

advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98-2057 Filed 1-27-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Illinois at Urbana-Champaign; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 97-091. *Applicant:* University of Illinois at Urbana-Champaign, Urbana, IL 61801.

Instrument: Upgrade and Replacement Parts for Asphalt Testing Equipment. *Manufacturer:* Industrial Process Controls Ltd., United Kingdom. *Intended Use:* See notice at 62 FR 62287, November 21, 1997.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a pneumatically-driven triaxial pressure cell which can monitor the properties of asphalt composites under field conditions at construction sites. A university-based highway research laboratory and the Federal Highway Administration advised December 23, 1997 that (1) this capability is pertinent to the applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value

to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98-2061 Filed 1-27-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Worcester Polytechnic Institute, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 97-089. *Applicant:* Worcester Polytechnic Institute, Worcester, MA 01609. *Instrument:* Fire Modeling Research Apparatus. *Manufacturer:* Fire Testing Technology Ltd., United Kingdom. *Intended Use:* See notice at 62 FR 61092, November 14, 1997. *Reasons:* The foreign instrument provides: (1) anti-vibration mountings on top of the frame and in the test area, (2) a pressure transducer to compensate for atmospheric pressure fluctuations, (3) an enclosed-case housing for the load cell and (4) compatibility with an existing cone calorimeter. *Advice received from:* National Institute of Standards and Technology, December 24, 1997.

Docket Number: 97-092. *Applicant:* University of Wisconsin, Madison, WI 53706. *Instrument:* Flame Ionization Detector System, Model HFR400. *Manufacturer:* Cambustion Ltd., United Kingdom. *Intended Use:* See notice at 62 FR 62287, November 21, 1997. *Reasons:* The foreign instrument provides a time constant of less than 4.0 ms for measuring hydrocarbon emissions during transients of a gasoline engine. *Advice received from:* National Institute of Standards and Technology, December 23, 1997.

The National Institute of Standards and Technology advises that (1) the capabilities of each of the foreign

instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98-2062 Filed 1-27-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration, Commerce

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application No. 97-00003.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to The Association for the Administration of Rice Quotas, Inc. ("AARQ"). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202-482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1997).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct Export Trade

Semi-milled or wholly milled rice, whether or not polished or glazed (item 1006.30 of the Harmonized Tariff

Schedules (HTS)), and husked (brown) rice (item 1006.20 of the HTS).

Export Markets

Rice for which TRQ awards have been made will be exported to the countries that comprise the European Union. Exports that will serve as a basis for distribution of the proceeds of the TRQ awards will be to the European Union as well as all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operations

1. *Purpose.* AARQ will manage on an open tender basis the tariff-rate quotas ("TRQs") for milled and brown rice granted by the European Union ("EU") to the United States under the U.S.-EU Enlargement Agreement signed July 22, 1996, or any amended or successor agreement providing for EU rice TRQs for the United States and provide for distribution of the proceeds received from the tender process based on exports of milled and brown rice, and rice in the husk (paddy or rough) as set forth below ("the TRQ System").

2. *Implementation.*

A. *Administrator*

AARQ shall contract with a neutral third party Administrator who is not engaged in the production, milling, distribution, or sale of rice, who shall bear responsibility for administering the TRQ System, subject to general oversight and supervision by the Board of Directors of AARQ.

B. *Membership*

Any person or entity domiciled or incorporated in the United States may become a Member of AARQ upon (i) submission to the Administrator of an application accompanied by evidence that the applicant is a rice mill or has exported U.S. rice from the United States, (ii) execution of the AARQ Operating Agreement, and (iii) in the case of applications received after December 31, 1997, payment of a one-time, nonrefundable fee of \$3,000 to AARQ. The fee may be waived for small exporters, as determined by the Board of Directors of AARQ.

C. *Open Tender Process; Persons or Entities Eligible To Bid*

(a) AARQ shall offer TRQ Certificates for duty-free or reduced-duty shipments of rice to the EU on open tender to the

highest bidders. All U.S. TRQ quantities (in metric tons) shall be allocated through the Open Tender Process for such tranches ("TRQ Tranches") as may be provided for in the relevant EU regulations. The Open Tender Process shall constitute the sole and exclusive mechanism by which AARQ allocates TRQ quantities.

(b) Any person or entity incorporated or domiciled in the United States, whether or not a Member of AARQ, shall be eligible to bid in any Open Tender Process.

