

PRELIMINARY CONSIDERATION OF EXEMPTED FISHING PERMIT
APPLICATIONS FOR 2005-2006

Situation: Exempted fishing permits (EFPs) provide a process for testing novel fishing gears and strategies to substantiate methods for prosecuting sustainable and risk-averse fishing opportunities. The cost of conducting EFPs is the loss of some available harvest for directed full fleet fisheries.

This agendum provides the opportunity for Council, state, and agency representatives to review draft applications for EFPs in 2005. Draft EFP applications approved by the Council under this agendum will likely require harvest set asides for overfished species. The costs and benefits of allocating available harvest to EFPs and directed fisheries needs to be considered coincidentally. Therefore, harvest set asides for Council approved EFPs in 2005 and anticipated EFPs in 2006 will be adopted along with tentative 2005-2006 management measures under agendum C.6 and final 2005-2006 management measures under agendum C.10. Final approval of 2005 EFP applications will occur at the November Council meeting. Only those draft EFP applications approved at the June Council meeting may be considered in November; EFP applications received after the June Council meeting for 2005 will not be considered.

Council Action:

1. Review and provide preliminary approval of draft EFP applications for 2005-2006.

Reference Materials:

1. Exhibit C.5.b, CDFG Report: Application for Issuance of an Exempted Fishing Permit to Test a Selective Flatfish Trawl (including Scottish Seine) in and area otherwise closed to fishing, 2005.
2. Exhibit C.5.b, ODFW Report: Application for Exempted Fishing Permit to Examine Groundfish Behavior During Capture in Bottom Trawls.
3. Exhibit C.5.b, WDFW Report: Exempted Fishing Permit Applications for 2005-2006.
4. Exhibit C.5.b, WDFW Report Attachment 1: Application for Issuance of an Exempted (Experimental) Fishing Permit for Arrowtooth Flounder.
5. Exhibit C.5.b, WDFW Report Attachment 2: Application for Issuance of an Exempted (Experimental) Fishing Permit for Spiny Dogfish.

Agenda Order:

- a. Agendum Overview
- b. Recommendations of the States, Tribes, and Federal Agencies
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. **Council Action:** Preliminary Approval of EFP Applications for 2005-2006.

Mike Burner

PFMC
05/27/04

Application for Issuance of an Exempted Fishing Permit to Test a Selective Flatfish Trawl (including Scottish Seine) in an area otherwise closed to fishing in 2005

A. **Date of application:** Draft: May 26, 2004

B. **Applicant Contact**

California Department of Fish and Game
350 Harbor Blvd.
Belmont, CA 94002

Contact: Primary: Steve Wertz (562-342-7184)
Secondary: Susan Ashcraft (650) 631-6786

C. **Statement of purpose and goals of the experiment, for which an EFP is needed, including a general description of the arrangements for the disposition of all species harvested under the EFP:**

The purpose of the experiment is to determine whether a shelf flatfish fishery can be prosecuted in an otherwise closed area of California waters using modified small footrope trawl gear including Scottish seine designed to minimize the bycatch of overfished groundfish. Testing of this modified trawl in California was first conducted in 2003 in the area South of 40°10' N. lat; however, only one vessel participated, and the area tested was in a narrow geographic range. In order to draw conclusive results for management consideration over a broader range in California, this experiment requires additional years of data to be collected. A second year of study engaging six vessels is scheduled for August through November 2004. A continuation of the study in 2005 may be required to collect necessary data to determine the effectiveness of modified small footrope trawl gear in minimizing impacts on overfished shelf rockfish species when accessing healthy flatfish stocks on the shelf.

Pacific Coast groundfish are managed by the Pacific Fishery Management Council (PFMC) under a federal fishery management plan (FMP) for the west coast. The management goals of the FMP are to:

- Prevent overfishing by managing for appropriate harvest levels and prevent any net loss of the habitat of living marine resources.
- Maximize the value of the groundfish resource as a whole.
- Achieve the maximum biological yield of the overall groundfish fishery, promote year-round availability of quality seafood to the consumer, and promote recreational fishing opportunities.

The experiment conducted through an EFP will assist the PFMC in achieving the goals set forth in the FMP while collecting bycatch data on overfished stocks and evaluating the effectiveness of specific trawl gear modifications in reducing bycatch of overfished stocks. In particular, this EFP expands the applicability of equivalent gear tested off the coasts of Oregon and Washington in EFPs during the past two years, which are being developed into regulations to be implemented in 2005 for the area north of 40°10' N. lat. Further evaluation in the area south of 40°10' N. lat is needed before results may be applied coastwide.

- **The specific goals of the experiment are:** To evaluate the effectiveness of modified trawl gear (see Section I below for modified trawl gear specifications) to catch shelf flatfish while minimizing take of overfished rockfish species in all depths.
- To measure bycatch rates of overfished groundfish and rockfish species that may be associated with the small footrope trawl shelf flatfish fishery using the modified trawl gear with no depth restrictions through an at-sea observer program.
- To provide fishermen with an incentive to modify their gear by giving them the opportunity to take shelf flatfish in areas that are otherwise closed.

Disposition of the species harvested under the EFP will be as follows:

- Species caught within the normal current trip limits may be retained and sold by the vessel.
- All rockfish caught while targeting shelf flatfish during the EFP must be retained and offloaded. Overages of rockfish must be surrendered, and proceeds from these species in excess of trip limits will be forfeited to the State of California.

D. Valid justification explaining why issuance of an EFP is warranted:

Since 1998, the PFMC has initiated rebuilding plans for several species, including bocaccio and canary rockfish. Conservation areas have since been established and closed to groundfish fishing in order to prevent harvest of the overfished stocks in multi-species fisheries. Critical to these rebuilding plans and to the overall improvement of groundfish management, is the need for more and better scientific data. There are 82 species covered under the FMP, and at present, there is little or no data on a large number of these species. There is a need for comprehensive, timely, and credible data for priority species to aid in the conservation and rebuilding efforts for these stocks.

