

California. This complaint challenged the Assistant Administrator's final finding and sought to enjoin any change in the dolphin-safe labeling standard for tuna harvested with purse seine nets.

On January 21, 2003, the Court, at the request of all parties, issued an order that stayed the implementation of the final finding. Under the terms of the order, the labeling standard for "dolphin-safe" tuna was governed by the provisions of (h)(2) of the DPCIA. Under that provision, tuna are deemed dolphin safe if "no tuna were caught on the trip in which such tuna were harvested using a purse seine net intentionally deployed on or to encircle dolphins, and no dolphins were killed or seriously injured during the sets in which the tuna were caught." The terms of the order further provided that this labeling standard would remain in effect for 90 days from the date of the order or until the Court issued a ruling on a motion for a preliminary injunction, whichever was earlier.

On April 10, 2003, the Court granted the Plaintiff's motion for preliminary injunction. Under the Court's order, NMFS was prohibited from taking any action under the DPCIA to allow any tuna product to be labeled as "dolphin-safe" that was harvested using purse seine nets intentionally set on dolphins in the ETP. As a result of the terms of the Court's order, the definition of dolphin-safe continued to mean that no tuna were caught on the trip in which such tuna were harvested using a purse seine net intentionally deployed on or to encircle dolphins, and no dolphins were killed or seriously injured during the sets in which the tuna were caught" until further order of the Court.

On May 24, 2004, all parties simultaneously motioned the Court for summary judgment. On August 9, 2004, the Court ruled on the motions for summary judgment and found that the final finding made by the Assistant Administrator on December 31, 2002, was "arbitrary, capricious, an abuse of discretion and contrary to law pursuant to the Administrative Procedure Act, 5 U.S.C. 706(c)." Under the terms of this order, the labeling standard for "dolphin-safe" tuna shall be governed by the provisions of (h)(2) of the DPCIA. Under that provision, tuna are deemed dolphin safe if "no tuna were caught on the trip in which such tuna were harvested using a purse seine net intentionally deployed on or to encircle dolphins, and no dolphins were killed or seriously injured during the sets in which the tuna were caught."

Dated: August 25, 2004.

William T. Hogarth,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082304B]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a three-day Council meeting on September 14-16, 2004, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, September 14, 2004 beginning at 9 a.m. and on Wednesday and Thursday, September 15 and 16, beginning at 8:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn Express, 110 Middle Street, Fairhaven, MA 02719; telephone: (508) 997-1281.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492.

SUPPLEMENTARY INFORMATION:

Tuesday, September 14, 2004

Following introductions, the Council will hold elections for 2004-05 officers. The Council's Habitat/Marine Protected Area Committee will present its recommendations for essential fish habitat measures to be included in Amendment 2 to the Monkfish Fishery Management Plan (FMP). The recommendations will be followed by a brief public comment period during which any member of the public may bring forward items relevant to Council business but not otherwise listed on the agenda for this meeting. The remainder of the day will be spent on sea scallop issues. During the Scallop Committee Report the Council will receive management advice from the Scallop Plan Development Team based on the most recent scallop assessment and

discuss the possible initiation of a special framework adjustment to address new management issues during the 2005 fishing year. Management issues under consideration relate to overfishing, sea turtle bycatch mitigation measures, actions to cap or reduce general category scallop landings and/or improve reporting, and measures that would change the 2005 open area days-at-sea allocation as the result of management actions taken in Framework Adjustment 16/39.

Wednesday, September 15, 2004

During the Wednesday morning session the Council will receive reports from the Council Chairman and Executive Director, the NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel and representatives of the U.S. Coast Guard, NMFS Enforcement and the Atlantic States Marine Fisheries Commission. The Monkfish Committee will then ask for final approval of measures to be included in Amendment 2 to the Monkfish FMP. This will occur following review and discussion of Monkfish Advisory Panel and Oversight Committee recommendations and public comments submitted to the Council. This joint FMP also requires approval by the Mid-Atlantic Fishery Management Council prior to the submission of final documents.

Thursday, September 16, 2004

The Research Steering Committee will ask the Council for approval of criteria/standards for determining whether research projects have undergone a sufficient technical review before information is used for management purposes. Other recommendations to be forwarded to the Council address day-at-sea use, the disposition of catch and vessel compensation when boats are engaged in cooperative research. The Red Crab Committee will offer its recommendations for specifications for the 2005 fishing year and for Framework Adjustment 1 to the FMP, an action that could modify the annual review and specification process. The Groundfish Committee will provide an update on the development of Framework Adjustment 40B to the Northeast Multispecies FMP including a review of proposed management measures and grouping of measures into alternatives. In addition, there will be a briefing of recent reports of juvenile haddock incidental catches in the herring mid-water trawl fishery. The Council's Transboundary Management Guidance Committee will report on its recent

meeting and offer recommendations for 2005 Total Allowable Catches for yellowtail flounder, cod and haddock in the U.S./Canada area and on other related management issues. The Council meeting will adjourn following after any other outstanding business is addressed.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: August 26, 2004.

Alan D. Risenhoover,

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

[FR Doc. E4-1981 Filed 8-30-04; 8:45 am]

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COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on a Commercial Availability Request under the Andean Trade Promotion and Drug Eradication Act (ATPDEA)

August 26, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a request for a determination that certain polyester monofilament yarn, for use in women's and children's apparel, cannot be supplied by the domestic industry in commercial quantities in a timely manner under the ATPDEA.

SUMMARY: On August 23, 2004, the Chairman of CITA received a petition from Textiles Erre Emme Ltda. of Bogota, Colombia, alleging that certain polyester monofilament texturized, raw, white yarn, of denier 20D/F1, classified in subheading 5402.33.30 of the Harmonized Tariff Schedule of the

United States (HTSUS), for use in women's and children's apparel, cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requests that such apparel made from such yarn be eligible for preferential treatment under the ATPDEA. CITA hereby solicits public comments on this request, in particular with regard to whether such yarn can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by September 15, 2004 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution Avenue, N.W. Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Shikha Bhatnagar, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3821.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 (b)(3)(B)(ii) of the ATPDEA, Presidential Proclamation 7616 of October 31, 2002, Executive Order 13277 of November 19, 2002, and the United States Trade Representative's Notice of Further Assignment of Functions of November 25, 2002.

BACKGROUND:

The ATPDEA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns and fabrics formed in the United States or a beneficiary country. The ATPDEA also provides for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more ATPDEA beneficiary countries from fabric or yarn that is not formed in the United States or a beneficiary country, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. Pursuant to Executive Order No. 13277 (67 FR 70305) and the United States Trade Representative's Notice of Redlegation of Authority and Further Assignment of Functions (67 FR 71606), the President's authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the ATPDEA has been delegated to CITA.

On August 23, 2004, the Chairman of CITA received a petition from Textiles Erre Emme Ltda of Bogota, Colombia, alleging that certain polyester monofilament texturized, raw, white yarn, of denier 20D/F1, classified in

subheading 5402.33.30 of the Harmonized Tariff Schedule of the United States (HTSUS), for use in women's and children's apparel, cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting quota- and duty-free treatment under the ATPDEA for such apparel that are woven or knit in one or more ATPDEA beneficiary countries from such yarn.

CITA is soliciting public comments regarding this request, particularly with respect to whether this yarn can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other yarns that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for these yarns for purposes of the intended use. Comments must be received no later than September 15, 2004. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that this yarn can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the yarns stating that it produces the yarns that are the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked "business confidential" from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

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