D. *Notice*

The Administrator will publish notice ("Notice") of each Open Tender Process to be held for the allocation of TRQs for each TRQ Tranche in the Journal of Commerce, and at the discretion of AARQ in other publications of general circulation within the U.S. rice industry. The Notice will invite independent bids and will specify (i) the total amount (in metric tons) of each TRQ to be allocated pursuant to the applicable TRQ Tranche; and (ii) the date on which all bids for TRQ Certificates must be submitted to and received by the Administrator (the "Bid Date"). The Notice will normally be published not later than 45 days prior to the opening of the TRQ Tranche; if EU decisions on the opening of TRQs or EU regulations necessitate a condensed timetable for notice and bidding, the Administrator will publish the required Notice as promptly as possible after the EU announcements, and will in any event specify a Bid Date that is at least 5 working days after publication of the Notice. The Notice will provide information on how to obtain forms to be used to submit bids. Bids may be submitted by hand delivery or facsimile, and must be received by the Administrator by 5:00 p.m. EST on the Bid Date.

E. *Form of Bid; Performance Security*

(a) A bid shall be submitted on a form provided by the Administrator and shall state (i) the name, address, telephone, and facsimile or telex number of the bidder; (ii) the form of rice and quantity in metric tons bid, with a minimum bid quantity of twenty (20) metric tons; (iii) the bid price in U.S. dollars per metric ton; and (iv) the total value of the bid.

(b) The bid form shall contain a provision, signed by the bidder, that the bidder agrees that any dispute that may arise relating to the bidding process or the award of TRQ Certificates shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the

award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

(c) The bidder shall submit with its bid(s) a performance bond, irrevocable letter of credit drawn on a U.S. bank, cashier's check, wire transfer, or equivalent performance security, in a form approved by AARQ and for the benefit of an account designated by the Administrator, in the amount of \$50,000 or the total value of its bid(s), whichever is less. Such performance security shall be forfeited if the bidder fails timely to pay for TRQ Certificates awarded to it. At the option of a successful bidder, its performance security may be applied to the price of its successful bid(s), or retained as security for a subsequent Open Tender Process. Any performance security not forfeited, applied to a bid price, or retained as future security shall be returned to the bidder promptly after the close of the Open Tender Process.

(d) The contents of the bids shall be treated by the Administrator as confidential and may be disclosed only to another neutral third party as necessary to ensure the effective operation of the TRQ System; provided, however, that after issuance of all TRQ Certificates in an Open Tender Process, the Administrator shall promptly notify all bidders of and release to the public (i) the total tonnage for which TRQ Certificates were awarded under the milled rice TRQ Tranche and the brown rice TRQ Tranche, respectively, and (ii) the price per metric ton of the lowest successful bid for each TRQ Tranche.

F. *TRQ Certificate Awards*

(a) Following the close of the bidding period, after having carefully reviewed each apparently high bid to ensure its conformity with applicable requirements, the Administrator shall notify each high bidder that its bid(s) have been determined to be high bid(s). If two or more bidders have submitted identically priced high bids that together cover more than the available tonnage, the Administrator shall divide the award among those bidders in proportion to the quantities of their bids and offer the proportionate shares to each of those bidders. If any of those bidders rejects all or part of the quantity offered, it shall be offered first to the remaining such bidder(s) and then to the next highest bidder.

(b) Promptly after issuance of the notification that its bid is a high bid, a bidder shall pay the full amount of the bid to the Administrator either by certified check or by wire transfer to an account designated by the Administrator. If the bidder fails to pay the full amount of the bid on a timely

basis, the Administrator shall revoke the award, and grant the award to the next highest bidder.

(c) If the total bids received cover less than the tonnage of the relevant TRQ Tranche, the unused portion shall, to the extent consistent with EU regulations, be carried over to a succeeding Tranche. In any Tranche as to which EU regulations prohibit such carry-over, should total bids received cover less than the total tonnage available in the Tranche, the unused portion shall be offered to all successful bidders, in proportion to the size of their respective awards, at the lowest successful bid price.

(d) The full amounts received from successful bidders shall be deposited in an interest-bearing account designated by the Administrator in a financial institution approved by the Board of Directors of AARQ.

G. Delivery of TRQ Certificates

(a) Promptly after receiving the full amount of a successful bid, the Administrator shall transmit to the successful bidder(s) a TRQ Certificate that designates the quantity and form of rice covered by the bid and any known expiration date pursuant to EU regulations.

(b) To facilitate monitoring of shipments of packaged rice pursuant to EU regulations, the TRQ Certificate shall include a space for designation by the exporter of the type of packaging, if any, of the rice covered by the TRQ Certificate.

(c) TRQ Certificates issued to successful bidders shall be freely transferable.

