

*APO Procedures*, 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (e.g., the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information. See section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any antidumping duty or countervailing duty proceedings initiated on or after March 14, 2011. See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule*, 76 FR 7491 (February 10, 2011) (“*Interim Final Rule*”), amending 19 CFR 351.303(g)(1) and (2). The formats for the revised certifications are provided at the end of the *Interim Final Rule*. The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011 if the submitting party does not comply with the revised certification requirements.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: July 26, 2012.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XC127**

#### 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 Letters of Authorization (LOA).

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

**DATES:** This authorization is effective from September 3, 2012 through July 19, 2013.

**ADDRESSES:** The application and LOA are available for review by writing to P. Michael Payne, Chief, Permits and Conservation 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, 301-427-8401.

**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 granted by NMFS for periods up to five years if NMFS finds, after notice and opportunity for public comment, that the total taking over the five-year period will have a negligible impact on the

species or stock(s) of marine mammals, and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). In addition, NMFS must prescribe regulations that include permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat (i.e., mitigation), and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating rounds, 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 EROS were published on June 19, 2008 (73 FR 34875), and remain in effect through July 19, 2013. For detailed information on this action, please refer to that **Federal Register** notice. The species that applicants may take in small numbers during EROS activities are bottlenose dolphins (*Tursiops truncatus*), Atlantic spotted dolphins (*Stenella frontalis*), pantropical spotted dolphins (*Stenella attenuata*), Clymene dolphins (*Stenella clymene*), striped dolphins (*Stenella coeruleoalba*), spinner dolphins (*Stenella longirostris*), rough-toothed dolphins (*Steno bredanensis*), Risso's dolphins (*Grampus griseus*), melon-headed whales (*Peponocephala electra*), short-finned pilot whales (*Globicephala macrorhynchus*), and sperm whales (*Physeter macrocephalus*). NMFS received requests for a LOA from EOG Resources, Inc. (EOG Resources) for activities covered by EROS regulations. Reporting

NMFS Galveston Laboratory's Platform Removal Observer Program (PROP) has provided reports for EOG Resources removal of offshore structures during 2011. NMFS PROP observers and non-NMFS observers reported the following during EOG Resource's EROS operations in 2011:

| Company             | Structure                                  | Dates   | Marine mammals sighted (individuals) | Biological impacts observed to marine mammals |
|---------------------|--|---|--------------------------------------|---|
| EOG Resources ..... | Eugene Island Area, Block 135, Platform B. | June 19 to 25, 2011 .....<br>July 31 to August 2, 2011 .. | Bottlenose dolphins (88) .....       | None.   |

| Company             | Structure                                   | Dates                     | Marine mammals sighted (individuals)                          | Biological impacts observed to marine mammals |
|---------------------|---|---------------------------|---|---|
| EOG Resources ..... | Mustang Island Area, Block 759, Platform B. | July 6 to 9, 2011 .....   | Bottlenose dolphins (2) .....                                 | None.   |
| EOG Resources ..... | Eugene Island Area, Block 135, Platform A.  | July 22 to 31, 2011 ..... | Spotted dolphins (14) .....<br>Bottlenose dolphins (33) ..... | None.   |

Pursuant to these regulations, NMFS has issued a LOA to EOG Resources. Issuance of the LOA is based on a finding made in the preamble to the final rule that the total taking over the five-year period (with monitoring, mitigation, and reporting measures) will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on subsistence uses. NMFS will review reports to ensure that the applicants are in compliance with meeting the requirements contained in the implementing regulations and LOA, including monitoring, mitigation, and reporting requirements.

Dated: July 25, 2012.

**Helen M. Golde,**

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

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## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 12-1]

### Maxfield and Oberton Holdings, LLC; Complaint

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Publication of a Complaint under the Consumer Product Safety Act.