The shelf flatfish are an extremely important group of groundfish in the California groundfish fisheries. These stocks are believed to be healthy, and California fishermen and processors have worked aggressively to develop strong markets for

these species. A component of the California trawl fleet and processors are heavily dependent upon these flatfish.

A depth closure was enacted from July 1 to December 31, 2002 to reduce the take of overfished shelf rockfish in the primary depths of their range, which applied to all trawlers, including vessels targeting shelf flatfish using small footrope trawl. An EFP was approved for use inside the closed area to observe rockfish bycatch rates of unmodified shelf flatfish trawl gear targeting shelf flatfish. Results from the 2002 EFP indicated that the incidental take of bocaccio and other sensitive rockfish species was minimal in depths to 70 fathoms (fm) using conventional flatfish trawl gear. Access to depths below 70 fm was not granted due to the increased likelihood of incidental take of bocaccio rockfish, canary rockfish, and other sensitive species in deeper waters. Although results of the experiment to 70 fm were promising, the question remained if a shelf flatfish fishery could be successfully prosecuted in deeper waters where shelf rockfish abundance increases.

In 2003 and 2004, EFPs were issued to California to conduct a follow-up fishery experiment in deeper waters, out to 100 fm (in 2003) and to unrestricted depths (in 2004), where the likelihood of incidental take of bocaccio and other shelf rockfish is higher. An important condition added under these EFPs was a requirement to use modified shelf flatfish trawl gear. The design follows the net configuration used in an Oregon research and EFP project to evaluate the bycatch rates of overfished shelf rockfish species while targeting flatfish with the modified trawl. Results from the Oregon experiment were promising and reflected a reduced bycatch rate of canary rockfish. The application of a similar trawl design was applied in the California EFP to test the effectiveness of the modified trawl in minimizing the bycatch of not only canary, but also of bocaccio, which is an overfished stock in coastal California. The 2003 EFP results are inconclusive at this time because only one vessel in a narrow geographic range participated in the experiment. To draw sound conclusive results, this experiment requires additional data to be collected from a larger pool of vessels. A continuation of the study has been approved to commence in August 2004, and is due to be completed November 2004. The results of the 2004 study are not available at the time of this application, and it is therefore not possible to evaluate whether 2004 EFP results will be sufficient for purposes of considering management applications. Therefore, this application proposes the continuation of the study for a third and final year in 2005 should it be necessary.

E. A statement of whether the proposed experimental fishing has broader significance than the applicant's individual goals.

The applicant of this EFP believes that the information collected during this experiment will have significance, broader than the applicant's individual goals, applicable to fisheries throughout California and the West Coast.

- The experiment will produce data on the amount and location of overfished groundfish bycatch in the shelf flatfish fishery using this trawl, and provides samples of these species from areas otherwise closed to groundfish fishing.

- Results indicating that overfished groundfish bycatch rates are minimized while using this modified trawl could lead to a management tool that allows the Council to maximize sustainable access to healthy shelf flatfish stocks while overfished groundfish stocks are rebuilt.
- This EFP complements a series of EFP experiments conducted off the west coast to evaluate the effectiveness of modified trawl gear to avoid overfished groundfish. Since 2002, both Oregon and Washington have tested the effectiveness of modified trawl gear to avoid overfished groundfish while fishing for healthy groundfish stocks. In California, comparable testing of the same modified trawl gear over shelf waters in California is in progress, commencing with a single participant in the 2003 study, and continuation of the study with six participants in 2004. Regulations based on the successful EFP results in Oregon are being crafted for implementation north of 40°10' N. lat. during the 2005-06 Council management cycle. The thorough evaluation of the modified trawl gear in California, where there are differences in the composition of shelf species relative to the northern area, may result in the opportunity to extend this regulatory provision to flatfish trawl fishermen off the entire coast of California.

F. Vessels covered under the EFP:

Vessels covered under the EFP will include those which have historically participated in the targeted shelf flatfish fishery off California according to criteria used in the 2002, 2003, and 2004 flatfish EFPs:

- Vessels must have landed into California ports at least 10,000 pounds of shelf flatfish (California halibut, Pacific sanddab, English sole, sand and rock sole, starry flounder, and unspecified flatfishes) taken with trawl gear in two of three years from 1998 to 2000.
- Vessels must have a valid California delivery permit.

Vessels identified as qualifiers in the 2004 EFP process will qualify for this pool of applicants.

A letter of inquiry will be sent to the owners of each of the qualifying vessels requesting a statement of interest to be returned by a specified closing date.

A maximum of **six** vessels will be selected to participate throughout the EFP fishing period, with a goal of issuing permits to two vessels per California port group between Pt. Conception and Pt. Mendocino. Potential port complexes are Morro Bay/Avila, Monterey/Moss Landing, and Half Moon Bay/San Francisco/Bodega Bay.

Applications received will be selected at random following the closing date if more vessels apply than can be accommodated by observers.

Any EFP may be canceled and made available to another vessel if the permitted vessel: 1) does not follow the terms and conditions of the permit; 2) fails to follow federal or State fishing regulations; 3) does not prosecute shelf flatfish using a modified small footrope trawl gear as specified in the EFP; or 4) does not reasonable accommodate the observer or cooperate with the applicant.

A permitted vessel may withdraw once from the EFP program and resume participation the following month.

