069, this failure subjected A & R to civil penalties.

#### A & R Response

15. A & R denies the Staff's allegations above, including, but not limited to, the allegations that A & R failed to immediately inform the Commission about the Drawstring Sweaters as required by CPSA sections 15(b)(2) and (3), 15 U.S.C. 2064(b)(2) and (3), or otherwise violated the CPSA or FHSA.

16. A & R specifically denies that A & R violated the CPSA or the FHSA and that the Drawstring Sweaters contained a defect that could create a substantial product hazard or created an unreasonable risk of serious injury or death. A & R denies that it violated the reporting requirements of CPSA section 15(b), 15 U.S.C. 2064(b).

17. A & R received no reports of incidents or injury related to the Drawstring Sweaters, and A & R was unaware of both the Guidelines and the May 2006 letter posted on the Commission's Web site stating that the staff of the Commission's Office of Compliance considers children's upper outerwear with drawstrings at the head or neck area to be defective and to present a substantial risk of injury to young children. Accordingly, A & R denies that any alleged violation of the CPSA or FHSA occurred "knowingly" as defined in CPSA section 20(d), 15 U.S.C. 2069(d).

18. Between November 2006 and June 2008, the CPSC posted on its Web site at least twenty-two recall announcements involving children's drawstring garments. These twenty-two recall announcements referenced and linked electronically to the Guidelines. The Guidelines, which are entitled in part "Recommended Guidelines," state that the "CPSC's drawstring guidelines do not represent a standard or mandatory requirement set by the agency." Accordingly, at the time A & R imported and sold the Drawstring Sweaters, the Commission had not provided adequate notice that civil penalties could arise from A & R's conduct.

19. As soon as A & R was alerted by the retailer about safety concerns with the drawstrings in the Drawstring Sweaters, it undertook efforts to have the drawstrings removed from the garments. In addition, A & R fully cooperated with the retailer and the Commission in connection with the December 2007 recall of the Drawstring Sweaters, which resulted in A & R's removal of the drawstrings from 2,332 Drawstring Sweaters in the possession of A & R.

20. A & R has entered into the Agreement for settlement purposes only, and has made a business decision to avoid additional expenses and distractions related to further administrative procedures and litigation. The Agreement and Order do not constitute and are not evidence of any fault or wrongdoing on the part of A & R.

#### Agreement of the Parties

21. Under the CPSA, the Commission has jurisdiction over this matter and over A & R.

22. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute an admission by A & R, or a determination by the Commission, that A & R has knowingly violated the CPSA.

23. In settlement of the Staff's allegations, A & R shall pay a civil penalty in the amount of thirty-five thousand dollars (\$35,000.00) within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement. The payment shall be by check payable to the order of the United States Treasury.

24. Upon provisional acceptance of the Agreement, the Agreement shall be placed on the public record and published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e). In accordance with 16 CFR 1118.20(f), if the Commission does not receive any written request not to accept the Agreement within fifteen (15) calendar days, the Agreement shall be deemed finally accepted on the sixteenth (16th) calendar day after the date it is published in the **Federal Register**.

25. Upon the Commission's final acceptance of the Agreement and issuance of the final Order, A & R knowingly, voluntarily, and completely waives any rights it may have regarding the Staff's allegations to the following: (1) An administrative or judicial hearing; (2) judicial review or other challenge or contest of the validity of the Order or of the Commission's actions; (3) a determination by the Commission of whether A & R failed to comply with the CPSA and its underlying regulations; (4) a statement of findings of fact and conclusions of law; and (5) any claims under the Equal Access to Justice Act.

26. The Commission may publicize the terms of the Agreement and the Order.

27. The Agreement and the Order shall apply to, and be binding upon, A & R and each of its successors and assigns.

28. The Commission issues the Order under the provisions of the CPSA, and violation of the Order may subject A & R to appropriate legal action.

29. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. The Agreement shall not be waived, amended, modified, or otherwise altered without written agreement thereto executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced.

30. If any provision of the Agreement and the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and A & R agree that severing the provision materially affects the purpose of the Agreement and the Order.

31. Pursuant to section 6(d) of the Interim Delegation of Authority ordered by the Commission on February 1, 2008, the Commission delegated to the Assistant Executive Director for Compliance and Field Operations the authority to act, with the concurrence of the General Counsel, for the Commission under 16 CFR 1118.20 with respect to Staff allegations that any person or

firm violated 15 U.S.C. 2068, where the total amount of the settlement involves no more than \$100,000.

A & R Knitwear, Inc.

Dated: 7/21/08.

By: /s/ David Rosenbluth,  
David Rosenbluth,  
President, A & R Knitwear, Inc., 530 7th  
Avenue, Suite 901, New York, NY 10018.

Dated: 7/25/08.

By: /s/ Michael T. Cone,  
Michael T. Cone, Esquire,  
Neville Peterson, LLP 17 State Street, 19th  
Floor, New York, NY 10004, Attorney for A  
& R Knitwear, Inc.

U.S. Consumer Product Safety Commission  
Staff

J. Gibson Mullan,  
Assistant Executive Director, Office of  
Compliance and Field Operations.

Ronald G. Yelenik,  
Acting Director, Legal Division, Office of  
Compliance and Field Operations.

Dated: 7/31/08.

