

(1) Fully inform New Process of all missing information and of all needed clarifications regarding proposed calculations of hand labor cost, overhead expense, profit and credit expenses for New Process, and regarding product exclusions for New Process;

(2) Give New Process an opportunity to provide additional information and to make clarifications regarding proposed calculations of hand labor cost, overhead expense, profit and credit expense, and regarding product exclusions;

(3) Based on the above, make new dumping calculations for New Process and for Inland.

The panel affirmed SECOFI's Remand Results of April 30, 1997, with respect to the allocation of raw material costs of New Process and in all other respects not addressed above. The Panel ordered the second remand determination to be completed within 120 days of the date of the opinion (by not later than January 13, 1998).

Dated: October 14, 1997.

James R. Holbein,

United States Secretary, NAFTA Secretariat.
[FR Doc. 97-27721 Filed 10-21-97; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On September 29, 1997 Electroquímica Mexicana S.A. de C.V. filed a First Request for Panel Review with the Mexican Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final countervailing determination made by the Secretaria de Comercio y Fomento Industrial, respecting Hydrogen Peroxide Originating in the United States of America. This determination was published in the *Diario Oficial de la Federación* on September 2, 1997. The NAFTA Secretariat has assigned Case Number MEX-97-1904-01 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States

Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Mexican Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on September 29, 1997, requesting panel review of the final antidumping duty investigation described above.

The Rules provide that:

(a) a Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is October 29, 1997);

(b) a Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is November 13, 1997); and

(c) the panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: October 14, 1997.

James R. Holbein,

United States Secretary NAFTA Secretariat.
[FR Doc. 97-27722 Filed 10-21-97; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101497B]

American Lobster; Intent to Prepare an Environmental Impact Statement

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

ACTION: Notice of intent (NOI) to prepare an environmental impact statement (EIS); request for written comments.

SUMMARY: NMFS announces its intent to prepare an EIS to assess the impact on the natural and human environment of possible measures to manage fishing for American lobster in the U.S. Exclusive Economic Zone (EEZ). This NOI requests public input in the form of written comments on issues that NMFS should consider in preparing the EIS. Specifically, the EIS will examine alternatives available to NMFS in addressing the overfishing of American lobsters in the EEZ as well as state waters, including specific recommendations to the Secretary of Commerce (Secretary) by the Atlantic States Marine Fisheries Commission (ASMFC) in its proposed Amendment 3 to the Interstate Fishery Management Plan for Lobster. Public hearings for the EIS will be scheduled at a later date.

DATES: Written comments on the intent to prepare the EIS must be received on or before November 20, 1997. Public hearings will be announced in the **Federal Register** at a later date.

ADDRESSES: Comments should be sent to: Andrew A. Rosenberg, Ph.D., Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-3799.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978-281-9273.

SUPPLEMENTARY INFORMATION:

Background

On March 27, 1996 (61 FR 13478), NMFS published a proposed rule requesting comments on its initial determination to withdraw approval of the American Lobster Fishery Management Plan (FMP) under the Magnuson-Stevens Fishery

Conservation and Management Act (Magnuson-Stevens Act)(16 U.S.C. 1801 *et seq.*), and its implementing regulations (50 CFR part 649), and develop regulations under the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA)(Pub. L. 103-206). The stated reason for the proposed withdrawal of this FMP, as more fully discussed in the proposed rule, was to transfer the lead for lobster management to the states and the ASMFC. In establishing the need for the transfer of management authority, NMFS pointed to the fact that most of the lobster resource resides within state waters and, therefore, without full state cooperation, NMFS could not ensure that it could address overfishing concerns as required under the Magnuson Act (now called the Magnuson-Stevens Act). At that time, NMFS determined that ACFCMA would be a better vehicle for addressing conservation needs in the American lobster fishery, particularly since ACFCMA provides a mechanism for state compliance with any coastal management plans adopted by ASMFC. Nevertheless, NMFS made the promulgation of a final rule to withdraw the FMP contingent upon appropriate action by the ASMFC and the states to address lobster conservation that would allow NMFS to issue effective compatible Federal regulations under ACFCMA, as necessary.

At the time, withdrawal of the American lobster FMP, subject to this contingency, was supported in formal comments submitted by the New England Fishery Management Council (Council), the ASMFC, and Maine's Department of Marine Resources.

