

**Application for Issuance of an Exempted Fishing Permit to Test a Selective Flatfish Trawl (including Scottish Seine) in an area otherwise closed to fishing, 2004**

- A. **Date of application:** Draft: August 20, 2003  
Final: October 28, 2003

- B. **Applicant Contact**  
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- 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 trawl gear designed to minimize the bycatch of overfished rockfish species. The first year of this study was initiated in California in 2003, and is due to be completed in November 2003. A second year of study is necessary to draw conclusive results to demonstrate its applicability to other geographic regions, including deeper waters in California where bocaccio and other overfished stocks are located.

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 avoiding 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.

**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 bocaccio and other 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 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 fishers

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 prohibit landing of all shelf groundfish, including vessels using small footrope trawl gear to target flatfish. An EFP was approved for use in the shelf flatfish trawl fishery during this closed period. Results from the 2002 EFP indicated that the incidental take of bocaccio and other sensitive rockfish species was minimal in depths from 3 miles to 70 fm using conventional flatfish trawl gear.

In 2003, a new EFP was issued to conduct a follow-up fishery experiment in deeper water to 100 fm, where the likelihood of incidental take of bocaccio increases. An important condition added under this EFP was a requirement to use a modified trawl design to determine if bocaccio and other shelf rockfish catch is kept to a minimum using the modified trawl gear. The 2003 EFP is not complete at the time of this application. However, a second year of study is necessary to draw conclusive results to demonstrate its applicability to other geographic regions off the California coast. The 2004 EFP provides for testing the modified trawl gear without any depth restriction.

**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 any bocaccio and other depleted rockfish bycatch in the shelf flatfish fishery using this trawl.
- Results indicating that rockfish 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 depleted rockfish stocks are rebuilt.
- This EFP complements an EFP experiment that was conducted off the coast of Oregon in 2003, in slope habitat to avoid catch of overfished darkblotched rockfish, and a previous EFP experiment conducted in 2002 in shelf habitat, to avoid catch of overfished canary rockfish. Additionally, a similar trawl design is being evaluated at the time of this application through an EFP off the coast of Washington, to evaluate the ability of the gear to avoid the take of rockfish associated with the arrowtooth flounder fishery. An experiment off the coast of California in shelf habitat to evaluate ability to avoid overfished bocaccio rockfish was designed to increase validity and applicability of the use of the modified trawl design in other geographic regions.

- A second year of the EFP experiment in California is necessary to evaluate the appropriateness of converting the EFP provisions into regulations for use in California. Regulations, based on the successful EFP results in Oregon and Washington, are being crafted for implementation along the Oregon and part or all of the Washington coast during the 2005-06 Council management cycle. The evaluation of the modified trawl gear in California will determine whether this regulatory provision can be extended to flatfish trawl fishermen off the 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 and 2003 flatfish EFP:

- 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 each of two years during 1998 to 2000.
- Vessels must have a valid California delivery permit.

Vessels identified as qualifiers in the 2003 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 small footrope trawl gear as provided 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 70,000 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 2003 EFP and will therefore be:

Species/Species Group	Vessels * no. periods in EFP <sup>1</sup>	Maximum allowable catch (lbs)
Other flatfish	6*2=12	840,000 of which no more than 120,000 is Petrale sole

<sup>1</sup> 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 100 pounds each of bocaccio, canary, and yelloweye rockfish per fishing month. Additionally, an individual vessel will be constrained to a maximum of 50 pounds of cowcod rockfish per fishing month. If that amount is 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, canary, or yelloweye rockfish harvested by all vessels fishing under the EFP must not exceed 500 pounds in a fishing month. Additionally, the cumulative amount of cowcod rockfish must not exceed 100 pounds. 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 1,000 pounds at any time. Additionally, the cumulative amount of cowcod rockfish must not exceed 250 pounds 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 catch 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.

Data from the 2003 EFP using modified shelf flatfish trawl gear is not available at the time of this application; the 2003 EFP study will not be completed until November 30, 2003. We have therefore based estimates of expected fishing mortality on estimates included in the 2003 EFP study application, which used bycatch rates from our 2002 EFP experiment, except that estimated take of overfished rockfish species is based on the EFP species thresholds contained in this proposal. Actual bycatch rates of these overfished 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 overfished rockfish, including bocaccio. However, some bycatch is likely to occur. Therefore, the total estimated fish mortality in metric tons for overfished rockfish species (including overfished rockfish and lingcod) for this EFP is as follows:

Species/Species Group	EFP Threshold (mt)	Total Estimated Catch (mt)
Bocaccio Rockfish	0.5	0.5
Canary Rockfish	0.5	0.5
Cowcod Rockfish	0.2	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 <sup>1</sup> (2002)	Expected Bycatch <sup>2</sup> (lbs)
Other Flatfish	2.67	22,455
California Halibut	8.02	67,332
Nearshore Rockfish	0.14	1,183
Shelf Rockfish	2.86	24,042
Lingcod	0.56	4,699
Sablefish	0.44	3,678
Sharks	1.23	10,367
Skates	5.87	49,295
Crab, Dungeness and misc.	7.02	59,000
King Salmon	0.09	774
Green Sturgeon	0.06	465
Misc. Fish <sup>3</sup>	4.74	39,820
Nominal Bycatch Species <sup>4</sup>	0.16	1,334

- <sup>1</sup> 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.
- <sup>2</sup> 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\*70,000(2-month trip limit)\*6\*2.
- <sup>3</sup> Miscellaneous fish includes white croaker, squid, hake, ratfish, sculpin, and shad, and other misc. fish.
- <sup>4</sup> 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 September through December 2004.
- The EFP will be valid in those Pacific Ocean waters adjacent to California coastwide deeper than 3 miles. While the allowable depth exceeds the inner 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 California Flatfish EFP, 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:**

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California Department of Fish and Game