

used to characterize differences between healthy and diseased tissues by studying the composition of their ultrastructure. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* October 2, 2012.

Docket Number: 12-044. *Applicant:* University of Colorado, 347 UCB Boulder, CO 80309. *Instrument:* Electron Microscope. *Manufacturer:* FEI, Czech Republic. *Intended Use:* The instrument will be used to examine the consequences of mutations, experimental manipulations or disease states of cells and tissues in various organisms. It will also be used to locate specific proteins within the samples. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* October 9, 2012.

Docket Number: 12-045. *Applicant:* Walter Reed Army Institute of Research, 2460 Linden Lane Bldg #503, Silver Spring, MD 20910. *Instrument:* Electron Microscope. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used to observe ultrastructural evidence of infectious agents or to observe the ultrastructural pathology or cellular changes caused by infectious agents or therapeutic agents directed toward a certain cell type or cellular organelle. The objectives include observing how a certain microbe interacts with a cell, certain cellular population(s), or subcellular component; or to further provide ultrastructural classification of an organism. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* October 12, 2012.

Docket Number: 12-046. *Applicant:* Battelle Memorial Institute, 790 6th St, Richland, WA 99354. *Instrument:* Electron Microscope. *Manufacturer:* FEI, Czech Republic. *Intended Use:* The instrument will be used to study the structure and chemistry of inorganic materials such as catalysts, semiconductors, and battery materials, to understand the structure-property or structure-activity of the materials and to provide a feedback loop between synthesis and characterization. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* October 12, 2012.

Dated: October 25, 2012.

Gregory W. Campbell

Director of Subsidies Enforcement, Import Administration.

[FR Doc. 2012-26798 Filed 10-30-12; 8:45 am]

BILLING CODE 3510-DS-P

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 October 25, 2012, the NAFTA Chapter 19 binational panel issued its decision in the review of the final results of the 2005/2006 antidumping administrative review made by the U.S. Department of Commerce, respecting Carbon and Certain Alloy Steel Wire Rod from Canada, NAFTA Secretariat File Number USA-CDA-2008-1904-02. The panel affirmed the U.S. Department of Commerce's Final Determination with regard to the issue of zeroing in this matter. Copies of the panel's decision are available from the U.S. Section of the NAFTA Secretariat.

FOR FURTHER INFORMATION CONTACT:

Ellen M. Bohon, 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 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

On May 11, 2012, the binational panel affirmed the U.S. Department of Commerce's final results of the administrative review determining that the Complainant's sales were made at the same level of trade. The panel remanded to the U.S. Department of Commerce with regard to its practice of "zeroing" in the administrative review before the panel, with instructions to provide an explanation consistent with the remand orders in two previous cases. (*Dongbu Steel Co. Ltd. v. United States*, 635 F3d 1363 (Fed Cir. 2011); and *JTEKT Corp. v. United States*, 642 F3d 1378 (Fed. Cir. 2011)) On October 25, 2012, in accordance with Article 1904.8 of NAFTA, and for reasons set out in the panel's written decision and related order, the panel affirmed the Department of Commerce's Final Determination with regard to the issue of "zeroing" in this matter.

Dated: October 25, 2012.

Ellen M. Bohon,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 2012-26694 Filed 10-30-12; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC289

Receipt of an Application for Incidental Take Permit (16230)

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

ACTION: Supplemental Notice of receipt of application for incidental take permit; availability of draft conservation plan.

SUMMARY: NMFS has received an amended application for an incidental take permit (Permit) from the North Carolina Division of Marine Fisheries (NCDMF) pursuant to the Endangered Species Act of 1973, as amended (ESA). As required by the ESA, NCDMF's application includes a proposed conservation plan designed to minimize and mitigate take of endangered or threatened species. The permit application is for the incidental take of ESA-listed adult and juvenile sea turtles associated with otherwise lawful commercial gillnet fisheries operating in inshore waters of North Carolina. The duration of the proposed permit is for 10 years. NMFS is providing this notice

to allow other agencies and the public an opportunity to review and comment on the revised application and associated proposed conservation plan. All comments received will become part of the public record and will be available for review. An electronic copy of the revised application and proposed conservation plan may be obtained by contacting NMFS Office of Protected Resources (see **FOR FURTHER INFORMATION CONTACT**) or visiting the internet at www.nmfs.noaa.gov/pr/permits/esa_review.htm. Public comments received in response to the original Notice of Receipt (76 FR 61670, October 5, 2011) are available on www.regulations.gov (see **ADDRESSES**).