H. Disposition of Tender Proceeds

(a) The proceeds of Open Tender Processes shall be applied and distributed as provided in paragraphs (b) through (g) below.

(b) Operating expenses of AARQ, including legal, accounting, and administrative costs of establishing and operating the TRQ System, shall be paid as incurred from tender proceeds as they become available, pursuant to authorization by the AARQ Board of Directors.

(c) From the remaining proceeds of tenders as soon as available—

(i) The U.S. Rice Industry Coalition for Exports, Inc. ("US RICE") shall be reimbursed for its documented TRQ-related legal expenses up to \$450,000.

(ii) The Rice Millers' Association ("RMA") shall be reimbursed up to \$450,000 (A) for its documented TRQ-related legal and administrative expenses, (B) for payment of up to \$100,000 to the Committee for Fair

Allocation of Rice Quotas for its documented TRQ-related legal expenses, (C) for payment of up to \$25,000 to each former member of RMA's former export trade certificate of review (96-00003) (RMA/ETCR) for its documented third party legal expenses in calendar years 1996 and 1997 in connection with the establishment of an ETC for administration of the TRQs, and (D) for payment of \$25,000 to each former member of the RMA/ETCR that documents that it shipped a minimum of 500 metric tons of milled or brown rice to the EU in calendar year 1996 and has not received a distribution under item (C). If there are insufficient funds available to make payments provided for in subparagraphs (c)(ii)(C) and (D), the amount that each former RMA/ETCR member would otherwise be entitled to receive will be reduced by a pro-rata amount so that the total distribution will be equal to the amount available for this purpose.

(d) From the proceeds of tenders in each of the first two years of operations, each Member of AARQ that documents to the Administrator exports of milled or brown rice to Austria, Sweden, or Finland during 1990-1994 shall be paid up to \$75 per metric ton of its documented 1990-1994 annual average of such shipments, provided, however, that the total amount paid to all eligible Members under this provision may not exceed \$1,800,000 in each of the two years. If \$1,800,000 is insufficient to permit payments of \$75 per metric ton, the amount that each eligible Member would otherwise be entitled to receive will be reduced pro rata so that the total distribution will be equal to the amount available for this purpose. Any documented costs previously incurred by the RMA in reviewing and analyzing documentation of member shipments to Austria, Finland, or Sweden during 1990-1994 shall be considered a cost of administering the TRQ System, pursuant to paragraph (b) above.

(e) Of the proceeds remaining at the end of each year of operations—

(i) Thirty-nine percent (39%) shall be distributed to Members exporting U.S. paddy, brown, and/or milled rice to the EU based on their percentage shares by volume, adjusted as provided in item (iii) of this subparagraph, of Members' exports to the EU during that year.

(ii) Thirty-nine percent (39%) shall be distributed to Members exporting U.S. paddy, brown, and/or milled rice to all non-EU Export Markets, based on their percentage shares by volume, adjusted as provided in item (iii) of this subparagraph, of Members' non-EU Export Markets exports during that year.

(iii) The computation of Members' exports under this paragraph (e) shall be made on a milled rice equivalent basis using U.S. Department of Agriculture standard equivalency factors.

(f) A year shall be the calendar year, except that if an Open Tender Process occurs in 1997, the first year of operations shall be the period from the date of that tender through December 31, 1998.

(g) Notwithstanding the foregoing provisions of this paragraph, promptly upon implementation of the TRQ System by the EU, the Board of Directors shall consider and may direct distributions during 1998 of proceeds from tenders of a major portion of the TRQ tonnage to be offered in the first year of operations, basing distributions pursuant to paragraph (e) (i) and (ii) on Members' exports during calendar year 1997.

I. Eligibility for Distributions; Submission of Export Documentation

Any Member of AARQ will be eligible to participate in distributions of tender proceeds if: (i) it is a member under the ETCR issued to AARQ by the U.S. Department of Commerce on the date of a distribution or its membership under the ETCR is the subject of an ETCR amendment pending with the Department of Commerce on that date, and (ii) it has timely submitted the required export documentation to the Administrator.

J. Distribution of Tender Proceeds

Within sixty (60) days of the submission of the required documentation for the year or as soon as practicable thereafter, the Administrator shall notify each Member, on a confidential basis, of its percentage share of U.S. rice exports by Members to the EU and/or non-EU destinations, as applicable, for the previous year, and the dollar amount of its distribution. As promptly as possible following such notification, the Administrator shall cause the distributions to be made to eligible Members. If an amendment to include an eligible Member under the ETCR is pending at the Department of Commerce, the Administrator shall cause such Member's distribution to be held for distribution promptly upon issuance of the amendment.

