

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT—  
Continued

[4/28/2010 through 6/7/2010]

Firm	Address	Date accepted products for filing	Products
Everbrite Electronics, Inc. ....	720 W. Cherry Street, Chanute, KS 66720.	6/7/2010	Electronic switching power supplies for neon signs and LED based products and related components.
H. H. Fessler Knitting Co, Inc. d/b/a FesslerUSA.	216 West Independence, Orwigsburg, PA 17961.	6/7/2010	FesslerUSA manufactures custom women and children's apparel and provides design and production.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 7106, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the procedures set forth in Section 315.9 of EDA's final rule (71 FR 56704) for procedures for requesting a public hearing. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: June 11, 2010.

**Miriam J. Kearse,**  
*Eligibility Certifier.*

[FR Doc. 2010-14612 Filed 6-16-10; 8:45 am]

**BILLING CODE 3510-24-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XW61

#### Taking and Importing Marine Mammals: Taking Marine Mammals Incidental to Navy Training Exercises in Three East Coast Range Complexes

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

**ACTION:** Notice; issuance of three Letters of Authorization.

**SUMMARY:** In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that NMFS has issued three one-year Letters of Authorization (LOAs) to take marine mammals by harassment incidental to the U.S. Navy's training activities within the Navy's Virginia Capes (VACAPES), Jacksonville (JAX), and Cherry Point Range

Complexes to the Commander, U.S. Fleet Forces Command, 1562 Mitscher Avenue, Suite 250, Norfolk, VA 23551-2487 and persons operating under his authority.

**DATES:** Effective from June 5, 2010, through June 4, 2011.

**ADDRESSES:** Copies of the Navy's January 28, 2010, LOA applications, the LOAs, the Navy's 2009 marine mammal monitoring report and the Navy's 2009 exercise report are available 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, by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications>.

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Shane Guan, Office of Protected Resources, NMFS (301) 713-2289 x 137.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a military readiness activity if certain findings are made and regulations are issued.

Authorization may be granted for periods of 5 years or less if NMFS finds that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for certain subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat, and on the availability of the species for subsistence uses, paying particular

attention to rookeries, mating grounds, and areas of similar significance. The regulations also must include requirements pertaining to the monitoring and reporting of such taking.

Regulations governing the taking of marine mammals incidental to the U.S. Navy's training activities at the Navy's VACAPES, JAX, and Cherry Point Range Complexes were published on June 15, 2009 (VACAPES: 74 FR 28328; JAX: 74 FR 28349; Cherry Point: 74 FR 28370), and remain in effect through June 4, 2014. They are codified at 50 CFR part 218 subpart A (for VACAPES Range Complex), subpart B (for JAX Range Complex), and subpart C (for Cherry Point Range Complex). These regulations include mitigation, monitoring, and reporting requirements for the incidental taking of marine mammals by the Navy's range complex training exercises. For detailed information on these actions, please refer to the June 15, 2009 **Federal Register** Notices and 50 CFR part 218 subparts A, B, and C.

#### Summary of LOA Request

NMFS received an application from the U.S. Navy for three LOAs covering the Navy's training activities at the VACAPES, JAX, and Cherry Point Range Complexes off the US East Coast under the regulations issued on June 15, 2009 (VACAPES: 74 FR 28328; JAX: 74 FR 28349; Cherry Point: 74 FR 28370). The Navy requested that these LOAs become effective on June 5, 2010. The application requested authorization, for a period not to exceed one year, to take, by harassment, marine mammals incidental to proposed training activities that involve underwater explosives.

#### Summary of Activity under the 2009 LOA

As described in the Navy's exercise reports, in 2009, the training activities conducted by the Navy were within the scope and amounts contemplated by the final rule and authorized by the 2009 LOAs. In fact, the number of training

exercises was below the Navy's proposed 2009 operations.

#### Planned Activities for 2010

In 2010, the Navy expects to conduct the same type and amount of training identified in the final rules and 2009 LOAs. No modification is proposed by the Navy for its planned 2010 activities.

#### Estimated Take for 2010

The estimated takes for the Navy's proposed 2010 training exercises are the same as those in authorized in 2009. No change has been made in the estimated takes from the 2009 LOAs.

#### Summary of Monitoring, Reporting, and other requirements under the 2009 LOA

##### *Annual Exercise Reports*

The Navy submitted their 2009 exercise report within the required timeframes and it is posted on NMFS website: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. NMFS has reviewed the report and it contains the information required by the 2009 LOAs. The report lists the amount of training exercises conducted between June 2009 and January 2010. For training exercises conducted at the VACAPES Range Complex, the Navy conducted 26 exercises out of the total of 176 proposed. For training exercises at the JAX Range Complex, the Navy conducted 4 out of 175 exercises proposed. No training exercise was conducted at the Cherry Point Range Complex, though a total of 38 exercises were proposed.