G. A description of the species (target and incidental) to be harvested under the EFP and the amount(s) of such harvest necessary to conduct the experiment:

The target species are collectively referred to as *shelf flatfish* and include California halibut, Pacific sanddab, English sole, rock and sand sole, and unspecified flatfish. The maximum expected catch per vessel for all species will be the normal trip limits in place in Period 4. That allowable trip limit for other flatfish is anticipated to be 120,000 pounds per two months of which no more than 20,000 pounds may be Petrale sole. EFP participants will be exempted from any closures or reductions in allowable trip limits during the EFP study period. Trip limits for EFP participants will be increased to match any increases in federal trip limits resulting from in-season adjustments. Note that California halibut is not included in the trip limit and is estimated later in this section. Total harvest of target species for the EFP fishery is anticipated to be the same as in the 2004 EFP and will therefore be:

Species/Species Group	Vessels * no. periods in EFP ¹	Cumulative limit per two months (lbs)	Maximum allowable catch (lbs)	Maximum allowable catch (mt)
Other flatfish	6*2=12	120,000; no more than 20,000 pounds may be Petrale sole	1,440,000; no more than 120,000 may be Petrale sole	653 mt; no more than 54.4 mt may be Petrale sole

¹ A maximum of 6 vessels will be operating for the entire EFP period, encompassing 2 periods of cumulative trip limits.

The program requires full retention of rockfish. All rockfish species will be landed to enhance biological sampling and to document the actual rockfish mortality and discard rates, with catch thresholds in place for overfished rockfish species to ensure that take remains below allocated bycatch caps. The EFP thresholds for incidental take of bocaccio, cowcod, canary, and yelloweye rockfish will be applied as follows:

- Monthly per species threshold: An individual vessel will be constrained to a maximum of 1,000 pounds of bocaccio, and 50 pounds each of canary, yelloweye and cowcod rockfish per fishing month. If these amounts are exceeded for any of the four species, then all fishing by that vessel will be terminated for the balance of the month, but may resume for the following month.
- Monthly cumulative threshold: The cumulative amount of bocaccio harvested by all vessels fishing under the EFP must not exceed 6,000 pounds in a fishing

month. The cumulative amount of canary, cowcod, or yelloweye rockfish harvested by all vessels fishing under the EFP must not exceed 300 pounds in a fishing month. If that amount is exceeded for any of the four species by all vessels combined, then all EFP fishing will be terminated for the remainder of the month, but may resume for the following month.

- EFP threshold: The cumulative amount of bocaccio, canary, or yelloweye rockfish harvested by all vessels fishing under the EFP must not exceed 22,000 pounds (10 mt) at any time. Additionally, the cumulative amount of cowcod rockfish must not exceed 1,000 pounds (0.5 mt) at any time. If the cumulative EFP threshold amount is exceeded for any of the four species, then all EFP fishing will be terminated for the remainder of the year.
- EFP threshold for lingcod: The maximum amount of total lingcod that may be taken by all participating vessels fishing under this EFP is 20 mt. If the limit for this species is reached, the EFP will be terminated for the remainder of the year.

Expected fishing mortality of overfished groundfish for this EFP are based on bycatch estimates derived from the 2002 EFP study. Data collected under the 2003 EPF was not used to estimate mortality rates for overfished groundfish because only one vessel participated in the program over a narrow geographic range. Bycatch rates for overfished groundfish and rockfish species during the 2002 EFP were well below these thresholds, with bycatch rates of 0.01% for bocaccio, 0.02% for cowcod rockfish, and 0% for canary and yelloweye rockfish. Although 2002 NMFS observer data indicates that in waters deeper than 100 fm proposed for access in this study, the probability of bocaccio catch increases significantly when using unmodified conventional flatfish trawl gear, it is anticipated that the use of the selective flatfish trawl during this EFP period will significantly reduce the probable take of any overfished rockfish species, including bocaccio. However, some bycatch is likely to occur. Therefore, the total estimated fish mortality in metric tons for overfished species (including overfished rockfish and lingcod) for this EFP is as follows:

Species/Species Group	EFP Threshold (mt)	Total Estimated Catch (mt)
Bocaccio Rockfish	10.0	10.0
Canary Rockfish	0.5	0.5
Cowcod Rockfish	0.5	0.2
Yelloweye Rockfish	0.5	0.5
Lingcod	20.0	20.0

Based on bycatch information from our EFP program in 2002, the following catches would be expected in addition to target flatfish and overfished rockfish species, if the bycatch rates were the same as in 2002:

Species/Species Group	Bycatch Rate ¹ (2002)	Expected Bycatch ² (lbs)	Expected Bycatch ² (mt)
Other Flatfish	2.67	3,844,800	1,744
California Halibut	8.02	11,548,800	5,239
Nearshore Rockfish	0.14	201,600	91
Shelf Rockfish	2.86	4,118,400	1,868
Lingcod	0.56	806,400	366
Sablefish	0.44	633,600	287
Sharks	1.23	1,771,200	803
Skates	5.87	8,452,800	3,834
Crab, Dungeness and misc.	7.02	10,108,800	4,585
King Salmon	0.09	129,600	59
Green Sturgeon	0.06	86,400	39
Misc. Fish ³	4.74	6,825,600	3,096
Nominal Bycatch Species ⁴	0.16	230,400	105

¹ Bycatch is defined as the total landed and discarded pounds of a species relative to the total landed target species group (i.e., the trip limit). An estimate of discarded 'other flatfish' is included in this table as discards of target species may occur due to size, market, etc.

² There are six vessels that will be operating for the entire 4 months of the EFP, encompassing 2 periods of cumulative trip limits. Expected bycatch is bycatch rate*120,000 lbs (flatfish 2-month trip limit)*6*2.

³ Miscellaneous fish includes white croaker, squid, hake, rattfish, scorpionfish, and shad, and other misc. fish.