K. Arbitration of Disputes

Any controversy or claim arising out of or relating to the TRQ System or to the AARQ Operating Agreement, or the breach thereof, including *inter alia* a Member's qualification for a distribution, the interpretation of documents, or the distribution itself,

shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Decisions by arbitrators shall not be incorporated by reference in this Certificate of Review. Any change to the Export Trade Activities and Methods of Operation listed in this certificate as a result of arbitration shall not be covered by this Certificate of Review unless certified by an amendment to this Certificate of Review.

L. Confidential Information

Confidential export documentation and any other confidential information submitted to AARQ by an applicant for membership, by a Member in connection with qualifying for a distribution, or by any person in connection with the TRQ System shall be marked "Confidential" and submitted to the Administrator, who shall maintain its confidentiality. The Administrator shall not disclose such confidential information to any Member other than the submitter, or to any officers, agents, or employees of any Member other than the submitter, and shall not disclose such confidential information to any other person except to another neutral third party as necessary to make the determination for which the information was submitted, to process distributions, or in connection with the arbitration of a dispute.

M. Annual Reports

In accordance with its Bylaws, AARQ shall publish an annual report, including a statement of the operating expenses and aggregate data on the distribution of proceeds, as reflected in the audited financial statement of the AARQ TRQ System.

3. Cooperation with the U.S. Government and the European Commission. AARQ will provide whatever information and consultations may be useful in order to ensure effective consultations between the U.S. Government and the European Commission concerning the implementation and operation of the TRQ System. In particular, while maintaining the confidentiality of confidential information submitted by bidders and Members, AARQ will provide its annual report, regular reports following the tender for each TRQ Tranche, reports on distributions of tender proceeds, and/or any other information that might be requested by the U.S. Government. Directly or

through the U.S. Government, AARQ will endeavor to accommodate any information requests from the Commission (while protecting confidential data), and will consult with the Commission as appropriate.

4. Miscellaneous Implementing Provisions. AARQ and/or its members may (i) meet, discuss and provide for an administrative structure to implement the foregoing tariff rate quota management system, assess its operations and discuss modifications as necessary to improve its workability, (ii) meet, exchange and discuss information regarding the structure and method for implementing the foregoing tariff rate quota management system, (iii) meet, exchange and discuss the types of information needed regarding the bidding process, distribution of the bid proceeds, and past export transactions that are necessary for implementation of the system, (iv) meet, exchange and discuss information concerning U.S. and foreign agreements, legislation and regulations affecting the TRQ management system, (v) and otherwise meet, discuss and exchange information as necessary to implement the activities described above and take the necessary action to implement the foregoing TRQ management system.

Terms and Conditions of Certificate

1. Except as authorized in Paragraphs 2.E(d) and H(c) and (d) of the Export Trade Activities and Methods of Operation, in engaging in Export Trade Activities and Methods of Operation, neither AARQ, the Administrator, any Member, nor any neutral third party shall intentionally disclose, directly or indirectly, to any Member (including parent companies, subsidiaries, or other entities related to any Member) any information regarding any other Member's costs, production, inventories, domestic prices, domestic sales, capacity to produce Products for domestic sale, domestic orders, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods, unless such information is already generally available to the trade or public.

2. AARQ and its Members will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of

Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

Definition

Neutral third party, as used in this Certificate of Review, means a party not otherwise associated with AARQ or any of its Members and who is not engaged in the production, milling, distribution, or sale of rice.

Members (Within the Meaning of Section 325.2(1) of the Regulations)

Members (in addition to applicant): Affiliated Rice Milling, Inc., Alvin, Texas; American Rice, Inc., Houston, Texas; Brinkley Rice Milling Company, Brinkley, Arkansas; Broussard Rice Mill, Inc., Mermentau, Louisiana; Busch Agricultural Resources, Inc., St. Louis, Missouri; Cargill, Inc. for the activities of its division, Cargill Rice Milling, Greenville, Mississippi; Connell Rice & Sugar Co., Westfield, New Jersey; Continental Grain Company, New York, New York; El Campo Rice Milling Company, Louise, Texas; Farmers' Rice Cooperative, Sacramento, California; Farmers Rice Milling Company, Inc., Lake Charles, Louisiana; Gulf Rice Milling, Inc., Houston, Texas; Liberty Rice Mill, Inc., Kaplan, Louisiana; Louis Dreyfus Corporation, Wilton, Connecticut; Newfield Partners Ltd., Miami, Florida; Producers Rice Mill, Inc., Stuttgart, Arkansas; Riceland Foods, Inc., Stuttgart, Arkansas; RiceTec, Inc., Alvin, Texas; Riviana Foods, Inc., Houston, Texas; SunWest Foods, Inc., Davis, California; Supreme Rice Mill, Inc., Crowley, Louisiana; The Rice Company, Roseville, California; and Uncle Ben's, Inc., Houston, Texas.