DATES: Written comments from interested parties on the permit application and conservation plan must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Eastern daylight time on November 30, 2012.

ADDRESSES: You may submit comments on the permit application and conservation plan, identified by NOAA–NMFS–2011–0231, by any of the following methods during the 30-day comment period:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal www.regulations.gov. To submit comments via the e-Rulemaking Portal, first click the “submit a comment” icon, then enter NOAA–NMFS–2011–0231 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on the right of that line.

- *Mail:* Submit written comments to Kristy Long, Office of Protected Resources, 1315 East West Highway, 13th Floor, Silver Spring, MD 20910.
- *Fax:* 301–713–0376; Attn: Kristy Long.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept

anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT:

Kristy Long (ph. 301–427–8402, email Kristy.Long@noaa.gov; Dennis Klemm (ph. 727–824–5312, email Dennis.Klemm@noaa.gov).

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the taking of a species listed as endangered or threatened. The term “take” is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA provides for authorizing incidental take of listed species. NMFS regulations governing permits for threatened and endangered species are published at 50 CFR 222.307.

Species Covered in this Notice

The following species are included in the conservation plan and Permit application: Loggerhead (*Caretta caretta*), green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*), hawksbill (*Eretmochelys imbricata*), and Kemp’s ridley (*Lepidochelys kempii*) sea turtles.

Background

NMFS issued Permit No. 1259 to NCDMF (65 FR 65840, November 2, 2000), Permit No. 1348 (66 FR 51023, October 5, 2001), Permit No. 1398 (67 FR 67150, November 4, 2002), and Permit No. 1528 (70 FR 52984, September 6, 2005) authorizing the incidental take of the foregoing species in certain segments of the commercial fall gill net fisheries for flounder in Pamlico Sound subject to a series of mandatory sea turtle management and monitoring requirements and limits on the numbers of individuals that could be taken annually.

On August 18, 2011, NCDMF submitted a revised application to NMFS for Permit No. 16230, requesting authorization for incidental take of ESA-listed sea turtles associated with commercial and recreational gillnet fisheries in inshore state waters for 3 years. This application includes endangered Kemp’s ridley, leatherback, and hawksbill sea turtles and threatened green and loggerhead sea turtles. NMFS published a notice of receipt of the

August 2011 application and a request for public comments on October 5, 2011 (76 FR 61670). Based on comments received from the public, independent reviewers, and NMFS, NCDMF subsequently submitted a second revised application on September 6, 2012. This permit, if issued, would allow for the incidental take of specified numbers of sea turtles incidental to the continued commercial harvest of target fish species in gillnets subject to conservation, management and monitoring requirements set forth in the plan and as permit conditions deemed necessary and appropriate by the NMFS over a 10 year period.

Conservation Plan

The conservation plan prepared by NCDMF describes measures designed to monitor, minimize, and mitigate the incidental take of ESA-listed sea turtles. The conservation plan includes managing inshore gill net fisheries by dividing estuarine waters into 6 management units (i.e., A, B, C, D1, D2, E). Each of the management units would be monitored seasonally and by fishery.