Since the issuance of this proposed rule, the Magnuson Act was significantly amended (including a name change to the Magnuson-Stevens Act) by the Sustainable Fisheries Act (SFA)(Pub. L. 104-297) on October 11, 1996. Most notably for purposes of American lobster management, the SFA required that NMFS identify annually all overfished fisheries within the jurisdictions of fishery management councils, and that fishery management councils submit FMPs or amendments to FMPs to end overfishing and to rebuild overfished stocks by September 30, 1998. The SFA further required that, if a council does not submit a required FMP or amendment to end overfishing by the deadline, the Secretary shall prepare the FMP or amendment to stop the overfishing and to rebuild the overfished stocks 9 months after September 30, 1998. On September 30, 1997, NMFS issued its list of overfished

fisheries, which includes the American lobster fishery.

The SFA also amended the ACFCMA by adding section 810 which provides that, if no regulations have been issued under section 804(b) of ACFCMA by December 31, 1997, to implement a coastal fishery management plan (CFMP) for American lobster, the Secretary shall issue interim regulations before March 1, 1998, that will prohibit any vessel that takes lobsters in the EEZ by a method other than pots or traps from landing lobsters (or any parts thereof) at any location within the United States in excess of:

(1) 100 lobsters (or parts thereof) for each fishing trip of a 24-hour or less duration (up to a maximum of 500 lobsters, or parts thereof, during any 5-day period); or

(2) 500 lobsters (or parts thereof) for a fishing trip of 5 days or longer.

Section 804(b) of the ACFCMA states that, in the absence of an approved and implemented FMP under the Magnuson-Stevens Act, and after consultation with the appropriate Councils, the Secretary may implement regulations to govern fishing in the EEZ that are—

1. Compatible with the effective implementation of an ASMFC CFMP; and

2. Consistent with the national standards set forth in section 301 of the Magnuson-Stevens Act.

Meanwhile, the lobster board of the ASMFC has developed the final draft of Amendment 3 to the ASMFC lobster FMP. The draft amendment includes the following specific recommendations for Secretarial action in the EEZ to support the Commission's FMP:

1. Keep the moratorium on new Federal permits;

2. Continue the Federal regulation currently in place;

3. Require that fishermen comply with the landing laws of the state in which they land lobsters, regardless of where they were caught; and

4. Implement any further measures that will be required on a coastwide basis in this plan including—

Specifications of the Management Unit; Definition of Overfishing; Stock Rebuilding Schedule; Implementation Schedule; Minimum Size; Possession of V-notched Female Lobsters; Permits and Licensing; Maximum Trap Size; Escape Vents on Traps; Area-specific Trap Proposals; Moratorium on Entry; License Limitations; Measures That May Be Optionally Implemented in Various Areas; Management Measures Applicable to Mobile Gear Fisheries; and Monitoring and Reporting.

ASMFC must decide whether to adopt the lobster board's draft Amendment 3

at its next meeting on October 21, 1997. If Amendment 3 is adopted by ASMFC with substantially the same measures as currently proposed, it is not certain whether overfishing will be adequately addressed, even if NMFS were to withdraw the Magnuson-Stevens Act lobster FMP and adopt compatible Federal regulations for the EEZ portion of the lobster fishery. If NMFS determines that overfishing will not be adequately addressed by the ASMFC amendment, the contingency for withdrawing the Magnuson-Stevens Act FMP will not have been met.

Therefore, NMFS is facing a difficult dilemma given the new requirements in the Magnuson-Stevens Act to address overfishing in the lobster fishery by a time certain as opposed to NMFS' stated intent to withdraw the lobster FMP and transfer the lead for lobster conservation management to the ASMFC and the states. Complicating this scenario is the new ACFCMA provision that mandates a possession limit on lobsters by non-trap vessels if the Magnuson-Stevens Act FMP is not withdrawn and replaced by Federal regulations under ACFCMA.

Although NMFS has not yet determined under which regulatory authority to proceed to implement conservation measures in the lobster fishery because ASMFC has not made a final determination on its Amendment 3, NMFS has decided that it must move forward with the process of implementing significant conservation measures to address overfishing in the lobster fishery. Accordingly, NMFS is issuing this NOI to prepare an EIS and soliciting public comments on the impacts of possible lobster conservation measures. This step is necessary to implement such measures, whether they are promulgated under the Magnuson-Stevens Act or ACFCMA. In addition to the possible measures recommended by ASMFC draft Amendment 3, described in this document, NMFS is also considering other measures, including, but not limited to the following: (1) Effort caps based on an historic number of traps or a flat cap of traps for all Federal limited access lobster permitted vessels that take lobsters in the EEZ by a method of traps, with possible consideration of the areas fished; (2) a trap reduction program to 1991 fishing levels; (3) a percent cap on landings based on the total reported catch of previous years allowable catch of lobster, or 100 lobsters (or parts thereof) for each fishing trip of a 24-hour or less duration (up to a maximum of 500 lobsters, or parts thereof, during any 5-day period), or 500 lobsters (or parts thereof) for a fishing trip of 5 days or longer, for all Federal limited access

lobster permitted vessels that take lobsters in the EEZ by a method other than traps, (4) a prohibition on the taking or possession of lobster in the EEZ; (5) the application of current Federal regulations (50 CFR part 649) to the EEZ under ACFCMA; and (6) status quo or no action taken. NMFS also requests comments on the appropriate regulatory authority under which it should proceed with lobster conservation measures.

