

to the questionnaire will require complicated analysis and will be necessary for the Department to make its preliminary determinations.

Accordingly, we conclude that the concerned parties are cooperating, we deem these investigations to be extraordinarily complicated, and we determine that additional time is necessary to make the preliminary determinations. Therefore, pursuant to section 703(c)(1)(B) of the Act, we are postponing the preliminary determinations in these investigations to March 3, 2003.

This notice is published pursuant to section 703(c)(2) of the Act.

Dated: December 3, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112102A]

Marine Mammals: Draft Environmental Assessment of Issuing a Bowhead Whale Subsistence Quota to the Alaska Eskimo Whaling Commission for the Years 2003 through 2007

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

ACTION: Notice of availability of a Draft Environmental Assessment(EA); request for written comments.

SUMMARY: NMFS announces the availability of a Draft EA, in accordance with the National Environmental Policy Act(NEPA), to assess the impacts of issuing a subsistence quota for bowhead whales to the Alaska Eskimo Whaling Commission (AEWC) for the years 2003 through 2007. The Draft EA considers four alternatives regarding the issuance of a quota to the AEWC, and NMFS has identified a preferred alternative. NMFS is soliciting comments and information to facilitate this analysis.

DATES: Comments and information must be postmarked by January 8, 2003.

ADDRESSES: Written comments should be sent to Chief, Marine Mammal Division (F/PR2), Office of Protected Resources, National Marine Fisheries Service, 13th Floor, 1315 East-West Hwy, Silver Spring, MD 20910. Please mark the outside of the envelope with "Comments on Bowhead Whale

Analysis." Comments will not be accepted if submitted via e-mail or Internet. Copies of the EA may be obtained over the internet at the Office of Protected Resources Marine Mammal website under "Quick Information Links" at <http://www.nmfs.noaa.gov/protectedresources/overview/mm.html>. The link is titled "Bowhead Whale Draft Environmental Assessment".

FOR FURTHER INFORMATION CONTACT: Chris Yates or Winnie Chan, NMFS Office of Protected Resources, 301-713-2322.

SUPPLEMENTARY INFORMATION: At the 5th Special Meeting of the International Whaling Commission (IWC) held in October, 2002 the Commission approved a 5-year aboriginal subsistence quota for the take of Western arctic bowhead whales. The quota allows for a combined total of up to 280 whales to be landed in the years 2003 through 2007 by Alaskan Eskimos and Russian natives. For each of these years, the number of bowhead whales struck shall not exceed 67, except that any unused portion of a strike quota from any year shall be carried forward and added to the strike quota of any subsequent year, provided that no more than 15 strikes shall be added to the strike quota for any one year.

The basis for the quota was a joint request by the Russian Federation and the United States, showing that the needs of both countries' Native groups could be met with an annual average of 56 landed bowhead whales (or a total of 255 for the Alaska Eskimos and 25 for the Chukotka people over the 5-year period). The annual strike limits and quotas for whales are determined at the beginning of each year after consultation with the Russian government.

At the 54th annual meeting of the IWC, held in May, 2002 the Scientific Committee reiterated its previous advice for the Bering-Chukchi-Beaufort Seas stock of bowhead whales, i.e., that it is very likely that a catch limit of 102 whales or less would be consistent with the requirements of the Schedule.

The International Convention for the Regulation of Whaling, under which the IWC operates, is implemented domestically through the Whaling Convention Act (WCA). Under the WCA, NMFS proposes to issue a share of the IWC bowhead quota to the AEWC.

Alaska Eskimos have been taking bowhead whales for at least 2,000 years. Alaska Native subsistence hunters take less than one percent of the population of bowhead whales per year. Since 1977, the number of takes has ranged between 14 and 75 per year, depending in part on changes in management

strategy and in part on higher estimates of bowhead whale abundance in recent years (NMFS Alaska Marine Mammal Stock Assessments, 2001).

The National Environmental Policy Act (NEPA) requires that Federal agencies conduct an environmental analysis of the effect of their proposed actions on the environment. While quotas under the WCA are issued on an annual basis, NMFS is evaluating the effects of issuing them over a 5-year period. Accordingly, NMFS prepared a draft EA that evaluated the following four alternatives:

Alternative 1 - Grant the AEWC a quota of 255 landed bowhead whales over 5 years (2003 through 2007), with an annual strike quota of 67 bowhead whales per year, where no unused strikes are added to the strike quota for any one year.

Alternative 2 - Grant the AEWC a quota of 255 landed bowhead whales over 5 years (2003 through 2007), with an annual strike quota of 67 bowhead whales per year, where no more than 15 unused strikes are added to the strike quota for any one year.

Alternative 3 - Grant the AEWC a quota of 255 landed bowhead whales over 5 years (2003 through 2007), with an annual strike quota of 67 bowhead whales per year, where, for unused strikes, up to 50 percent of the annual strike limit is added to the strike quota for any one year.

Alternative 4 (No Action) - Do not grant the AEWC a quota.

NMFS has selected Alternative 2 as the preferred alternative.

The Draft EA was prepared in accordance with NEPA and implementing regulations at 40 CFR parts 1500 through 1508 and NOAA guidelines concerning implementation of NEPA found in NOAA Administrative Order 216-6.

Information Solicited

To ensure that NMFS' review is comprehensive and based on the best available information, NMFS is soliciting information and comments from any interested party concerning issuing a bowhead whale quota to the AEWC of 255 landed whales over 5 years (2003 through 2007). NMFS is particularly interested in information on the affected environment or environmental consequences of issuing a quota. NMFS requests that data, information, and comments be accompanied by (1) supporting documentation, and (2) the name, address, and affiliation of person submitting data. Written comments should be sent to Chief of the Marine

Mammal Division within NMFS' Office of Protected Resources (see **ADDRESSES**).

