

action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Written comments must be received on or before February 17, 2004.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866. Electronic comments could be sent either to [Werner.Raymond@epa.gov](mailto:Werner.Raymond@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, then select "Environmental Protection Agency" at the top of the page and use the "go" button. Please follow the on-line instructions for submitting comments.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,  
Region 2 Office, Air Programs Branch,  
290 Broadway, 25th Floor, New York,  
New York 10007-1866.

New York State Department of  
Environmental Conservation, Division  
of Air Resources, 625 Broadway,  
Albany, New York 12233.

Environmental Protection Agency, Air  
and Radiation Docket and Information  
Center, Air Docket (6102), 401 M  
Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3381 or [Wieber.Kirk@epa.gov](mailto:Wieber.Kirk@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: December 29, 2003.

**Jane M. Kenny,**

*Regional Administrator, Region 2.*

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**BILLING CODE 6560-50-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[ID. 010504A]

#### Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Application for an Exempted Fishing Permit

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

**ACTION:** Notice of receipt of four exempted fishing permit applications, announcement of the intent to issue EFPs, request for comments.

**SUMMARY:** NMFS announces the receipt of four exempted fishing permit (EFP) applications from the Washington State Department of Fish and Wildlife (WDFW) and the intent to issue the requested EFPs. If awarded, these EFPs will allow vessels with valid Washington State delivery permits to harvest and retain federally managed groundfish in Rockfish Conservation Areas (RCAs). (RCAs are large-scale depth-related closed areas where overfished rockfish species are commonly found) and to retain federally managed groundfish species in excess of cumulative trip limits. These activities are otherwise prohibited.

Vessels fishing under each of the EFPs will be required to carry either a State-sponsored sampler or a Federal groundfish observer while conducting EFP fishing. Samplers/observers will collect catch and effort data and retain specimens that are otherwise not available shoreside. These EFP proposals are intended to promote the objectives of the Pacific Coast Groundfish Fishery Management Plan by providing much needed data on total catch, incidental catch rates by fishing strategy, and the effectiveness of different gear configuration. The information gathered through these EFPs may lead to future rulemakings.

**DATES:** Comments must be received by January 30, 2004.

**ADDRESSES:** Comments should be submitted to and copies of the EFP application are available from Becky Renko, Northwest Region, NMFS, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115-0070.

**FOR FURTHER INFORMATION CONTACT:** Becky Renko (206)526-6110.

**SUPPLEMENTARY INFORMATION:** This action is authorized by the FMP and

implementing regulations at 50 CFR 600.745 and 50 CFR 660.350.

On November 20, 2003, NMFS received four completed EFP applications from WDFW. The individual EFP applications are summarized below. The applicants presented these EFP applications at the Pacific Fishery Management Council's (Council) meeting in November 2003. The Council considered the applications and recommended that NMFS issue the EFPs for the proposed activity. Copies of the applications are available for review from NMFS (see **ADDRESSES**).

No optimum yield (OY) is expected to be exceeded as a result of the EFP fishing. All groundfish landed under EFPs are counted against the OY for those species and will not result in total harvest above the established levels announced in the Pacific Coast Groundfish Fishery Annual Specifications and Management Measures for 2004. For overfished species, specific OY allowances or OY set-a-sides were specified for EFP fishing in 2004. Therefore, each EFP will have overall harvest limits for the overfished species. If a harvest limit is reached for any of the overfished species, the EFP will be terminated. Each EFP will also contain individual vessel limits for specified overfished rockfish stocks. If a vessel achieves any of these individual vessel limits, restrictions specified in the EFP will be imposed.

Each EFP requires the participating vessels to carry a State-sponsored sampler or Federal groundfish observer. Observers will collect data that can be used to estimate incidental catch rates, total catch by species or species groups, and to assess the effectiveness of selective gear configurations. To the extent possible, data provided by the observers will be compatible with that collected by the NMFS coastwide observer program.

Data collected during these EFPs are expected to have a broad significance to the management of the groundfish fishery by providing much needed information on: (1) total catch by vessels directly harvesting different target species, (2) catch rates of overfished species by fishing location, (3) gear selectivity, (4) age structure, and (5) the feasibility of a full retention program for rockfish species.

#### Spiny Dogfish (*Squalus acanthias*)

Spiny dogfish is an abundant and important species in the groundfish fishery off Washington State. Fixed gear is used to directly harvest spiny dogfish. Fishing with fixed gear in areas where spiny dogfish have historically been

harvested will be prohibited in 2004, because the areas fall within the non-trawl RCA. Little is known about the bycatch catch rates of other groundfish, including overfished species, by vessels specifically targeting spiny dogfish. However, fishers believe that spiny dogfish can be harvested with much lower bycatch rates than are currently assumed.

If this EFP is issued, it will allow one vessel, which has historically harvested spiny dogfish, to use fixed gear to directly harvest and retain spiny dogfish in a Non-trawl RCA and to retain and land groundfish in excess of cumulative trip limits. These activities are otherwise prohibited by Federal regulations. Fishing under the proposed EFP will occur between February 1 and May 31, 2004. The vessel will be required to retain all rockfish and the proceeds from the sale of rockfish in excess of current trip limits will be forfeited to the State of Washington. All EFP and non-EFP fishing during the effective dates of the EFP will be restricted to waters north of Destruction Island (47°40'30" N. lat.).

There will be no monthly limit on the harvest of spiny dogfish, but the harvest of spiny dogfish will be constrained by individual vessel limits for yelloweye rockfish. Approximately 300 mt of dogfish are expected to be taken during the EFP fishing. If a permitted vessel harvests 275 lbs (124.74 kg) per month of yelloweye rockfish, the vessel will be restricted from fishing in the Non-trawl RCA for the remainder of the calendar month.