Management units were delineated on the basis of three primary factors: similarity of fisheries and management; extent of known protected species interactions in commercial gill net fisheries; and unit size and the ability of the NCDMF to monitor fishing effort. Management Unit A encompasses all estuarine waters north of 35°46.30’ N. to the North Carolina/Virginia state line. This includes all of Albemarle, Currituck, Croatan, and Roanoke sounds as well as the contributing river systems in this area. Management Unit B encompasses all estuarine waters south of 35°46.30’ N., east of 76°30.00’ W. and north of 34°48.27’ N. This Management Unit will include all of Pamlico Sound and the Northern portion of Core Sound. Management Unit C will include the Pamlico, Pungo and Neuse river drainages west of 76°30.00’ W. Management Unit D is divided into two areas, D1 and D2, to allow the NCDMF to effectively address areas of high sea turtle abundance or “hot spots”. Management Unit D1 encompasses all estuarine waters south of 34°48.27’ N. and east of a line running from 34°40.70’ N.—76°22.50’ W. to 34°42.48’ N.—76°36.70’ W. Management Unit D1 includes Southern Core Sound, Back Sound and North River. Management Unit D2 encompasses all estuarine waters west of a line running from 34°40.70’ N.—76°22.50’ W. to 34°42.48’ N.—76°36.70’ W. to the Highway 58 bridge. Management Unit D2 includes Newport River and Bogue Sound. Management Unit E encompasses all

estuarine waters south and west of the Highway 58 bridge to the North Carolina/South Carolina state line. This includes the Atlantic Intercoastal Waterway and adjacent sounds, and the New, Cape Fear, Lockwood Folly, White Oak, and Shallotte rivers.

The large mesh (≥ 4 inch stretched mesh (10.16 cm)) gillnet fisheries primarily target southern flounder (*Paralichthys lethostigma*), striped bass (*Morone saxatilis*), American shad (*Alosa americana*), hickory shad (*Polomolobus mediocris*), and catfishes (*Ictalurus sp.*). Large mesh gill net fisheries for flounder traditionally operate throughout the majority of the sounds and lower estuarine river systems with peaks in effort in the spring/summer months (April–June), and in the fall months (September–November). Fisheries for striped bass are more limited in time and space due to the anadromous migration pattern of this species. Striped bass gill net fisheries are prosecuted from late October through late April; fishermen are prohibited from targeting striped bass from May through early October. Consequently, the majority of striped bass effort occurs in Albemarle Sound with seasonal effort occurring in the Pamlico Sound and the Pamlico and Neuse River systems. American and hickory shad fishing operations occur almost exclusively from January 1 through April 14 due to their anadromous migration patterns and distribution. Catfish are harvested with large mesh gillnets in rivers and Western Albemarle Sound with the majority of catches occurring during the winter to spring months. The most common mesh size for all large mesh gill net fisheries is $5\frac{1}{2}$ inch (13.97 cm) stretched mesh.

The small mesh (<4 inch stretched mesh (10.16 cm)) gillnet fisheries primarily target spot (*Leiostomus xanthurus*), striped mullet (*Mugil cephalus*), bluefish (*Pomatomus saltatrix*), spotted seatrout (*Cynoscion nebulosus*), weakfish (*Cynoscion regalis*), Atlantic menhaden (*Brevoortia tyrannus*), Spanish mackerel (*Scomberomorus maculatus*), white perch (*Morone americana*), and kingfishes (*Menticirrhus sp.*). Peaks in spot landings occur in the spring/summer (April to June) and fall (October to November) months; spot are landed throughout the estuarine waters and river systems. Striped mullet are landed year round with peaks in the fall/winter months (October to January). Bluefish are also landed year round throughout the estuarine and river systems with most landings occurring in the spring during April and May. Spotted seatrout

and weakfish are targeted by small mesh gillnet operations primarily in the fall/winter (September to January) months. Weakfish landings may also peak in the spring during April and May. Atlantic menhaden are mostly targeted during the spring (February to May) with another peak in landings occurring in October. Spanish mackerel are primarily targeted during the spring and fall months. White perch are almost exclusively targeted during the winter/spring months (December to April). Kingfishes are targeted primarily in the spring and the fall throughout the estuarine and river systems. Mesh sizes used in small mesh gill net operations vary more than those used in large mesh fisheries. However, the most commonly used small mesh sizes generally fall between 3 inch (7.62 cm) and $3\frac{3}{4}$ inch (9.53 cm) stretched mesh.

