

## 7.0 EXPERIMENTAL FISHERIES

Among the objectives of this FMP is to provide for the orderly development of the domestic groundfish fisheries, including promotion of new domestic fisheries, or otherwise contribute to effective management of the stock. In order to accomplish this objective, it is desirable to permit limited domestic experimental fishing (recreational or commercial) for groundfish species covered by this plan. This provision is intended to promote increased utilization of underutilized species, realize the expansion potential of the domestic groundfish fishery, and increase the harvest efficiency of the fishery consistent with the MSA and the management goals of this FMP. Experimental fishing will be conducted under exempted fishing permits (EFPs) issued under Section 303(b)(1) of the MSA.

The Regional Director may authorize, for limited experimental purposes, the direct or incidental harvest of groundfish managed under this FMP which would otherwise be prohibited. No experimental fishing may be conducted unless authorized by an EFP issued by the Regional Director to the participating vessel in accordance with the criteria and procedures specified in this section. EFPs will be issued without charge.

An applicant for an EFP need not be the owner or operator of the vessel(s) for which the EFP is requested. Nothing in this section is intended to inhibit the authority of the Council or any other fishery management entity from requesting that the Regional Director consider issuance of EFPs for a particular experiment in advance of the Regional Director's receipt of applications for EFPs to participate in that experiment.

Criteria and procedures for the issuance of EFPs are:

1. Applicants must submit a completed application in writing to the Regional Director at least 60 days prior to the proposed effective date of the permit. The application must include, but is not limited to, the following information:
  - a. The date of the application;
  - b. The applicant's name, mailing address, and telephone number;
  - c. A statement of the purposes and goals of the experiment for which an EFP is needed, including a general description of the arrangements for disposition of all species harvested under the EFP;
  - d. Valid justification for why issuance of the EFP is warranted;
  - e. A statement of whether the proposed experimental fishing has broader significance than the applicant's individual goals;
  - f. For each vessel to be covered by the EFP:
    - (1) vessel name;
    - (2) name, address, and telephone number of owner and master;
    - (3) Coast Guard documentation, state license, or registration number;
    - (4) home port;
    - (5) length of vessel;
    - (6) net tonnage;
    - (7) gross tonnage;
  - 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;
  - 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; and
  - i. The signature of the applicant.

The Regional Director may request from an applicant additional information necessary to make the determinations required under this section.

2. The Regional Director will review each application and will make a preliminary determination whether or not the application contains all of the required information and constitutes a valid experimental program appropriate for further consideration. If the Regional Director finds any application does not warrant further consideration, he shall notify both the applicant and the Council in writing of the reasons for his decision. If the Regional Director determines any application warrants further consideration, he will publish a notice of receipt of the application in the *Federal Register* with a brief description of the proposal, and will give interested persons an opportunity to comment. The notice

may establish a cutoff date for receipt of additional applications to participate in the same or a similar experiment.

The Regional Director also will forward copies of the application to the Pacific Fishery Management Council, the United States Coast Guard, and the fishery management agencies of Oregon, Washington, California, and Idaho, accompanied by the following information:

- a. The current utilization of domestic annual harvesting and processing capacity (including existing experimental harvesting, if any) of the target and incidental species;
  - b. A citation of the regulation or regulations which, absent the EFP, would prohibit the proposed activity; and
  - c. Biological information relevant to the proposal.
3. At a Council meeting following receipt of a complete application, the Regional Director may choose to consult with the Council and the directors of the state fishery management agencies concerning the permit application. The Council shall notify the applicant in advance of the meeting, if any, at which the application will be considered and invite the applicant to appear in support of the application if the applicant desires.
  4. As soon as practicable after receiving responses from the agencies identified above, or after consultation, if any, in paragraph 3 above, the Regional Director shall notify the applicant in writing of his decision to grant or deny the EFP, and, if denied, the reasons for the denial. Grounds to deny issuance of an EFP include, but are not limited to, the following:
    - a. The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his application; or
    - b. According to the best scientific information available, the harvest to be conducted under the permit would detrimentally affect any species of fish in a significant way; or
    - c. Issuance of the EFP would inequitably allocate fishing privileges among domestic fishermen or would have economic allocation as its sole purpose; or
    - d. Activities to be conducted under the EFP would be inconsistent with the intent of this section or the management objectives of this FMP; or
    - e. The activity proposed under the EFP could create a significant enforcement problem.
  5. If the permit is granted, the Regional Director will publish a notice in the *Federal Register* describing the experimental fishing to be conducted under the EFP. The Regional Director may attach terms and conditions to the EFP consistent with the purpose of the experiment, including, but not limited to:
    - a. The maximum amount of each species which can be harvested and landed during the term of the EFP, including trip limitations, where appropriate;
    - b. The number, size, names, and identification numbers of the vessels authorized to conduct fishing activities under the EFP;
    - c. The time(s) and place(s) where experimental fishing may be conducted;
    - d. The type, size, and amount of gear which may be used by each vessel operated under the EFP;
    - e. The condition that observers be allowed aboard vessels operated under an EFP;
    - f. Reasonable data reporting requirements;
    - g. Such other conditions as may be necessary to assure compliance with the purposes of the EFP consistent with the objectives of this FMP; and,
    - h. provisions for public release of data obtained under the EFP.
  6. Failure of a permittee to comply with the terms and conditions of an EFP shall be grounds for revocation, suspension, or modification of the EFP with respect to all vessels conducting activities under that EFP. Any action taken to revoke, suspend, or modify an EFP shall be governed by 50 C.F.R. Part 621, Subpart D.