

XV, Base Metals and Articles of Base Metals, Note 6(b). Accordingly, the exclusion of magnesium turnings, granules and powder from the scope includes products having a maximum physical dimension (*i.e.*, length or diameter) of 1 inch or less.

The product subject to this order is classifiable under subheadings 8104.11.00, 8104.19.00 and 8104.20.00 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

#### Background

On March 30, 1995, the Department published notice of its final affirmative less-than-fair-value determination covering imports of pure magnesium from Ukraine (*see Final Determination of Sales at Less Than Fair Value: Pure Magnesium from Ukraine*, 60 FR 16432). On May 8, 1995, the International Trade Commission ("ITC") made its final affirmative determination that a U.S. industry was being materially injured by reason of imports of pure magnesium from Ukraine as well as China and Russia (*see Magnesium from China, Russia, and Ukraine*, 60 FR 26456, May 17, 1995). On May 12, 1995, the Department published an antidumping order covering imports of pure magnesium from China, Russia and Ukraine (*see Antidumping Duty Orders: Pure Magnesium from the People's Republic of China, the Russian Federation and Ukraine*, 60 FR 25691).

Following publication of the antidumping duty order, Gerald Metals, Inc. ("Gerald Metals") filed a lawsuit with the U.S. Court of International Trade ("CIT") challenging the ITC's final affirmative determination of material injury with regard to the Ukrainian imports. In its first decision, the CIT affirmed the ITC's final affirmative determination of material injury with regard to the Ukrainian imports. However, the U.S. Court of Appeals for the Federal Circuit ("Federal Court") subsequently directed the CIT to vacate its decision affirming the ITC's final affirmative determination of material injury with regard to the Ukrainian imports and to remand the case to the ITC. *See Gerald Metals, Inc. v. United States*, 132 F.3d 716 (Fed. Cir. 1997). On remand, the ITC determined that the U.S. industry was not being materially injured by reason of the Ukrainian imports and that there was no threat of material injury. The issue of material retardation of the establishment of a U.S. industry was not raised before the ITC. The CIT affirmed the ITC's remand determination on October 20,

1998. *See Gerald Metals, Inc. v. United States*, Court No. 95-06-00782, Slip Op. 98-148 (CIT).

In the *Notice of Court Decision and Suspension of Liquidation* (63 FR 67854, December 9, 1998) issued following the CIT's decision affirming the ITC's remand determination, the Department indicated that it would continue to order the suspension of liquidation of imports of pure magnesium from Ukraine until there is a "conclusive" decision in this case and that, if the case was not appealed, or if it was affirmed on appeal, the Department would revoke the antidumping order covering imports of pure magnesium from Ukraine.

Magnesium Corporation of America, International Union of Operating Engineers, Local 564, and United Steelworkers of America, Local 8319 ("appellant") later appealed the CIT's decision regarding the Ukrainian imports to the Federal Circuit. On April 16, 1999, however, the Federal Circuit dismissed this appeal because the appellant failed to file its brief within the specified deadline. *See Gerald Metals, Inc. v. United States*, Court No. 99-1166, Order issued April 16, 1999 (Fed. Cir.).

As a result, the CIT's decision affirming the ITC's remand determination is now the "conclusive" decision in this case.

#### Revocation of Antidumping Duty Order

Because the ITC found no material injury or threat of material injury in its remand determination, and the CIT's decision affirming the ITC's remand determination is now the conclusive decision in this case, the Department is revoking the antidumping duty order on pure magnesium from Ukraine. This revocation applies to all entries of pure magnesium from the Ukraine entered, or withdrawn from warehouse, for consumption on or after October 30, 1998, which was ten days after the final CIT decision not in harmony with the original agency determination. The Department will instruct the Customs Service to proceed with liquidation of all entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 30, 1998, without regard to antidumping duties, and to refund any estimated antidumping duties collected with respect to those entries. This notice is in accordance with 19 CFR 351.222.

Dated: August 17, 1999.

**Bernard Carreau,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 073099B]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Bering Sea and Aleutian Islands Area; Exempted Fishing Permit; Correction

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

**ACTION:** Issuance of an exempted fishing permit; correction.

**SUMMARY:** This document corrects the notification of issuance of exempted fishing permit (EFP) 99-03 to Groundfish Forum, Inc. This EFP authorizes Groundfish Forum to conduct an experiment in the Bering Sea and Aleutian Islands management area that would test the accuracy of at-sea observer basket sampling practices, the design and use of automated species composition sampling, and the effect of fish stratification in trawls on size composition sampling. This notification was published in the **Federal Register** on August 12, 1999.

**FOR FURTHER INFORMATION CONTACT:** Susan Salvesson, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The announcement of the issuance of EFP 99-03 in the **Federal Register** on August 12, 1999 (64 FR 43986), contained an oversight. When the Groundfish Forum requested that fishing under the EFP take place in Bycatch Zone 2 (areas 513, 517, and 521), it thought that Statistical Area 519 was included in Zone 2. To correct this error, this document adds Statistical Area 519.

#### Need for Correction

In FR Doc. 99-20902, published August 12, 1999 (64 FR 43986), on page 43986, in the second column, second line from the bottom, after "Bycatch Zone 2" add "and Statistical Area 519."

**Authority:** 15 U.S.C. 1801 *et seq.*

Dated: August 19, 1999.

**Gary C. Matlock,**

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

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