Management measures identified in the proposed conservation plan include: (1) Restricted soak times for large mesh gillnets from one hour before sunset on Monday through Thursday and one hour after sunrise from Tuesday through Friday (i.e., fishing is prohibited from one hour after sunrise on Friday through one hour before sunset on Monday); (2) restrictions on the maximum net length per large mesh fishing operation (i.e., 2,000 yards (1.83 km, 6,000 ft) per operation except south of the NC Highway 58 bridge and Management Area D2 where 1,000 yards (0.91 km, 3,000 ft) is maximum; (3) restrictions on large mesh net-shot lengths to 100 yards (91.44 m, 300 ft) with a 25 yard (22.86 m, 75 ft) separation between each net-shot; (4) requirement for large mesh nets to be low profile (e.g., maximum of 15 meshes in depth, tie-downs prohibited, floats or corks prohibited along float lines north of the NC Highway 58 bridge); and (5) closure of Management Area D1 to unattended large mesh gillnets from May 8–October 14 annually. NCDMF proposes to monitor sea turtle interactions through reports from fishery observers (both traditional and alternative platform), fishermen, and NCDMF Marine Patrol at a minimum of 7% coverage annually for large mesh gillnets and 1–2% annually for small mesh gillnets.

The annual incidental take of sea turtles requested for large mesh and small mesh gillnets in Management Units B, D1, D2, and E is 684 and 74, respectively. Specifically, the requested lethal and non-lethal take by species is 49 lethal and 98 non-lethal Kemp's ridley, 165 lethal and 330 non-lethal green, 22 lethal or non-lethal loggerhead turtles, and 4 lethal or non-lethal takes each of hawksbill and leatherback turtles. In Management Units A and C,

the annual incidental lethal or non-lethal take of sea turtles requested for large and small mesh gillnets combined is 16 turtles of any species.

NCDMF is proposing to limit inshore gillnet fisheries such that the impacts on ESA-listed sea turtles will be minimized. NCDMF would use a variety of adaptive fishery management measures and restrictions through their state proclamation authority to reduce sea turtle mortality and prohibit fishing in management units where incidental take thresholds are exceeded. NCDMF considered and rejected five other alternatives, including: (1) A no action alternative; (2) not applying for a permit and closing the fishery; (3) further reducing large mesh effort (e.g., yardage, soak time) and requiring attendance in all Management Areas; (4) restricting large mesh effort in Management Areas A and C similar to B, D1, D2, and E; and (5) reducing small mesh gillnet effort (e.g., yardage, soak time) and requiring attendance in all Management Areas.

National Environmental Policy Act

Issuing a permit would constitute a major Federal action requiring NMFS to comply with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) as implemented by 40 CFR parts 1500–1508 and NOAA Administrative Order 216–6, *Environmental Review Procedures for Implementing the National Environmental Policy Act* (1999). NMFS intends to prepare an Environmental Assessment (EA) to consider a range of reasonable alternatives and fully evaluate the direct, indirect, and cumulative impacts likely to result from issuing a permit. NMFS will make this EA available for public comment.

Next Steps

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the ESA. The application, supporting documents, public comments, and views already received by the agency as well as those submitted in response to this notice will also be fully considered and evaluated as we prepare the EA and determine whether or not to issue a Finding of No Significant Impact (FONSI). The final NEPA document and permit determinations will not be completed until after the end of the 30-day comment period. If we determine that the requirements of section 10(a) and the procedural requirements of NEPA are met, NMFS will issue a permit for

incidental takes of ESA-listed sea turtles under the jurisdiction of NMFS. NMFS will publish a record of its final action in the **Federal Register**. We will also make any final NEPA documents available to the public.

Dated: October 25, 2012.

Helen M. Golde,

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

[FR Doc. 2012-26791 Filed 10-30-12; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC329

Mid-Atlantic Fishery Management Council; Public Hearings

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

ACTION: Notice of intent to prepare an environmental impact statement (EIS); notice of initiation of scoping process; notice of scoping meetings; request for comments.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) announces its intent to prepare an amendment (Amendment 15) to the Fishery Management Plan (FMP) for Atlantic Mackerel, Squid, and Butterfish (MSB) and to prepare an EIS to analyze the impacts of any proposed management measures. The Council is initiating a public process to determine the scope of alternatives to be addressed in the amendment and EIS. This amendment currently will address the following issue: Whether the Council should begin direct federal management of river herrings (alewife and/or blueback herring) and/or shads (American and/or hickory). Additional issues may be added depending on the outcome of the scoping process. NMFS and the Council are alerting the interested public of the commencement of the scoping process and providing for public participation in compliance with environmental documentation requirements.