⁴ Nominal bycatch includes species with *individual bycatch rates* of <0.05% in 2002, and includes the following species: slope rockfish, white seabass, striped bass, cabezon, surfperch, greenlings, midshipman, and surfperch.

H. For each vessel covered by the EFP, the approximate time(s) and place(s) fishing will take place:

- The test fishery will be conducted from August through November 2005.
- The EFP will be valid in those Pacific Ocean waters adjacent to California coastwide in all depths outside state waters (3 miles). While the allowable depth exceeds the shoreward boundary for the trawl RCA (up to 100 fm during the proposed study period), the removal of a depth restriction is necessary to test the modified trawl gear in areas with a history of bocaccio catches, and to allow for fishing at depths where target flatfish species may be distributed.

I. All participating vessels under the authority of the EFP:

- Must exclusively employ legal small footrope trawl as defined in current federal regulation, except that modification is required to create a severely cut-back top section, which allows roundfishes to “rise” out of the trawl while flatfish, which remain near the bottom, are captured.
- Must apply and submit a net plan for approval. Net plans must meet specifications utilized by the 2003 Oregon Flatfish EFP, and by the 2003 and 2004 California Flatfish EFPs, which specified that:
 - *“The trawl must have a headrope to footrope ratio of at least 1.30 (i.e., 30% longer footrope).*
 - *The trawl must have a maximum rise of 5 ft at the center of the headrope.*
 - *There must be no floats along the middle 33% of the headrope”, except for Scottish seine, for which there must be no floats along the middle 25% of the headrope.*
 - *The headrope must be wide in the center, not a narrow V-shape that creates shoulders that would trap ascending fish.*
- Must carry a National Marine Fisheries Service-trained observer onboard all trips using the selective flatfish net in the NTZ. A total of three observers are necessary to execute the EFP. Vessels participating in the program must share observer time.
- Must land all fish caught under the authority of the EFP into the State of California.
- Must sign a contract with the State of California detailing the vessel’s responsibility for the EFP fishery. Failure to abide by the conditions in the contract or to follow provisions in the EFP will result in revocation of the contract and of the EFP for the year.

J. Signature of the applicant:

California Department of Fish and Game

Application for Exempted Fishing Permit to Examine Groundfish Behavior During Capture in Bottom Trawls

A. Application Date

June 1, 2004

B. Applicant Contact

Oregon Department of Fish and Wildlife
2040 SE Marine Science Drive
Newport, OR 97365

Phone: 541 867-4741

FAX: 541 867-0311

Contacts: Dr. Patricia Burke

C. Statement of Purpose and Goal

The purpose of this EFP is to identify potential species- and group-specific behaviors to develop trawl modifications for bycatch reduction in west coast bottom trawls.

D. Justification

Selective flatfish trawls incorporating very low rise and a cutback headrope have been developed for the U.S. west coast bottom trawl fishery (King et al. 2004). These trawls reduce the bycatch of some critical rockfish species, but don't decrease catch rates for some other species, such as darkblotched rockfish, lingcod or skates (ODFW, unpublished data). However, it's possible that sorting grids, or footrope or wing modifications could improve the selectivity of these trawls and decrease bycatch of some species that do not escape well from selective flatfish trawls. However, the development of these modifications depends on knowledge of behavior and vertical distribution as individuals are approached by and interact with the trawl. This research proposes to study and categorize behaviors of exploited groundfish species with the ultimate goal of developing trawl modifications that may reduce bycatch of other rockfish, lingcod or skates.

E. Significance of Results

The information collected will have a broad and timely significance for fishery management on the West Coast, and potentially in other regions because it will provide information on the efficacy of various bycatch reduction methods. Identification of potential bycatch reduction techniques will assist the PFMC in reducing bycatch of overfished species, and maintain harvest in other fisheries that cannot significantly reduce bycatch levels.

F. EFP Structure

Experiments will be designed by ODFW staff and will generally follow the methods outlined in King et al. 2004. A vessel will be chartered for personal services by the State of Oregon and will be under the direct supervision of ODFW biologists at all times while conducting experimental tows. The EFP will authorize the State of Oregon to land and sell groundfish up to the limits of overfished species listed in section H. The EFP will be valid for charter work between May 1st and October 1st in 2005 and 2006. Charters will be scheduled depending on vessel availability, research coordination, and weather. Vessels to be used are not yet known but necessary information will be forwarded to NOAA fisheries during the charter bidding process to allow violations checks to occur.

Experiments will last approximately three weeks each year and will be conducted off the coasts of Oregon or Washington to target concentrations of the appropriate target species. Fishing will occur within the Rockfish Conservation Area as several species found at depths between 75 and 150 fm will be targeted for study. The trawl gear used will be the selective flatfish trawl developed by ODFW.

G. Vessel Obligations

Vessels will be identified through ODFW's normal contract procurement process and will be under charter contract to the State of Oregon for these projects. The vessel captain will provide the knowledge, skills and experience necessary to conduct groundfishing operations in the Pacific Ocean. All fish captured under these projects are the property of the state of Oregon, but will be sold by the vessel to offset charter costs. Vessels remain able to catch and land their normal trip limits outside of this EFP project. All prohibited species will be released.

H. Catch Limits

We estimate that the research conducted will require 20 days of tows with a maximum of 10, one hour tows per day, or 200 h of trawling each year. To maintain statistical rigor but minimize catch and bycatch, we will attempt to conduct short (~1 h) tows. Using catch rates from the shelf experiments with the selective flatfish trawl, we estimate bycatch of overfished species according to the following table in 2005 and again in 2006. Note that all Pacific halibut and lingcod will be released to take advantage of their high survival rates and to minimize mortality associated with this research. We expect zero salmon catch therefore no 4d permit was required for this project.