NMFS has determined that the preparation of an EIS is appropriate, because of the potentially significant impact of EEZ regulations on the human environment. All of the Federal EEZ measures recommended in draft Amendment 3 to the ASMFC FMP will be assessed also during the EIS process. Participants in this fishery will be affected and may face more restricted harvests of lobster while the natural stocks of lobster are allowed to recover.

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

Dated: October 17, 1997.

Gary Matlock,

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

[FR Doc. 97-27966 Filed 10-21-97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101597A]

Marine Mammals

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

ACTION: Issuance of photography permit no. 860-1374

SUMMARY: Notice is hereby given that Mr. Michael deGruy, The Film Crew, 629 State Street, Suite 222, Santa Barbara, California 93101, has been issued a permit to take by Level B harassment gray whales (*Eschrichtius robustus*) and northern elephant seals (*Mirounga angustirostris*) for purposes of commercial photography.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713-2289); and

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd.,

Suite 4200, Long Beach, CA 90802-4213 (562/980-4001).

FOR FURTHER INFORMATION CONTACT:

Jeannie Drevenak, (301) 713-2289.

SUPPLEMENTARY INFORMATION:

On September 3, 1997, notice was published in the **Federal Register** (62 FR 46484) that the above-named applicant had submitted a request for a permit to take gray whales and northern elephant seals by Level B harassment during the course of commercial photographic activities in California waters. The requested permit has been issued, under the authority of section 104(c)(6) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*).

Dated: October 15, 1997.

Ann D. Terbush, Chief,

*Permits and Documentation Division, Office
of Protected Resources, National Marine
Fisheries Service*

[FR Doc. 97-27929 Filed 10-21-97; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Request for Comments on Patent Formalities Treaty

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of request for public comments.

SUMMARY: The Patent and Trademark Office is seeking comments to obtain views of the public on the international effort to simplify the formal requirements associated with patent applications and patents and the consequent changes to United States law and practice. Comments may be offered on any aspect of this effort.

DATES: All comments are due by December 1, 1997.

ADDRESSES: Persons wishing to offer written comments should address those comments to the Commissioner of Patents and Trademarks, Box 4, Patent and Trademark Office, Washington, DC 20231, marked to the attention of Mrs. Lois E. Boland.

Comments may also be submitted by facsimile transmission to (703) 305-8885 or by electronic mail through the Internet to plt.comments@uspto.gov. All comments will be maintained for public inspection in Room 902 of Crystal Park II, at 2121 Crystal Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Mrs. Lois E. Boland by telephone at (703) 305-9300, by fax at (703) 305-

8885 or by mail marked to her attention and addressed to Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

SUPPLEMENTARY INFORMATION:

1. Background

The United States has been involved in an effort to reduce the formal requirements associated with patent applications and patents in the different countries of the world. A committee of experts, meeting under the auspices of the World Intellectual Property Organization (WIPO), continues to develop treaty articles and rules which attempt to minimize the formal requirements associated with patent applications and patents. Upon conclusion, these treaty articles and rules will simplify the formal obligations and reduce the associated costs for patent applicants and owners of patents in obtaining and preserving their rights for inventions in many countries of the world. The next (5th) committee of experts meeting will take place at WIPO in December of 1997. It is likely that two additional such meetings will take place in 1998. The issue of when a Diplomatic Conference will be convened to conclude these negotiations will be discussed in a March 1998 meeting at WIPO. WIPO has suggested that a 1999 Diplomatic Conference may be possible.

The United States Patent and Trademark Office (USPTO), leading the negotiations for the United States, is interested in obtaining comprehensive comments to assess continued support for the effort. Prior to each of the previous meetings of the committee of experts, the USPTO informally solicited and received comments on the then-current drafts of the treaty articles, rules and notes. In light of the impending conclusion of this effort, the USPTO desires to ensure that the text of the treaty is disseminated as widely as possible and the opportunity to provide comments is correspondingly comprehensive.

Written comments may be offered on any aspect of the draft treaty articles, rules or notes or expected implementation in the United States. Comments are also welcome on the following issues:

- The formalities/substantive distinction, discussed, specifically, with respect to Article 5, below;
- The subject matter appropriate for treaty articles versus that which should be relegated to rules; and
- Whether this effort should be concluded by a separate treaty or as