DATES: Public comments on Amendment 15 scoping must be received no later than 11:59 p.m., eastern standard time, on December 5, 2012. Scoping hearings will be held on the following dates:

- Nov 14, 2012, 6 p.m.–8 p.m.:

Internet Webinar: <https://www1.gotomeeting.com/register/>

268451473; While anyone with internet access can join the webinar, there will also be a listening post at: Virginia Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, (757) 247-2200.

- Nov 15, 2012, 7 p.m.–9 p.m.: Internet Webinar: <https://www1.gotomeeting.com/register/625483785>; While anyone with internet access can join the webinar, there will also be a listening post at: New York Marine Resources Bureau Headquarters; 205 North Belle Mead Rd., Suite 1, East Setauket, NY 11733, (631) 444-0430.

- Nov 19, 2012, 7 p.m.–9 p.m.: Congress Hall, 251 Beach Ave, Cape May, NJ 08204, 888-944-1816.

- Nov 20, 2012, 7 p.m.–9 p.m.: Radisson Hotel Providence Airport; 2081 Post Road; Warwick, RI 401-739-3000.

ADDRESSES: Written comments on Amendment 15 may be sent by any of the following methods:

- Email to the following address: nmfs.ner.msbam15@noaa.gov. Include "Scoping Comments on MSB 15" in the subject;
- Mail to Chris Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901. Mark the outside of the envelope "Scoping Comments on MSB 15" or
- Fax to Chris Moore, Ph.D., (302) 674-5399. Include "Scoping Comments on MSB 15" in the fax.

Requests for copies of the scoping document and other information should be directed to Chris Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901, toll-free telephone: (877) 446-2362. The scoping document is also accessible via the Internet at <http://www.mafmc.org/fmp/msb.htm>.

FOR FURTHER INFORMATION CONTACT: Chris Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council. Toll-free telephone: (877) 446-2362.

SUPPLEMENTARY INFORMATION: The purpose of this amendment is to consider measures for direct river herring and shad (RH/S) management by the Council. Currently, RH/S are managed by the Atlantic States Marine Fisheries Commission (ASMFC) but there are interactions with federal fisheries in federal waters. More direct management by the Council may help RH/S conservation efforts, which do not appear to have yet rebuilt many RH/S stocks. The amendment will consider whether the current management

framework for river herring and shad is sufficient for conservation and management of these species and whether Federal management under the Magnuson-Stevens Act would address any deficiencies and/or inefficiencies. If management under the Magnuson-Stevens Act can address those issues, the amendment will consider a range of measures for Federal involvement/management. More details on the topics addressed in this supplementary information section may be found in the Amendment 15 scoping document (see above for how to obtain scoping document).

The Council will first gather information during the scoping period. This is the first and best opportunity for members of the public to raise concerns related to the scope of issues that will be considered in Amendment 15. The Council needs your input both to identify management issues and develop effective alternatives. Your comments early in the amendment development process will help us address issues of public concern in a thorough and appropriate manner. Comments can be made in writing, electronically, or during the scoping hearings as described above. If the Council decides to move forward with Amendment 15, the Council will develop a range of management alternatives to be considered and prepare an Environmental Impact Statement (EIS) to analyze the impacts of the management alternatives being considered as required by the National Environmental Policy Act (NEPA). Impacts may be direct, indirect, individual, or cumulative. A draft EIS will be distributed for public review. During a 45-day public comment period (which will also include public hearings) the public may comment on any aspect of the draft EIS. Following a review of the comments, the Council will then choose preferred management measures for submission with the Final EIS to the Secretary of Commerce for publishing of a proposed and then final rule, both of which have additional comment periods.

Special Accommodations: The scoping hearings are accessible to people with physical disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Chris Moore, Ph.D. (see contact info above) at least 5 days prior to the meeting date. Please contact Jason Didden at jdidden@mafmc.org or (302) 526-5254 at least 5 days prior to the meeting date if you would like to confirm that your computer is set up to access the webinar. The webinar works for most