

3. Requiring that a 5½ inch (14.0 cm) flounder net be used by the vessel to collect the horseshoe crabs. This condition would allow for continuation of traditional harvest gear and adds to the consistency in the way horseshoe crabs are harvested for data collection;

4. Limiting trawl tow times to 30 minutes as a conservation measure to protect sea turtles, which are expected to be migrating through the area during the collection period, and are vulnerable to bottom trawling;

5. Restricting the hours of fishing to daylight hours only, approximately from 7:30 a.m. to 5 p.m. to aid law enforcement;

6. Requiring that the collected horseshoe crabs be picked up from the fishing vessels at docks in the Cape May Area and transported to local laboratories, bled for LAL, and released alive the following morning into the Lower Delaware Bay; and

7. Requiring that any turtle take be reported to NMFS, Northeast Region Assistant Regional Administrator of Protected Resources Division within 24 hours of returning from the trip in which the incidental take occurred.

As part of the terms and conditions of the EFP, for all horseshoe crabs bled for LAL, NMFS would require that the EFP holder provide data on sex ratio and daily harvest. Also, the EFP holder would be required to examine at least 200 horseshoe crabs for morphometric data. Terms and conditions may be added or amended prior to the issuance of the EFP.

The proposed EFP would exempt three commercial vessels from regulations at 50 CFR 697.7(e) and 697.23(f) which prohibit the harvest and possession of horseshoe crabs from the Reserve on a vessel with a trawl or dredge gear aboard.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 26, 2010.

**Carrie Selberg,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2010-13313 Filed 6-2-10; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

A-570-912

#### **Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Notice of Decision of the Court of International Trade Not in Harmony**

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

**SUMMARY:** On May 14, 2010, the United States Court of International Trade ("CIT") sustained the final remand redetermination made by the Department of Commerce ("Department") pursuant to the CIT's remand of the final determination in the antidumping investigation on certain new pneumatic off-the-road tires ("OTR tires") from the People's Republic of China ("PRC"). See *Bridgestone Americas Inc. v. United States*, Consol. Ct. No. 08-00256, Slip Op. 10-55 (Ct. Int'l Trade May 14, 2010) ("*Bridgestone*"). This case arises out of the Department's Final Determination in the antidumping investigation on OTR tires from the PRC. See *Certain New Pneumatic Off-The-Road-Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008) ("*Final Determination*"); *Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Notice of Amended Final Affirmative Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 73 FR 51624 (September 4, 2008). The final judgment in this case was not in harmony with the Department's July 2008 final determination.

**EFFECTIVE DATE:** May 24, 2010

**FOR FURTHER INFORMATION CONTACT:** Lilit Astvatsatrian or Charles Riggie, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-6412 or (202) 482-0650, respectively.

**SUPPLEMENTARY INFORMATION:** In July 2008, the Department published in the **Federal Register** the *Final Determination* in the antidumping investigation on OTR tires from the PRC in which it calculated a zero dumping rate for respondent Xugong Tyres Co., Ltd. ("Xugong").

In August 2008, petitioners, Bridgestone Americas, Inc. and Bridgestone Americas Tire Operations, LLC (collectively, "Bridgestone") and Titan Tire Corporation ("Titan"), respectively, filed summons with the CIT challenging the *Final Determination* with respect to Xugong's zero dumping margin. Among their claims, Bridgestone and Titan alleged that the Department erred in its *Final Determination* by treating as indirect materials certain inputs used by Xugong in the production of subject merchandise.

In April 2009, the Department requested a voluntary remand to further explain its determination regarding the classification of the fifteen raw materials reported by Xugong as indirect materials. On August 4, 2009, the CIT remanded this matter to the Department to reconsider whether each of the fifteen inputs was a direct or indirect material, to reopen the record as appropriate, and to recalculate the margin accordingly. See *Bridgestone Americas Inc. v. United States*, Consol. Ct. No. 08-00256, Slip Op. 09-79 (Ct. Int'l Trade Aug. 4, 2009).

After receiving comments on the draft remand results, the Department on January 7, 2010, issued its final remand redetermination in which it treated Xugong's fifteen raw material inputs as direct materials and, thus, recalculated Xugong's margin by adding Xugong's fifteen raw materials as direct material inputs in the calculation of the normal value. As a result of this recalculation, Xugong's dumping rate changed from 0.00 percent to 10.01 percent. See *Bridgestone Americas Inc. v. United States*, Consol. Ct. No. 08-00256, dated January 8, 2010.