#### **Walleye Pollock (*Theragra chalcogramma*)**

The walleye pollock stock is primarily found off the west coast of Vancouver island. However, harvestable amounts of walleye pollock move south into Washington waters every five to seven years. The length of time they are available south of the U.S. Canada border is unknown. When fishers harvest walleye pollock, which is not a groundfish, they incidentally encounter groundfish such as Pacific whiting, yellowtail rockfish and spiny dogfish.

An EFP is necessary to allow walleye pollock vessels to fish within the Trawl RCA with midwater trawl gear and to delay complete sorting of their catch until the point of offloading. An EFP is needed to delay sorting because regulations prohibit the retention of groundfish taken in a closed area or the retention of groundfish in excess of cumulative trip limits if taken outside the conservation areas.

If the permit is issued, two vessels are expected to fish under this EFP. Vessels

will be required to retain all groundfish, except spiny dogfish, and the proceeds from the sale of groundfish landed in excess of trip limits will be forfeited to the State of Washington. Fishing under the proposed EFP will occur between August 1 and October 31, 2004. All fishing by participating vessels, both EFP and non-EFP fishing, during the effective dates of the EFP will be restricted to waters north of Destruction Island (47°40'30" N. lat.).

There will be no monthly limit on the harvest of walleye pollock, but the harvest of pollock will be constrained by individual vessel limits for widow rockfish and canary rockfish. If a permitted vessel reaches the limit for widow rockfish of 500 lb (226 kg) per month in tows where pollock is the targeted species, the vessel cannot make any directed pollock tows for the rest of that month. If a permitted vessel reaches the limit for canary rockfish of 200 lb (124.74 kg), the vessel cannot continue to fish under the EFP.

#### **Arrowtooth Flounder (*Atheresthes stomias*)**

Fishing for arrowtooth flounder, which is an abundant and commercially important groundfish species off Washington, is constrained by efforts to rebuild canary rockfish, an overfished species. Many of the areas where arrowtooth flounder have historically been harvested are within the Trawl RCA, where fishing with bottom trawl gear is prohibited.

The purpose of the exempted fishing activity is to measure the rate at which bycatch species, such as canary, darkblotched, yelloweye and widow rockfish, are taken with an experimental trawl net by vessels targeting arrowtooth flounder. The experimental trawl net has been specifically designed to be more selective for flatfish, such as arrowtooth flounder, than the trawl nets that have historically been used in the fishery.

If the permit is issued, this EFP will allow approximately five vessels, which have historically participated in the arrowtooth flounder fisheries: to use bottom trawl gear to fish for arrowtooth flounder in the Trawl RCA; to retain groundfish taken within a rockfish conservation area; and to retain and sell arrowtooth flounder and petrale sole in excess of their cumulative trip limits provided harvest limits for overfished species are not exceeded. These activities are otherwise prohibited by Federal regulations. Vessels will be required to retain all rockfish. Other than arrowtooth flounder and petrale sole, proceeds from the sale of groundfish in excess of current trip

limits will be forfeited to the State of Washington.

There will be no monthly limit on the harvest of arrowtooth flounder, but the harvest of arrowtooth flounder will be constrained by individual vessel limits for canary rockfish. If a permitted vessel reaches the limit for canary rockfish of 275 lb (124.74 kg) per month in tows where arrowtooth flounder is the targeted species, the vessel's activities will be restricted for the remainder of the month. Overall EFP threshold limits are also defined for the overfished groundfish species.

Fishing under the proposed EFP will occur between May 1 and August 31, 2003. All fishing by participating vessels, EFP and non-EFP fishing, during the effective dates of the EFP will be restricted to waters north of Destruction Island (47°40'30" N. lat.).

#### **Nearshore Flatfish**

The nearshore flatfish species (Dover sole, petrale sole, rex sole, arrowtooth flounder, and other flatfish) are abundant and commercially important groundfish species off Washington. Fishing for these species is constrained by efforts to rebuild overfished rockfish species, particularly canary rockfish. Fishers who have historically targeted these species believe that the fishery can be prosecuted with a much lower canary rockfish bycatch rate than is currently assumed.

If this EFP is issued, it will allow three vessels, which have historically landed nearshore flatfish to use large footrope trawl gear to harvest groundfish in nearshore areas, and to retain groundfish to sell in excess of cumulative trip limits provided that harvest limits for overfished species are not exceeded. These activities are otherwise prohibited by Federal regulations. Large footrope trawl gear will be modified by the participating vessels with the intent of identifying gear configurations that will be more selective for the nearshore flatfish species.

The EFP will restrict vessels to the large footrope limits for the nearshore flatfish species, which are greater than the small footrope limits. Large footrope gear is otherwise prohibited in nearshore areas. If a permitted vessel reaches the limit for canary rockfish of 180 lb (81.648 kg) per month in tows where nearshore flatfish species are targeted, the vessel cannot make any directed nearshore flatfish tows for the rest of that month. If the individual vessel limit of 700 lb (317.52 kg) of canary rockfish is reached the vessel cannot continue to fish under the EFP. Vessels will be required to retain all

rockfish. Proceeds from the sale of groundfish in excess of the cumulative trip limits will be forfeited to the State of Washington.

Fishing under the proposed EFP will occur between March 1 and June 30,

2004. All fishing by participating vessels, both EFP and non-EFP fishing, during the effective dates of the EFP will be restricted to waters north of Destruction Island (47°40'30" N. lat.).

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

Dated: January 12, 2004.

**Bruce C. Morehead,**

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

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