Species	Estimated catch (mt)
Dover sole	36.25
Slender sole	1.21
Flathead sole	1.98
Petrale sole	4.23
English sole	0.83
Rex sole	9.00
Pacific halibut	17.5
Arrowtooth flounder	50.34

Pacific whiting	0.71
Sablefish	45.97
Bocaccio	trace
Cowcod	trace
Canary rockfish	0.30
Redstripe rockfish	0.20
Shortspine thornyhead	16.75
Rosethorn rockfish	1.93
Splitnose rockfish	4.12
Greenstriped rockfish	5.69
Darkblotched rockfish	8.70
Sharpchin rockfish	1.76
Stripetail rockfish	0.94
Redbanded rockfish	0.94
Pacific ocean perch	1.00
Widow rockfish	0.10
Yelloweye rockfish	0.10
Lingcod	22.15
Pacific cod	0.28
Rougheye	0.645
Yellowmouth	0.18
Longnose skate	28.54
Sandpaper skate	1.67
Spotted rattfish	3.37
Threadfin sculpin	1.00
Spiny dogfish	1.50

I. Signature of Applicant

Oregon Department of Fish and Wildlife
Dr. Patricia M. Burke, Manager

WASHINGTON DEPARTMENT OF FISH AND WILDLIFE
REPORT ON PROPOSED EXEMPTED FISHING PERMITS (EFPs) FOR 2005 AND 2006

The Washington Department of Fish and Wildlife (WDFW) is proposing to include the provisions of our Arrowtooth Flounder Trawl EFP into the federal regulations for 2005 and 2006. However, as a result of discussions with National Marine Fisheries Service (NMFS), it is our understanding that these provisions may need additional analysis beyond what can be accommodated in the 2005-06 specifications EIS. As such, if the Council approves the WDFW proposal, then NMFS would have to file a regulatory amendment to move the proposed arrowtooth trawl fishery into federal regulations through a separate process. It is clear that the regulatory amendment process would not be finalized in time for the arrowtooth trawl fishery to begin in May 2005. Recognizing that the arrowtooth flounder fishery is extremely important to Washington trawl fishers and local processors, WDFW received guidance from NMFS to prosecute the arrowtooth trawl fishery as an EFP for another year in 2005.

Based on this guidance, WDFW is proposing the following EFPs for 2005, in priority order, with the associated bycatch caps (in mt):

	Canary	Darkbl	Lingcod*	POP	Widow	Yelloweye
Arrowtooth Trawl	2.5	3.0	4.5	18.0	5.5	0.5
Longline Dogfish	0.1	0.5	2.0	8.5	0.5	1.0

(* Cap would accommodate current trip limits)

The longline dogfish EFP has been conducted in 2003 and 2004. The EFP requirements include qualifying criteria that would have allowed three vessels to participate each year, however, only one vessel has indicated an interest. It is our intention to continue this EFP for one more year (2005) and remove the qualifying criteria to provide an opportunity for additional participation. If the results of the experiment continue to be positive, we would like to explore allowing this fishery in 2006 through the use of “hotspot” management.

Attached are the draft EFP applications for 2005 for the arrowtooth trawl and longline dogfish EFPs. WDFW is not proposing any EFPs for the 2006 fishing year.

DRAFT
APPLICATION FOR ISSUANCE OF AN EXEMPTED (EXPERIMENTAL) FISHING
PERMIT FOR ARROWTOOTH FLOUNDER

- A. Date of application: May 19, 2004
- B. Applicant's names, mailing addresses, and telephone numbers:

Washington Department of Fish and Wildlife
600 Capitol Way North, Olympia, WA 98501-1091
Contacts: Philip Anderson (360) 902-2720
Brian Culver (360) 249-1205
Michele Robinson (360) 249-1211

- C. A statement of the purpose and goals of the experiment for which an EFP is needed, including a general description of the arrangements for the disposition of all species harvested under the EFP.

Pacific Coast groundfish are managed by the Pacific Fishery Management Council under a federal fishery management plan (FMP). The management goals of the FMP are to:

1. Prevent overfishing by managing for appropriate harvest levels and prevent any net loss of the habitat of living marine resources.
2. Maximize the value of the groundfish resource as a whole.
3. Achieve the maximum biological yield of the overall groundfish fishery, promote year-round availability of quality seafood to the consumer, and promote recreational fishing opportunities.

The purpose of the experiment is to assist the Pacific Fishery Management Council in achieving the goals of the FMP by collecting bycatch data on overfished stocks to allow for informed management decisions in setting appropriate trip limits to maximize safe harvest levels of healthy stocks.

Specifically, the goals of the experiment are to:

- Measure bycatch rates for canary and other rockfish associated with the arrowtooth flounder fishery through an at-sea observer program,
- Test specific selective flatfish gear,
- Test specific areas identified as "cold spots" for canary rockfish, and
- Collect data that could be used to augment the National Marine Fisheries Service groundfish observer program.

With regard to the disposition of the species harvested under the EFP:

- Species caught within current trip limits as published in the Federal Register, may be retained by the vessel.

- Species caught in excess of current trip limits, but permitted within the EFP (i.e., arrowtooth flounder, petrale sole), will be retained by the vessel.
- Rockfish caught in excess of current trip limits, but required to be retained under the EFP, will be sold at fair market value and the revenue will be forfeited to the state.
- Valid justification explaining why issuance of an EFP is warranted:

Since 1998, the Pacific Council has initiated rebuilding plans for several species, including canary rockfish and widow rockfish. Critical to these rebuilding plans and to the overall improvement of groundfish management is the need for more and better scientific data. Fishery dependent data that is needed includes amount of total catch and catch location, as well as biological data (e.g., age and sex). There are 82 species covered under the Pacific coast groundfish FMP, and at present, there is little or no biological data on a large number of these species. There is a need for comprehensive, timely and credible data for priority species to aid in the conservation and rebuilding efforts for these stocks. The data collected under this EFP will include total catch (amount and species composition) data, catch location, bycatch data on associated species, and biological data.