On May 14, 2010, the CIT sustained the final redetermination made by the Department pursuant to the CIT's remand of the final determination in the antidumping investigation of the OTR tires from the PRC. See *Bridgestone*, Slip Op. 10-55 at 14.

#### **Timken Notice**

In its decision in *Timken Co. v. United States*, 893 F. 2d 337, 341 (Fed. Cir. 1990) ("*Timken*"), the United States Court of Appeals for the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended ("the Act"), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision.

The Court's decision in *Bridgestone* on May 14, 2010, constitutes a final decision of that court that is not in harmony with the Department's *Final Determination*. This notice is published in fulfillment of the publication requirements of *Timken* with an effective date of May 24, 2010 (*i.e.*, 10 days following the CIT's ruling). Accordingly, the Department will direct the U.S. Customs and Border Protection ("CBP") effective May 24, 2010, to suspend liquidation of entries of subject merchandise manufactured and exported by Xugong pending the expiration of the period to appeal or pending a final decision on appeal. The Department will issue revised instructions to CBP if the Court's

decision is not appealed or if it is affirmed on appeal.

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Dated: May 26, 2010.

**Paul Piquado,**

*Acting Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010-13375 Filed 6-2-10; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[Application No. 84-21A12]

#### Export Trade Certificate of Review

**ACTION:** Notice of Application (#84-21A12) To Amend an Export Trade Certificate of Review Previously Issued to Northwest Fruit Exporters (“NFE”).

**SUMMARY:** The Office of Competition and Economic Analysis (“OCEA”) of the International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review (“Certificate”). This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued.

**FOR FURTHER INFORMATION CONTACT:** Joseph Flynn, Director, Office of Competition and Economic Analysis, International Trade Administration, (202) 482-5131 (this is not a toll-free number) or by e-mail at [oitca@ita.doc.gov](mailto:oitca@ita.doc.gov).

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Certificates. A Certificate protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

#### Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any

privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Competition and Economic Analysis, International Trade Administration, U.S. Department of Commerce, Room 7021-X, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as “Export Trade Certificate of Review, application number 84-21A12.” The original NFE Certificate (No. 84-00012) was issued on June 11, 1984 (49 FR 24581, June 14, 1984), and last amended on September 16, 2009 (74 FR 48520, September 23, 2009). A summary of the current application for an amendment follows.

#### Summary of the Application

*Applicant:* Northwest Fruit Exporters (“NFE”), 105 South 18th Street, Suite 227, Yakima, Washington 98901.

*Contact:* James R. Archer, Manager to NFE, Telephone: (509) 576-8004.

*Application No.:* 84-21A12.

*Date Deemed Submitted:* May 20, 2009.

*Proposed Amendment:* NFE seeks to amend its Certificate to:

1. Add the following companies as a new “Member” of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l)): Hood River Cherry Company, Hood River, OR; Ice Lakes LLC, E. Wenatchee, WA; and JackAss Mt. Ranch, Pasco, WA.
2. Delete the following companies as Members of NFE’s Certificate: Poirier Warehouse, Pateros, WA; and Witte Orchards, E. Wenatchee, WA.

Dated: May 26, 2010.

**Joseph Flynn,**

*Director, Office of Competition and Economic Analysis.*

[FR Doc. 2010-13123 Filed 6-2-10; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XW70

#### Incidental Taking of Marine Mammals; Taking of Marine Mammals Incidental to the Explosive Removal of Offshore Structures in the Gulf of Mexico

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

**ACTION:** Notice; issuance of a letter of authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that NMFS has issued a one-year Letters of Authorization (LOA) to take marine mammals incidental to the explosive removal of offshore oil and gas structures (EROS) in the Gulf of Mexico.

**DATES:** These authorizations are effective from June 1, 2010 through May 31, 2011.

**ADDRESSES:** The application and LOA are available for review by writing to P. Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3235 or by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or online 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.

**SUPPLEMENTARY INFORMATION:** Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce (who has delegated the authority to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made and regulations are issued. Under the MMPA, the term “take” means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill any marine mammal.

Authorization for incidental taking, in the form of annual LOAs, may be