**SUMMARY:** Under provisions of its Rules of Practice for Adjudicative Proceeding (16 CFR part 1025), the Consumer Product Safety Commission must publish in the **Federal Register** Complaints which it issues. Published below is a Complaint in the matter of Maxfield and Oberton Holdings, LLC.<sup>1</sup>

**SUPPLEMENTARY INFORMATION:** The text of the Complaint appears below.

Dated: July 26, 2012.

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

### Complaint

#### *Nature of Proceedings*

1. This is an administrative enforcement proceeding pursuant to Section 15 of the Consumer Product Safety Act ("CPSA"), as amended, 15 U.S.C. 2064, for public notification and remedial action to protect the public from the substantial risks of injury presented by aggregated masses of high-powered, small rare earth magnets known as Buckyballs® and Buckycubes™ (collectively, the "Subject Products"), imported and distributed by Maxfield and Oberton Holdings, LLC ("Maxfield" or "Respondent").

2. This proceeding is governed by the Rules of Practice for Adjudicative Proceedings before the Consumer Product Safety Commission (the "Commission"), 16 CFR Part 1025.

#### *Jurisdiction*

3. This proceeding is instituted pursuant to the authority contained in Sections 15(c), (d) and (f) of the CPSA, 15 U.S.C 2064(c), (d) and (f).

#### *Parties*

4. Complaint Counsel is the staff of the Division of Compliance within the Office of the General Counsel of the Commission ("Complaint Counsel"). The Commission is an independent federal regulatory agency established pursuant to Section 4 of the CPSA, 15 U.S.C. 2053.

5. Respondent Maxfield is a domestic corporation with its principal place of business located at 180 Varick Street, Suite 212, New York, New York 20014. Respondent is an importer and distributor of the Subject Products known as Buckyballs® and Buckycubes™.

6. As importer and distributor of the Subject Products, Respondent is a "manufacturer" and "distributor" of a "consumer product" that is "distributed in commerce," as those terms are defined in CPSA sections 3(a)(5), (7), (8) and (11) of the CPSA, 15 U.S.C. 2052(a)(5), (7), (8) and (11).

### *The Consumer Product*

7. The Subject Products are imported and distributed in U.S. commerce and offered for sale to consumers for their personal use in or around a permanent or temporary household or residence, a school, and in recreation or otherwise. The Subject Products consist of small, individual magnets that are packaged as aggregated masses in different sized containers holding 10, 125, and 216 small magnets, ranging in size from approximately 4.01 mm to 5.03 mm, with a variety of coatings, and a flux index of over 50. Upon information and belief, the flux of the Subject Products has reached levels ranging from 204.1 to 556 kg<sup>2</sup>mm<sup>2</sup> Surface Flux Index.

8. Upon information and belief, Buckyballs®, which are small spherically shaped magnets, were introduced in U.S. commerce in March 2009.

9. Upon information and belief, Buckycubes™, which are small cube shaped magnets, were introduced in U.S. commerce in October 2011.

10. Upon information and belief, the Subject Products are manufactured by Ningbo Prosperous Imp. & Exp. Co. Ltd., of Ningbo City, in China.

11. Upon information and belief, Respondent initially advertised and marketed Buckyballs® to appeal to children, calling it an "amazing magnetic toy."

12. Upon information and belief, Respondent advertised and marketed Buckyballs® by comparing its appeal to that of other children's products such as erector sets, hula hoops, and Silly Putty.

13. Upon information and belief, despite making no significant design or physical changes to the product since its introduction in 2009, Respondent subsequently rebranded Buckyballs® as an adult executive desk toy and/or stress reliever, marketing and advertising it as such.

14. The Subject Products are sold with a carrying case and range in retail price from approximately \$19.95 to \$100.00. Upon information and belief, the Subject Products can also be purchased in sets of 10 for \$3.50 without a carrying case.

<sup>1</sup> The Commission voted 3-1 to authorize issuance of this Complaint. Chairman Inez M. Tenenbaum, Commissioner Anne M. Northup and Commissioner Robert S. Adler voted to authorize issuance of the Complaint. Commissioner Nancy A. Nord voted to not authorize issuance of the Complaint.