Arrowtooth flounder are an extremely important species in Washington groundfish fisheries. The stock is healthy and Washington fishers and processors have worked aggressively to develop strong markets for this species. A large component of the Washington trawl fleet, and at least two major processors, are heavily dependent upon arrowtooth flounder. Fishers targeting arrowtooth are currently constrained by their limit of canary rockfish. The current flatfish trip limit is based upon the assumed bycatch rate of canary rockfish. Fishers who have historically targeted arrowtooth have indicated that under this monthly trip limit, targeting arrowtooth will not be economically feasible. Further, these fishers believe that they can prosecute an arrowtooth fishery with a much lower canary bycatch rate, thereby allowing a higher arrowtooth catch.

This EFP is expected to provide much needed information that can be used to assess bycatch rates in the directed arrowtooth fishery which in turn may be used to establish trip limits in the future that maximize fishing opportunities on healthy stocks while meeting conservation goals for depleted stocks.

Without this EFP vessels would not be allowed to fish for arrowtooth flounder and petrale sole the Trawl Rockfish Conservation Area. According to some Washington fishermen, the majority of the arrowtooth flounder catch occurs inside this closed area.

- The applicant of this EFP believes that the information collected during this experiment will have broader significance than the applicant's individual goals by:
 - Producing data on the amount and location of canary rockfish bycatch in the arrowtooth flounder fishery, which can be used to set appropriate management measures in the future (e.g., trip limits, area closures)
 - Providing valuable and accurate data on the catch composition by species of the trawl flatfish fishery off the Washington coast,
 - Providing a pilot program for assessing the feasibility of the retention of rockfish overages, and

- Providing a pilot program for experimenting with gear modifications to selectively fish for flatfish.
- Age and sex data may also be collected to aid in future groundfish stock assessments.

These data could allow the Council to establish trip limits in the future that maximize fishing opportunities on healthy stocks while meeting conservation goals for depleted stocks.

F. Vessels covered under the EFP must:

- Have completed and mailed the Washington Department of Fish and Wildlife Arrowtooth EFP application form by March 1, 2005, and
- Be a Washington resident and have a valid Washington delivery permit

It is anticipated that there would be 6-8 fishers who may apply. A list of the participating fishers (and their designated vessels) will be provided to NMFS.

G. The targeted species is arrowtooth flounder which would not be subject to a monthly trip limit, but which would be constrained by the measured bycatch allowance of canary rockfish for the flatfish fishery. Fishers are currently allowed 300 lbs per month of canary rockfish with an assumed 16% discard rate (when applied, this equals 348 lbs total).

Under the EFP, the bycatch allowance for canary rockfish would be divided as follows:

- Individual vessels would be limited to 170-225 lbs/month (depending on the number of participants) of canary rockfish for tows that are identified as directed arrowtooth tows by the skipper of the vessel (in advance) and all tows within the federal groundfish conservation area (GCA) for trawl. Once the individual vessel cap of canary rockfish is caught, and if the vessel has already reached the current small footrope trip limits for arrowtooth and petrale sole published in the Federal Register, then the vessel cannot have any directed arrowtooth tows for the rest of the month and cannot retain any more arrowtooth or petrale.
- Once the individual vessel cap of canary rockfish is caught, and if the vessel has **not** reached the current small footrope trip limits for arrowtooth and petrale sole published in the Federal Register, then the vessel can continue to conduct directed arrowtooth tows until the current monthly trip limits for arrowtooth and petrale have been reached. Once those trip limits have been reached, the vessel cannot have any directed arrowtooth tows for the rest of the month and cannot retain any more arrowtooth or petrale.
- The balance of the canary rockfish would be used to accommodate the bycatch of canary while targeting other groundfish species.
- An individual bycatch cap of 680-900 lbs. (depending on the number of participants) of canary rockfish will also apply to each vessel. Once this cap has been reached by an individual vessel in directed tows, the vessel will not be allowed to continue to fish under the EFP.

- All tows conducted within the federal rockfish conservation area (RCA) for trawl will be considered “directed” tows.
- For all fishing under the EFP overall bycatch amounts would be as follows:
 Canary rockfish - 2.5 mt
 Darkblotched rockfish - 3.0 mt
 Lingcod* - 4.5 mt (*Note: Cap would accommodate current trip limit)
 Widow rockfish - 5.5 mt
 POP - 18.0 mt
 Yelloweye rockfish - 0.5 mt

Once one or more of these bycatch caps has been reached, the EFP will be terminated.

- Petrale sole caught in a directed arrowtooth tow would not be subject to a monthly trip limit.
- Other species could be landed under current trip limit levels and fishers could land up to the current limit of other flatfish in addition to their arrowtooth flounder landings. There is not expected to be any interactions with protected species (e.g., seabirds), ESA-listed species, nor marine mammals.
- Based upon the EFP programs conducted in 2001 and 2002, expected amounts of targeted species taken above trip limits in the arrowtooth EFP are:
 Arrowtooth Flounder - 455 mt
 Petrale sole - 36 mt

In addition, rockfish species taken in directed EFP tows and forfeited to the state as required (above trip limit or non-market size) are anticipated as follows:

- Slope rockfish - 2.3 mt
- Shelf rockfish - 2.7 mt
- Yellowtail rockfish - 3.6 mt
- S.spine thornyhead - 1.8 mt

Fish above trip limits taken in non-EFP tows would be consistent with fishing activities of the fleet at large and will be estimated separately.

General

- Incidental catches of rockfish in excess of the trip limit must be retained.