By: /s/ Dennis C. Kacoyams,  
Dennis C. Kacoyams,  
Trial Attorney, Legal Division, Office of  
Compliance and Field Operations.

#### United States of America

#### Consumer Product Safety Commission

In the Matter of A & R Knitwear, Inc., CPSC  
Docket No. 08-C16

#### Order

Upon consideration of the Settlement Agreement entered into between A & R Knitwear, Inc. ("A & R") and the U.S. Consumer Product Safety Commission ("Commission") staff, and the Commission having jurisdiction over the subject matter and over A & R, and pursuant to the authority delegated in section 6(d) of the Interim Delegation of Authority ordered by the Commission on February 1, 2008, and it appearing that the Settlement Agreement and the Order are in the public interest, it is *Ordered*, that the Settlement Agreement be, and hereby is, accepted; and it is *Further ordered*, that A & R shall pay a civil penalty in the amount of thirty-five thousand dollars (\$35,000.00) within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement. The payment shall be made by check payable to the order of the United States Treasury. Upon the failure of A & R to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by A & R at the federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 4th day of August, 2008.

By Order of the Commission.  
Todd A. Stevenson,  
Secretary, U.S. Consumer Product Safety  
Commission.

[FR Doc. E8-18403 Filed 8-11-08; 8:45 am]

BILLING CODE 6355-01-M

## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 08-C0013]

### AJ Blue LLC, Provisional Acceptance of a Settlement Agreement and Order

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with AJ Blue LLC, containing a civil penalty of \$40,000.00.

**DATES:** Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by August 27, 2008.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to Comment 08-C0013, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 502, Bethesda, Maryland 20814-4408.

**FOR FURTHER INFORMATION CONTACT:** Seth B. Popkin, Trial Attorney, Legal Division, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814-4408; telephone (301) 504-7612.

**SUPPLEMENTARY INFORMATION:** The text of the Agreement and Order appears below.

Dated: August 5, 2008.

**Todd A. Stevenson,**  
Secretary.

#### United States of America

#### Consumer Product Safety Commission

In the Matter of AJ Blue LLC, CPSC Docket  
No. 08-C0013.

#### Settlement Agreement

1. In accordance with 16 CFR 1118.20, AJ Blue LLC, d/b/a Apollo Jeans ("AJB") and the staff ("Staff") of the United States Consumer Product Safety Commission ("Commission") enter into this Settlement Agreement ("Agreement"). The Agreement and the incorporated attached Order ("Order") settle the Staff's allegations set forth below.

#### Parties

2. The Commission is an independent federal regulatory agency established pursuant to, and responsible for the enforcement of, the Consumer Product Safety Act, 15 U.S.C. 2051-2084 ("CPSA").

3. AJB is a corporation organized and existing under the laws of New York, with its principal offices located in New York, New York. At all times relevant hereto, AJB sold apparel.

#### Staff Allegations

4. On July 11, 2007, AJB imported 13,728 Apollo Active Wear girls' hooded jackets with drawstrings at the hood ("Jackets"). On August 17, 2007, AJB sold and/or distributed in commerce the Jackets.

5. A nationwide retailer sold the Jackets to consumers.

6. The Jackets are "consumer product[s]," and, at all times relevant hereto, AJB was a "manufacturer" of those consumer products, which were "distributed in commerce," as those terms are defined in CPSA sections 3(a)(1), (4), (11), and (12), 15 U.S.C. 2052(a)(1), (4), (11), and (12).

7. In February 1996, the Staff issued the Guidelines for Drawstrings on Children's Upper Outerwear ("Guidelines") to help prevent children from strangling or entangling on neck and waist drawstrings. The Guidelines state that drawstrings can cause, and have caused, injuries and deaths when they catch on items such as playground equipment, bus doors, or cribs. In the Guidelines, the Staff recommends that there be no hood and neck drawstrings in children's upper outerwear sized 2T to 12.

8. In June 1997, ASTM adopted a voluntary standard, ASTM F1816-97, that incorporated the Guidelines. The Guidelines state that firms should be aware of the hazards and should be sure garments they sell conform to the voluntary standard.

9. On May 19, 2006, the Commission posted on its Web site a letter from the Commission's Director of the Office of Compliance to manufacturers, importers, and retailers of children's upper outerwear. The letter urges them to make certain that all children's upper outerwear sold in the United States complies with ASTM F1816-97. The letter states that the Staff considers children's upper outerwear with drawstrings at the hood or neck area to be defective and to present a substantial risk of injury to young children under Federal Hazardous Substances Act ("FHSA") section 15(c), 15 U.S.C. 1274(c). The letter also notes the CPSA's section 15(b) reporting requirements.

10. AJB informed the Commission that there had been no incidents or injuries from the Jackets.

11. AJB's distribution in commerce of the Jackets did not meet the Guidelines or ASTM F1816-97, failed to comport with the Staff's May 2006 defect notice, and posed a strangulation hazard to children.

12. On January 31, 2008, the Commission and AJB announced a recall of the Jackets.

13. AJB had presumed and actual knowledge that the Jackets distributed in commerce posed a strangulation hazard and presented a substantial risk of injury to children under FHSA section 15 (c)(1), 15 U.S.C. 1274(c)(1). AJB had obtained information that reasonably supported the conclusion that the Jackets contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. CPSA sections