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New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116

John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

November 2, 2009

Ms. Patricia A. Kurkul
Regional Administrator
NMFS, Northeast Regional Office
55 Great Republic Drive
Gloucester, MA 01930

RE: Comments on the CCE Offshore Fluke Discard EFP Request

Dear Pat:

The New England Fishery Management Council has no objection to the exempted fishery permit for the above-mentioned study as described in the *Federal Register* Vol. 74, No. 204 dated October 23, 2009.

If you have any question please contact me.

Sincerely,



Paul J. Howard
Executive Director



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

Paul J. Howard, Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950



Re: Exempted Fishing Permit Proposal

Dear Paul:

The regulations on exempted experimental fishing activities at 50 CFR 600.745(b)(3) require that the Regional Administrator forward copies of an application for exempted fisheries to the Regional Fishery Management Council(s), the U.S. Coast Guard, and the appropriate fishery management agencies of affected states, accompanied by the following information: (A) The effect of the proposed Exempted Fishing Permit (EFP) on the target and incidental species, including the effect on any Total Allowable Catch; (B) a citation of the regulation or regulations that, without the EFP, would prohibit the proposed activity; and (C) biological information relevant to the proposal, including appropriate statements of environmental impacts, including impacts on marine mammals and threatened or endangered species. Therefore, we have attached the Federal Register notice that describes the activities proposed in the application submitted by Wallace & Associates on behalf of Truex Enterprises of New Bedford, Massachusetts.

The project proposes to harvest Atlantic surfclams and ocean quahogs, which they have been allocated under the individual transferable quota program, from an exemption area within the Atlantic surfclam and ocean quahog Georges Bank Closure Area. This area was closed in 1990 to the harvest of Atlantic surfclams and ocean quahogs due to the presence of the toxin that causes Paralytic Shellfish Poisoning (PSP). All shellfish landed under this proposed EFP would be harvested under the U.S. Food and Drug Administration (FDA) endorsed Protocol for Onboard Screening and Dockside Testing for PSP Toxins in Molluscan Shellfish. This project was originally issued an EFP in 2008 and subsequently renewed for the 2009 fishing year. This EFP would allow Wallace & Associates to continue to test for PSP for the 2010 fishing year. The primary goal of the proposed study is to test the efficacy of the Protocol that was developed by the state and Federal regulatory agencies to test for the presence of saxotoxins in shellfish. This Protocol will facilitate the harvest of shellfish from waters susceptible to Harmful Algal Blooms (HAB), which produce the saxotoxins, but that are not currently under rigorous water quality monitoring programs.

Please respond to the following contact person with any comments you have on the exempted fishery permit on or before November 9, 2009. Copies of supporting documentation, such as the dockside monitoring protocol and a map of the exemption area, may be obtained by contacting the person named below or on the web at: <http://www.nero.noaa.gov/sfd/clams/>.



cc: CBK (10/27)

CONTACT
PERSON:

Anna Macan
Sustainable Fisheries, Northeast Region
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930
Phone: (978) 281-9165/FAX: (978) 281-9135

Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "George H. Darcy". The signature is written in dark ink and is positioned above the printed name and title.

George H. Darcy
Assistant Regional Administrator
for Sustainable Fisheries

ADDRESSES: Comments may be submitted to NIST by e-mail at structuralsafety@nist.gov, by fax to 301-869-6275; or by regular mail to the attention of Stephen Cauffman, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8611, Gaithersburg, MD 20899-8611.

The draft report is available at: <http://www.bfrl.nist.gov/investigations/investigations.htm>.

FOR FURTHER INFORMATION CONTACT: Requests for further information may be addressed to: Stephen Cauffman, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8611, Gaithersburg, MD 20899-8611; tel: (301) 975-6051; e-mail: structuralsafety@nist.gov.

SUPPLEMENTARY INFORMATION: The report summarizes the NIST study of the collapse of the Dallas Cowboys indoor practice facility that occurred on the afternoon of May 2, 2009, during a severe thunderstorm. The principal findings of this study are summarized in this report and include the definition of the wind environment that affected the practice facility on May 2, 2009, possible factors contributing to the collapse of the facility, and the likely collapse sequence. The report concludes with a recommendation for action for improving the safety of fabric-covered frame structures and ensuring the adequate performance of such structures under design wind loads.