##### *Monitoring and Annual Monitoring Reports*

The Navy conducted the monitoring required by the 2009 LOA and described in the Monitoring Plan, which included aerial and vessel surveys of training exercises by marine mammal observers. The Navy submitted their 2009 Monitoring Report, which is posted on NMFS' website (<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>), within the required timeframe. The Navy included a summary of their 2009 monitoring effort and results (beginning on page 3 of the monitoring report).

##### *Integrated Comprehensive Management Program (ICMP) Plan*

The ICMP will be used both as: (1) a planning tool to focus Navy monitoring priorities (pursuant to ESA/MMPA requirements) across Navy Range Complexes and Exercises; and (2) an adaptive management tool, through the consolidation and analysis of the Navy's monitoring and watchstander data, as

well as new information from other Navy programs (e.g., research and development), and other appropriate newly published information. The Navy finalized a 2009 ICMP Plan outlining the program on December 22, 2009, as required by the 2009 LOA. The ICMP may be viewed at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

The ICMP is a program that will be in place for years and NMFS and Navy anticipate the ICMP may need to be updated yearly in order to keep pace with new advances in science and technology and the collection of new data. In the 2009 ICMP Plan, the Navy outlines three areas of targeted development for 2010, including:

- Identifying more specific monitoring sub-goals under the major goals that have been identified
- Characterizing Navy Range Complexes and Study Areas within the context of the prioritization guidelines described here
- Continuing to Develop Data Management, Organization and Access Procedures

##### *Adaptive Management and 2010 Monitoring Plan*

NMFS and the Navy conducted an adaptive management meeting in October 2009 wherein we reviewed the Navy monitoring results through August 1, 2009, discussed other Navy research and development efforts, and discussed other new information that could potentially inform decisions regarding Navy mitigation and monitoring. Because this is the first year of the regulation's period of effectiveness, the review only covered about 7 months of monitoring, which limited NMFS and the Navy's ability to undertake a robust review of the Navy's exercises and their effects on marine mammals. Based on the implementation of the 2009 monitoring, the Navy proposed some minor modifications to their monitoring plan for 2010 for VACAPES and JAX Range Complex training exercises, which NMFS agreed were appropriate. Beyond those changes, none of the information discussed led NMFS to recommend any modifications to the existing mitigation or monitoring measures. The final modifications to the monitoring plan and justifications are described in Section 7(b)(i)(A) of the 2010 LOAs for VACAPES and JAX Range Complexes, which may be viewed at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. As additional data is obtained in subsequent years, NMFS and Navy will be better positioned to conduct more extensive reviews and modify existing

mitigation and monitoring measures, if appropriate.

#### Authorization

The Navy complied with the requirements of the 2009 LOAs. Based on our review of the record, NMFS has determined that the marine mammal take resulting from the 2009 military readiness training and research activities falls within the levels previously anticipated, analyzed, and authorized, and was likely lower given the fact that Navy conducted fewer operations in 2009 than originally planned. Further, the level of taking authorized in 2010 for the Navy's training exercises at VACAPES, JAX, and Cherry Point Range Complexes is consistent with our previous findings made for the total taking allowed under these Range Complexes regulations. Finally, the record supports NMFS' conclusion that the total number of marine mammals taken by the 2010 training exercises at VACAPES, JAX, and Cherry Point Range Complexes will have no more than a negligible impact on the affected species or stock of marine mammals and will not have an unmitigable adverse impact on the availability of these species or stocks for taking for subsistence uses. Accordingly, NMFS has issued three one-year LOAs for Navy training exercises conducted at these East Coast Range Complexes from June 5, 2010, through June 4, 2011.

Dated: June 3, 2010.

**James H. Lecky,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

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**BILLING CODE 3510-22-S**

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## COMMODITY FUTURES TRADING COMMISSION

### **Petition of Hard Eight Futures, LLC for Exemptive Relief, Pursuant to Section 4(c) of the Commodity Exchange Act, From Section 2(a)(1)(C)(iv) of the Commodity Exchange Act and Appendix D to Part 30 of the Rules of the Commodity Futures Trading Commission**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of petition and request for comment.

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**SUMMARY:** Hard Eight Futures, LLC ("HEF") has petitioned the Commodity Futures Trading Commission ("Commission" or "CFTC") for exemptive relief, pursuant to Section 4(c) of the Commodity Exchange Act