

DEPARTMENT OF COMMERCE**International Trade Administration****North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews**

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

ACTION: Notice of decision of panel.

SUMMARY: On August 11, 2006, the binational panel issued its decision in the review of the final determination made by the International Trade Administration, respecting Oil Country Tubular Goods from Mexico Final Antidumping Duty Administrative Review and Determination not to Revoke, Secretariat File No. USA-MEX-2001-1904-05. The binational panel remanded the determination to the International Trade Administration. Copies of the panel decision are available from the U.S. Section of the NAFTA Secretariat.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 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 the 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). The panel review in this matter has been conducted in accordance with these Rules.

Panel Decision: The Panel concluded that the Department acted in an arbitrary and capricious fashion when it failed to adequately justify its determination that Hylsa did not ship the subject matter goods in commercial quantities during the periods of review

in question. We therefore are remanding the matter to the Department for further consideration, in light of the issues raised by the Panel. This is necessary because of our decision that the results of the ninth administrative review cannot be taken into account by the Department in its decision in the fourth review, leaving the commercial quantities determination the sole basis for its refusal to revoke the antidumping order against Hylsa.

For the foregoing reasons the Panel orders that this matter be remanded to the Department of Commerce to reconsider its determination that Hylsa did not ship in commercial quantities consistent with the findings of the Panel.

The Department shall report the results of its remand decision within 45 days of the date of the opinion or not later than September 25, 2006.

Dated: August 14, 2006.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[I.D. 081106A]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of a proposal for an EFP; request for comments.

SUMMARY: The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject Exempted Fishing Permit (EFP) proposal contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Atlantic Sea Scallop Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Regional Administrator proposes to issue an EFP that would allow vessels to conduct fishing operations that are

otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP would allow for exemptions from Atlantic sea scallop open area days-at-sea (DAS), in the event that there is an insufficient number of trips in the scallop access area made available to compensate research authorized under the Sea Scallop Research Set-aside Program (RSA Program).

DATES: Comments on this document must be received on or before September 1, 2006.

ADDRESSES: Written comments should be submitted by any of the following methods:

- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on sea scallop RSA EFP proposal;"
- E-mail: SC-RSA-006@noaa.gov, include "Comments on sea scallop RSA EFP proposal" in the subject line of the e-mail;
- Fax: (978) 281-9135.

FOR FURTHER INFORMATION CONTACT: Ryan Silva, Fishery Management Specialist, phone: 978-281-9326, fax: 978-281-9135.

SUPPLEMENTARY INFORMATION:

Regulations currently allocate 0.2 percent of the Southern New England and Georges Bank YT TACs to the Nantucket Lightship Scallop Access Area (NLCA) and Closed Area II Scallop Access Area (CAII), respectively, for research and/or compensation trips conducted under the RSA program. RSA YT bycatch TACs are 644 lb (292 kg) for the NLCA, and 9,127 lb (4,140 kg) for CAII. Seven RSA projects have been recommended by the Regional Administrator for funding through the 2006 RSA Program. Six of these projects will be allocated scallops set-aside from the NLCA and/or CAII, pending approval of the projects through the NOAA Grants Review Process. If one or both of the Access Areas were closed as a result of the attainment of the RSA YT bycatch TAC, a project may become substantially under-funded, and be unable to accomplish the objectives it was intended to achieve.

For the commercial scallop fishery, the YT bycatch TACs are monitored using scallop data provided by vessel operators, and scallop and YT bycatch data provided by at-sea observers. NMFS determines a YT bycatch rate from these data in order to determine the status of the bycatch TAC. The NLCA was closed on July 20, 2006, for the remainder of the 2006 scallop fishing year (FY) to commercial scallop