Dated: December 3, 2002.

Laurie K. Allen,

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

[FR Doc. 02-31027 Filed 12-6-02; 8:45 am]

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DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. 2003-C-006]

Request for Written Comments and Notice of Hearings on Technological Protection Systems for Digitized Copyrighted Works

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Request for written comments and notice of hearings.

SUMMARY: The United States Patent and Trademark Office (USPTO) requests written comments that will assist the agency in preparing a report to Congress required by the "Technology, Education and Copyright Harmonization Act of 2002." The report will provide information to Congress on technological protection systems for digitized copyrighted works and to prevent infringement. The USPTO also may conduct a hearing to obtain information for the report and requests a response from persons interested in providing testimony.

DATES: Written comments are due at the offices of the USPTO on January 14, 2003. A hearing is tentatively scheduled for the Washington, DC area, on February 4, 2003. Based on expressions of public interest, additional hearings may be scheduled. Requests to testify must be received by January 14, 2003.

ADDRESSES: Written comments and requests to testify should be addressed to the United States Patent and Trademark Office, Office of Legislative and International Affairs, Room 902, 2121 Crystal Drive, Arlington, VA 22202, or faxed to (703) 305-8885, marked to the attention of Velica Steadman. Written comments also may be sent via electronic mail to teach.act@uspto.gov. A specific time and location for the proposed hearing will be determined based on responses received from persons who express an interest in testifying and will be posted on the USPTO's Web site at <http://www.uspto.gov>.

FOR FURTHER INFORMATION CONTACT: Michael S. Shapiro by telephone at

(703) 305-9300 or by electronic mail at teach.act@uspto.gov.

SUPPLEMENTARY INFORMATION:

1. Background

On November 2, 2002, the President signed into law the "Technology, Education and Copyright Harmonization Act of 2002" (the TEACH Act), Pub. L. 107-273, which updates certain provisions of the Copyright Act to facilitate the growth and development of distance education, while introducing new safeguards to limit the additional risks to copyright owners that are inherent in exploiting works in a digital format. As discussed more fully below, the TEACH Act requires the USPTO to submit a report to Congress on technological protection systems for digitized copyrighted works and to prevent infringement. The brief discussion of the TEACH Act that follows is intended only to provide some context for that report.

Over the last several years, the educational opportunities and risks associated with distance education have been the subject of extensive public debate and attention in the United States. In November 1998, the Conference on Fair Use (CONFU), convened by the Administration's Information Infrastructure Task Force, issued its final report, which included a proposal for educational fair use guidelines for distance learning.¹ In May 1999, the U.S. Copyright Office issued an extensive report on copyright and digital distance education.² The Senate Committee on the Judiciary and the House Judiciary Subcommittee on Courts, the Internet, and Intellectual Property held hearings on the TEACH Act.³ For more detailed information on the background and legislative history of the TEACH Act, interested persons may wish to visit the USPTO Web site at <http://www.uspto.gov> and the U.S. Copyright Office Web site at <http://www.loc.gov>.

Subsection (b) of the TEACH Act amends section 110(2) of the Copyright Act to encompass performances and

displays of copyrighted works in digital distance education under appropriate circumstances and subject to certain limitations. The Act expands the categories of works exempt from the performance right, from nondramatic literary works and musical works to "reasonable and limited portions" of any work and permits the display of any work in "an amount comparable to that typically displayed in the course of a live classroom setting." The Act removes the concept of the physical classroom, while maintaining the requirement of "mediated instructional activity," which generally requires the involvement of an instructor. The exemption is limited to mediated instructional activities that are conducted by governmental bodies and "accredited" non-profit educational institutions. Subsection (c) of the TEACH Act amends section 112 of the Copyright Act to permit transmitting organizations to store copyrighted material on their servers in order to allow the performances and displays of works authorized under amended section 110(2).

The TEACH Act contains a number of new safeguards to limit the additional risks to copyright owners that are inherent in using works in the digital format. Section 110(2)(C) limits the receipt of authorized transmissions, "to the extent technologically feasible," to students officially enrolled in the course or to Government employees as part of their official duties. Section 110(2)(D)(ii) requires transmitting institutions to apply technological measures that "reasonably prevent retention of the work in accessible form by recipients of the transmission * * * for longer than the class session" and the "unauthorized further dissemination" of the work. Section 110(2)(D)(ii) also prohibits transmitting institutions from engaging in "conduct that could reasonably be expected to interfere" with such technological measures.

2. Mandate for the Report

Subsection (d) of the TEACH Act requires the Under Secretary of Commerce for Intellectual Property, after consultation with the Register of Copyrights and after a period of public comment, to submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on technological protection systems for digitized copyrighted works. The report, which is intended solely to provide information to Congress, is due not later than 180 days after the date of enactment of the Act.

Congress specifically directed the USPTO to include information "on

¹ See The Conference on Fair Use: Final Report to the Commissioner on the Conclusion of the Conference on Fair Use (U.S. Patent and Trademark Office, November 1998). The report is available online at <http://www.uspto.gov/web/offices/dcom/olia/confu/confurep.htm>

² See Report on Copyright and Digital Distance Education: A Report to the Register of Copyrights (U.S. Copyright Office, May 1999). The report is available at <http://www.copyright.gov/disted/>.

³ See the Report of the Senate Committee on the Judiciary on the Technology, Education and Copyright Act of 2001, S.R. Rep. No. 107-31, 107th Congress, 1st Session and the Report of the House Committee on the Judiciary on the Technology, Education and Copyright Act of 2001, H.R. Rep. No. 107-687, 107th Congress, 2d Session.