Request for Comments: NIST seeks comments on the draft report of its study of the Dallas Cowboys Indoor Practice Facility Collapse, May 2, 2009. NIST will review comments received, make appropriate revisions, and publish the report in a final form following the public comment period.

Dated: October 16, 2009.

Patrick Gallagher,
Deputy Director, NIST.

[FR Doc. E9-25557 Filed 10-22-09; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XR60

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit (EFP)

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

ACTION: Notification of a proposal for an EFP to conduct experimental fishing; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that the subject EFP application submitted by Wallace and Associates contains all the required information and warrants further consideration. The proposed EFP would extend the previously authorized EFP for an additional year, to continue testing the safety and efficacy of harvesting surfclams and ocean quahogs from the Atlantic surfclam and ocean quahog Georges Bank (GB) Closure Area using a harvesting protocol developed by state and Federal regulatory agencies and endorsed by the U.S. Food and Drug Administration (FDA). The Assistant 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 Surfclam and Ocean Quahog regulations and 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 Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow one commercial fishing vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP would allow for an exemption from the Atlantic surfclam and ocean quahog GB Closure Area. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before November 9, 2009.

ADDRESSES: Comments on this notice may be submitted by e-mail. The mailbox address for providing e-mail comments is NERO.EFP@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: "Comments on GB PSP Closed Area Exemption." Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on GB PSP Closed Area Exemption." Comments may also be

sent via facsimile (fax) to (978) 281-9135.

Copies of supporting documents referenced in this notice are available from Anna Macan, Fishery Management Specialist, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930, and are available via the Internet at <http://www.nero.noaa.gov/sfd/clams>.

FOR FURTHER INFORMATION CONTACT: Anna Macan, Fishery Management Specialist, phone 978-281-9165.

SUPPLEMENTARY INFORMATION: Truex Enterprises of New Bedford, MA, first submitted an application for an EFP on March 30, 2006, and public comment was solicited via the **Federal Register** on June 19, 2006 (71 FR 35254). On October 2, 2006, the applicant submitted additional information seeking to add states where the product harvested under the EFP could be landed. Due to changes in the EFP Proposal, the notice and comment period was re-initiated and published in the **Federal Register** on November 14, 2006 (71 FR 66311). At that time, due to lack of concurrence on the Protocol for Onboard Screening and Dockside Testing for Paralytic Shellfish Poisoning (PSP) Toxins in Molluscan Shellfish (Protocol) from the state of landing, the EFP was not issued. The applicant subsequently received concurrence from the state of landing and the state where the product is to be processed for the Protocol and EFP, and an EFP was authorized through the end of calendar year 2008. The EFP was subsequently renewed for 1 year, and is due to expire on December 31, 2009.

The current applicant, Wallace & Associates, of Cambridge, MD, requests an extension of the previously authorized EFP to allow the catch and retention for sale of Atlantic surfclams and ocean quahogs from within the Atlantic surfclam and ocean quahog GB Closure Area. This area, located east of 69°00' W. long. and south of 42°20' N. lat., has been closed since May 25, 1990. This closure was implemented based on advice from the U.S. Food and Drug Administration (FDA) after samples of surfclams from the area tested positive for the toxins (saxotoxins) that cause PSP. These toxins are produced by the alga *Alexandrium fundyense*, which can form blooms commonly referred to as red tides. Red tide blooms, also known as harmful algal blooms (HABs), can produce toxins that accumulate in filter-feeding shellfish. Shellfish contaminated with the saxotoxin, if eaten in large enough quantity, can cause illness or death from PSP. Due, in part, to the inability to test and monitor

this area for the presence of PSP, this closure was made permanent through Amendment 12 to the FMP in 1999.

The primary goal of the proposed study is to test the efficacy of the Protocol that was developed by state and Federal regulatory agencies to test for presence of saxotoxins in shellfish, and thus has been in a trial period through previous EFPs since 2006. This protocol would facilitate the harvest of shellfish from waters susceptible to HABs, which produce the saxotoxins, but that are not currently under rigorous water quality monitoring programs by either state or Federal management agencies. The Protocol details procedures and reporting for harvesting, testing, and landing of shellfish harvested from areas that are susceptible to HABs prior to the shellfish from entering commerce. A copy of the Protocol is available from the NMFS Northeast Region website: <http://www.nero.noaa.gov/sfd/clams>.