H. For each vessel covered by the EFP, the approximate time(s) and place(s) fishing will take place, and the type, size, and amount of gear to be used:

The EFP will be valid in Pacific Ocean waters adjacent to Washington, outside three miles. Vessels must fish north of Destruction Island for all of their fishing strategies during the months of the EFP. There may be specific areas within the RCA that would be closed to EFP fishing; these areas will be specified in the Washington Department of Fish and Wildlife contracts with the individual vessel owners participating in the EFP.

Approximate time for the experimental fishery is May 1-August 31, 2005.
Total estimated duration of the EFP: This is the final year.

Vessels covered by the EFP can use large footrope for directed arrowtooth tows on the slope only. Slope tows must be conducted entirely in depths greater than 120 fathoms. If a vessel uses small footrope while fishing in the RCA, the vessel may still retain and sell up to the higher trip limits for sablefish, Dover sole, arrowtooth, petrale, and other flatfish (large footrope only limits) until the individual monthly or total bycatch cap is reached, or the EFP is terminated, whichever is sooner.

Vessels are allowed to have more than one type of gear onboard (large footrope, small footrope, and midwater gear).

All vessels fishing under the authority of the EFP must:

- Carry a Washington Department of Fish and Wildlife-provided observer or a federal observer onboard all fishing trips. State-sponsored observers must successfully complete an observer training course that prepares them for collecting data with sampling protocols as defined in the NMFS West Coast Groundfish Observer Program manual. In addition, NMFS observer coverage requirements at 50 CFR 660.360 are independent of EFP observer requirements, so vessels that carry state-sponsored observers may also be required to carry a NMFS observer.
- Employ legal trawl gear as defined in current federal regulations. Vessels fishing under the EFP must adhere to gear specifications, including the use of one of the prescribed excluder mechanisms for all directed EFP tows and all tows within the RCA. Specific excluder definitions will be described in the Washington Department of Fish and Wildlife contracts with the individual vessel owners participating in the EFP.
- Land all fish caught under the authority of the EFP into the State of Washington to a processor designated to participate in this program by the Washington Department of Fish and Wildlife. In order for a processor to be able to participate in this program, it must hold a contract with the Washington Department of Fish and Wildlife and abide by the conditions listed in the contract. Failure to abide by the conditions in the contract will result in revocation of the contract by the Director of the Washington Department of Fish and Wildlife.
- Hold a contract with the Washington Department of Fish and Wildlife and abide by the conditions listed in the contract. Failure to abide by the conditions in the contract and/or to follow the provisions in the EFP will result in revocation of the contract by the Director of the Department of Fish and Wildlife. The Director of the Department of Fish and Wildlife may modify the terms of the contract based on the status of the stocks which are caught incidentally in the experimental fishery.

I. The signature of the applicant:

Washington Department of Fish and Wildlife

DRAFT
APPLICATION FOR ISSUANCE OF AN EXEMPTED (EXPERIMENTAL) FISHING
PERMIT FOR SPINY DOGFISH

- A. Date of application: May 19, 2004
- B. Applicant's names, mailing addresses, and telephone numbers:

Washington Department of Fish and Wildlife
600 Capitol Way North, Olympia, WA 98501-1091
Contacts: Philip Anderson (360) 902-2720
Brian Culver (360) 249-1205
Michele Robinson (360) 249-1211

- C. A statement of the purpose and goals of the experiment for which an EFP is needed, including a general description of the arrangements for the disposition of all species harvested under the EFP.

Pacific Coast groundfish are managed by the Pacific Fishery Management Council under a federal fishery management plan (FMP). The management goals of the FMP are to:

1. Prevent overfishing by managing for appropriate harvest levels and prevent any net loss of the habitat of living marine resources.
2. Maximize the value of the groundfish resource as a whole.
3. Achieve the maximum biological yield of the overall groundfish fishery, promote year-round availability of quality seafood to the consumer, and promote recreational fishing opportunities.

The purpose of the experiment is to assist the Pacific Fishery Management Council in achieving the goals of the FMP by collecting bycatch data on overfished stocks to allow for informed management decisions in setting appropriate trip limits to maximize safe harvest levels of healthy stocks.

Specifically, the goals of the experiment are to:

- Measure bycatch rates for canary, yelloweye and other rockfish associated with the longline dogfish fishery through an at-sea observer program,
- Test specific areas identified as "cold spots" for canary and yelloweye, and
- Collect data that could be used to augment the National Marine Fisheries Service groundfish observer program.

With regard to the disposition of the species harvested under the EFP:

- Species caught within current trip limits, as published in the Federal Register, may be retained by the vessel.
- Groundfish caught in excess of current trip limits, but required to be retained under the EFP, will be sold at fair market value and the revenue will be forfeited to the state

D. Valid justification explaining why issuance of an EFP is warranted:

Since 1998, the PFMC has initiated rebuilding plans for several species including canary and yelloweye rockfish. Critical to these rebuilding plans and to the overall improvement of the ground fish management, is the need for more and better scientific data. Fishery dependent data that is needed includes amount of total catch and catch location, as well as biological data (e.g., age and sex). There are 82 species covered under the Pacific Coast groundfish FMP, and at present, there is little or no biological data on a large number of these species. There is a need for comprehensive, timely and credible data for priority species to aid in the conservation and rebuilding efforts for these stocks. The data collected under this EFP will include total catch (amount and species composition) data, catch location, bycatch data on associated species, and biological data.