Protection Provided by Certificate

This Certificate protects AARQ, its Members, and directors, officers, and employees acting on behalf of AARQ and its Members from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

Effective Period of Certificate

This Certificate continues in effect from the effective date indicated below until it is relinquished, modified, or revoked as provided in the Act and the Regulations.

Other Conduct

Nothing in this Certificate prohibits AARQ and its Members from engaging

in conduct not specified in this Certificate, but such conduct is subject to the normal application of the antitrust laws.

Disclaimer

The issuance of this Certificate of Review to AARQ by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion by the Secretary of Commerce or by the Attorney General concerning either (a) the viability or quality of the business plans of AARQ or its Members or (b) the legality of such business plans of AARQ or its Members under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country.

The application of this Certificate to conduct in export trade where the United States Government is the buyer or where the United States Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V.(D.) of the "Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition)," 50 Fed. Reg. 1786 (January 11, 1985).

In accordance with the authority granted under the Act and Regulations, this Certificate of Review is hereby granted to Association for the Administration of Rice Quotas, Inc.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated: January 22, 1998.

Morton Schnabel,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 98-2056 Filed 1-27-98; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by Jessie W. Taylor From an Objection by South Carolina

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of decision.

On December 30, 1997, the Secretary of Commerce (Secretary) issued a decision in the consistency appeal of

Mr. Jessie W. Taylor (Appellant). The Appellant had applied to the U.S. Army Corps of Engineers (Corps) for a permit to fill wetlands to construct a commercial business on the property. In conjunction with the Federal permit application, the Appellant submitted to the Corps a certification that the proposed activity is consistent with the State's federally approved Coastal Management Program (CMP). The State of South Carolina's coastal management agency, reviewed the certification pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(A).

On March 11, 1996, the State objected to the Appellant's consistency certification for the proposed project on the ground that the proposed project is not consistent with the enforceable policies contained in the State's coastal management program. State policies prevented OCRM from considering the Appellant's offer of mitigation in evaluating his activity. Under CZMA section 307(c)(3)(A) and 15 CFR 930.131, the State's consistency objection precludes the Corps from issuing a permit for the activity unless the Secretary finds that the activity is either consistent with the objectives or purposes of the CZMA (Ground I) or necessary in the interest of national security (Ground II). The Appellant based his appeal on Ground I.

Upon consideration of the information submitted by the Appellant, the State and interested Federal agencies, the Secretary made the following findings pursuant to 15 CFR 930.121: First, the proposed project furthers one or more of the competing national objectives or purposes of the CZMA by minimally contributing to the national interest in economic development of the coastal zone. Second, the proposed project, including the Appellant's mitigation measure, would lessen rather than increase cumulative impacts on the natural resources of the coastal zone. Thus, there would appear to be no adverse coastal effects to outweigh the projects minimal contribution to the national interest. Third, the proposed activity will not violate the requirements of the Clean Water Act or the Clean Air Act. Fourth, there would be no reasonable alternative available to the Appellant that would permit the activity to be conducted in a manner consistent with the State's coastal management program. Accordingly, the proposed project is consistent with the objectives or purposes of the CZMA. Because the Appellant's proposed project satisfied all of the requirements of Ground I, the

Secretary overrode the State's objection to the Appellant's consistency certification. Consequently, the proposed project may be permitted by Federal agencies. Copies of the decision may be obtained from the contact person listed below.

Margo E. Jackson, Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910, (301) 713-2967.

Dated: January 16, 1998.

Monica Medina,
General Counsel.

[FR Doc. 98-2035 Filed 1-27-98; 8:45 am]

BILLING CODE 3510-08-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012098B]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a number of public meetings of its oversight committees and advisory panels in February, 1998, to consider actions affecting New England fisheries in the exclusive economic zone. Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held between February 10 and February 24, 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Meetings will be held in Peabody, MA; East Boston, MA; Warwick, RI, and Portsmouth, NH. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (781) 231-0422.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Tuesday, February 10, 1998, 9:30 a.m.—Groundfish Committee Meeting
Location: Peabody Marriott Hotel, 8A Centennial Drive, Peabody, MA 01960; telephone: (978) 977-9700.