The proposed project would conduct a trial for the sampling protocol in an exemption zone within the larger 1990 GB Closure Area with the F/V Sea Watcher I (Federal permit #410565, O.N. 1160720). The exemption zone would not include any Northeast multispecies or essential fish habitat year-round closure areas. This proposed exempted fishing activity would occur during the 2010 calendar year, using surfclam and ocean quahog quota allocated to Truex Enterprises under the Federal individual transferable quota (ITQ) program. The applicant has estimated a harvest of 176,000 bushels (9,370,240 L) of surfclams and 80,000 bushels (4,259,200 L) of ocean quahogs from the exemption area. The exemption area has been tested in cooperation with the FDA from 2006 to the present. No samples collected during that time were below acceptable levels for saxotoxins (80?g toxin/100g of shellfish).

The applicant has obtained endorsements for the EFP and the Protocol from the States of New Jersey and Delaware, the states in which it intends to land and process the product harvested under the EFP, respectively. Each state is responsible for regulating the molluscan shellfish industry within its jurisdiction and ensuring the safety of shellfish harvested within or entering its borders. The Protocol and the pilot project that would be authorized by this EFP have also since been endorsed by the executive board of the Interstate Shellfish Sanitation Conference.

The applicants may request minor modifications and extensions to the EFP throughout the course of research. EFP modifications and extensions may be granted without further public notice if

they are deemed essential to facilitate completion of the proposed research and result in only a minimal change in the scope or impacts of the initially approved EFP request.

In accordance with NOAA Administrative Order (NAO) 216-6, a Categorical Exclusion or other appropriate National Environmental Policy Act document would be completed prior to the issuance of the EFP.

Further review and consultation may be necessary before a final determination is made to issue the EFP. After publication of this document in the **Federal Register**, the EFP, if approved, may become effective following the public comment period.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 20, 2009.

Emily H. Menashes,

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

[FR Doc. E9-25551 Filed 10-22-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO-T-2009-0045]

Trademark Manual of Examining Procedure, Sixth Edition

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office ("USPTO") issued the sixth edition of the *Trademark Manual of Examining Procedure* ("TMEP") on October 12, 2009.

ADDRESSES: The USPTO prefers that any suggestions for improving the form and content of the TMEP be submitted via electronic mail message to tmtnep@uspto.gov. Written comments may also be submitted by mail addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, marked to the attention of Editor, *Trademark Manual of Examining Procedure* or by hand delivery to the Trademark Assistance Center, Concourse Level, James Madison Building-East Wing, 600 Dulany Street, Alexandria, Virginia, marked to the attention of Editor, *Trademark Manual of Examining Procedure*.

FOR FURTHER INFORMATION CONTACT: Mary E. Hannon, Office of the Deputy Commissioner for Trademark Examination Policy, by electronic mail at: mary.hannon@uspto.gov; or by mail

addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, marked to the attention of Mary E. Hannon.

SUPPLEMENTARY INFORMATION: On October 12, 2009, the USPTO issued the sixth edition of the TMEP, which provides USPTO trademark examining attorneys, trademark applicants, and attorneys and representatives for trademark applicants with a reference on the practices and procedures for prosecution of applications to register marks in the USPTO. The TMEP contains guidelines for examining attorneys and materials in the nature of information and interpretation, and outlines the procedures which examining attorneys are required or authorized to follow in the examination of trademark applications.

The sixth edition incorporates USPTO trademark practice and relevant case law reported prior to September 1, 2009. The policies stated in this revision supersede any previous policies stated in prior editions, examination guides, or any other statement of USPTO policy, to the extent that there is any conflict.

The TMEP may be viewed or downloaded free of charge from the USPTO Web site at: <http://tess2.uspto.gov/tmdb/tmep/>.

Dated: October 19, 2009.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E9-25581 Filed 10-22-09; 8:45 am]

BILLING CODE 3510-16-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products previously furnished by such agencies.

Comments Must be Received on or Before: 11/23/2009.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202-3259.