Spiny dogfish is an extremely important species in Washington groundfish fisheries. The stock is healthy, and Washington fishermen and processors have worked aggressively to develop and maintain strong markets for this species. A number of Washington groundfish longline fishers and at least one major processor are heavily dependent upon spiny dogfish. Fishermen targeting dogfish are currently constrained by their limit of yelloweye and canary rockfish. In 2002, dogfish were prohibited for fixed gear due to the associated bycatch of yelloweye rockfish. Fishermen who have historically targeted dogfish have indicated that under without a bycatch allowance of yelloweye and canary rockfish, the dogfish fishery cannot be pursued. Further, these fishermen believe that they can pursue a dogfish fishery with a much lower yelloweye and canary bycatch rate than data indicates, thereby allowing a dogfish fishery to continue. This EFP is expected to provide much needed information that can be used to assess bycatch rates in the directed dogfish fishery which in turn may be used to establish trip limits in the future that maximize fishing opportunities on healthy stocks while meeting conservation goals for depleted stocks.

Without this EFP vessels would not be allowed to fish for dogfish and other groundfish within the Non-Trawl Groundfish Conservation Area (< 100 fms north of 40° 10'N latitude). According to some Washington longline dogfish fishermen, the majority of the dogfish catch occurs inside this closed area.

E. A statement of whether the proposed experimental fishing has broader significance than the applicant's individual goals.

The applicant of this EFP believes that the information collected during this experiment will have broader significance than the applicant's individual goals by:

- Producing data on the amount and location of rockfish bycatch in the longline dogfish fishery; which can be used to set appropriate management measures in the future (e.g., area closures)
- Providing valuable and accurate data on the catch composition by species in the longline dogfish fishery off the Washington coast, and
- Providing a pilot program for assessing the feasibility of the retention of groundfish overages.

- Age and sex data may also be collected to aid in future groundfish stock assessments.

These data could allow the Council to establish trip limits in the future that maximize fishing opportunities on healthy stocks while meeting conservation goals for depleted stocks.

F. Vessels covered under the EFP must:

- Have completed and mailed the Washington Department of Fish and Wildlife Arrowtooth EFP application form by January 1, 2005, and
- Be a Washington resident and have a valid Washington delivery permit

It is anticipated that there would be 3-4 fishers who may apply. A list of the participating fishers (and their designated vessels) will be provided to NMFS.

G. The targeted species is spiny dogfish which would not be subject to a monthly trip limit, but which would be constrained by the measured bycatch allowance of canary and yelloweye rockfish. Under the EFP, the bycatch allowances for canary and yelloweye rockfish would be divided as follows:

- Individual vessels would be limited to 55-73 lbs (depending on the number of participants) of canary rockfish and 137-240 lbs/month (depending on the number of participants) of yelloweye rockfish for sets within the federal rockfish conservation area (RCA) for longline (< 100 fms north of 40°10'). Once the monthly vessel cap of yelloweye rockfish is caught, the vessel cannot fish in the RCA for the rest of the month. Once the individual vessel cap of canary rockfish is caught, the vessel can no longer participate in the EFP.
- For all fishing under the EFP overall bycatch amounts would be as follows:
 Canary rockfish - 0.1 mt
 Yelloweye rockfish - 1.0 mt
 Widow rockfish - 0.5 mt
 Darkblotched rockfish - 0.5 mt
 Pacific ocean perch - 8.5 mt
 Lingcod* - 2.0 mt (*Note: Cap would accommodate current trip limit)

Once one or more of these bycatch caps has been reached, the EFP will be terminated.

- Other species could be landed under current trip limit levels, however, it is not anticipated that the participating vessels will fish for groundfish other than dogfish for the duration of the EFP. There is not expected to be any interactions with protected species (e.g., seabirds), ESA-listed species, nor marine mammals.
- Expected amounts of targeted species taken in the dogfish EFP are:
 Spiny dogfish - 300 mt

Fish above trip limits taken in non-EFP sets would be consistent with fishing activities of the fleet at large and will be estimated separately.

General

- Incidental catches of all groundfish in excess of the trip limit must be retained.

H. For each vessel covered by the EFP, the approximate time(s) and place(s) fishing will take place, and the type, size, and amount of gear to be used:

The EFP will be valid in Pacific Ocean waters adjacent to Washington, outside three miles. Vessels must fish north of 46°16'00" north latitude for all of their fishing strategies during the months of the EFP. There may be specific areas within the RCA that would be closed to EFP fishing; these areas will be specified in the Washington Department of Fish and Wildlife contract with the individual vessel owner participating in the EFP.

Approximate time for the experimental fishery is March 1-May 31, 2005.

Total estimated duration of the EFP: This is the final year.

All vessels fishing under the authority of the EFP must:

- Carry a Washington Department of Fish and Wildlife-provided observer or a federal observer onboard all fishing trips. State-sponsored observers must successfully complete an observer training course that prepares them for collecting data with sampling protocols as defined in the NMFS West Coast Groundfish Observer Program manual. In addition, NMFS observer coverage requirements at 50 CFR 660.360 are independent of EFP observer requirements, so vessels that carry state-sponsored observers may also be required to carry a NMFS observer.
- Employ legal longline gear as defined in current federal regulations.
- Land all fish caught under the authority of the EFP into the State of Washington to a processor designated to participate in this program by the Washington Department of Fish and Wildlife. In order for a processor to be able to participate in this program, it must hold a contract with the Washington Department of Fish and Wildlife and abide by the conditions listed in the contract. Failure to abide by the conditions in the contract will result in revocation of the contract by the Director of the Washington Department of Fish and Wildlife.
- Hold a contract with the Washington Department of Fish and Wildlife and abide by the conditions listed in the contract. Failure to abide by the conditions in the contract and/or to follow the provisions in the EFP will result in revocation of the contract by the Director of the Department of Fish and Wildlife. The Director of the Department of Fish and Wildlife may modify the terms of the contract based on the status of the stocks which are caught incidentally in the experimental fishery.

I. The signature of the applicant:

Washington Department of Fish and Wildlife