

In response to an agency inquiry regarding expanding the application of a warning system requirement to include vehicles other than school buses, Thomas stated that the roll away problem is so small that it was difficult to determine if such an expansion could be justified. TMA believed that sufficient data do not exist to justify a warning system requirement for either school buses or medium and heavy-duty trucks. GM submitted that NHTSA's regulatory decision-making should be driven by objective data and any warning system requirement should be instituted only if data show a safety need and the warning system is demonstrated to be an effective countermeasure. ATA stated that parking-brake-off warning system should not be mandated for medium and heavy-duty commercial vehicles.

## V. Analysis

Examination of agency data and the comments submitted in response to the March 1, 1999 notice indicate that school bus roll away incidents are very rare. The petitioner submitted evidence of two roll aways in its petition. Comments received in response to the March 1999 notice refer to two additional roll away incidents, with no specific details on whether the involved school buses were equipped with air or hydraulic brakes, or manual or automatic transmissions. The coding schemes for the General Estimates System (GES) and Fatality Analysis Reporting System (FARS) databases of property damage and injury-or fatality-producing crashes are not suitable for identifying roll away crashes due to failure to apply the parking brakes. However, a search of the NHTSA's defects investigation complaint database revealed one complaint involving a roll away that may have been related to a failure to engage the parking brake. Therefore, there are five reported roll away incidents dating back to 1989. One of these incidents resulted in unspecified injuries to students.

The small number of reported incidents over the past decade indicates that the safety risk posed by school bus roll aways stemming from failure to use the parking brake is very small. The agency believes that there is not a safety need sufficient to justify adopting a requirement that all school buses be equipped with a parking brake warning system. Moreover, the effectiveness of a parking brake warning system has not been demonstrated. As indicated by several commenters, there is a potential for the system not to be effective in certain situations, such as when parking when the engine is running. The

petitioner did not provide any information regarding data or studies that show such a warning system would be effective, and the agency is not aware of any research on this issue.

The agency is also concerned that requiring either an audible or visual warning or both would not be the most effective countermeasure. As one of the commenters indicated, the effectiveness of any warning is affected by operator training. The commenters suggested that driver training would be a more effective countermeasure than warnings. In the absence of training, warnings may simply be disregarded or unconsciously ignored.

In 1999, NHTSA's Office of Traffic Safety Programs released an extensive school bus driver training program to assist school bus operators in training their drivers. The program was developed with the expertise and support of fifteen groups including federal agencies, pupil transportation providers, and school districts. There are seven training modules in the program, including Driver Attitude, Student Management, Highway-Rail Grade Crossing Safety, Vehicle Training, Knowing Your Route, Loading and Unloading, and Transporting Infants and Toddlers. In the Vehicle Training module, there is an entry entitled "Manual versus Automatic," which, in a properly-administered training program, would include a thorough discussion of the lack of a parking position on large school bus automatic transmissions. Part 5 of the module, or *If no lookout is available*, includes the sequence of actions to be taken by the driver before backing up a bus: first, set the parking brake; second, turn off the motor and take the keys with you; and third, walk to the rear of the bus to determine whether the way is clear. The agency believes that administration of such a training program would provide adequate information to the driver to learn how to properly use the parking brake.

The agency notes that GM provides such a warning system for customers who rent trucks to the general public. This feature was provided in response to many of its customers desiring this feature. However, NHTSA notes that the rental vehicles in question are below the 26,001 lbs. GVWR limit above which a commercial drivers license (CDL) is required. Thus, the operators of these vehicles, the general public, have not received the extensive training that a CDL vehicle operator must undergo. In addition, drivers of school buses that have a seating capacity of more than 16 passengers are required to have not only a CDL, but also a passenger vehicle

endorsement. Further, those drivers of school buses equipped with air brakes are also required to have an air brake endorsement on their license. Because of these substantial differences, the agency believes the benefits of a parking brake warning system would be higher for rental vehicles operated on an occasional basis by the general public than for school buses that are operated only by trained and specially-licensed school bus drivers.

## VI. Conclusion

For the reasons given above, we conclude that Schmitt and Sons has not justified the need for rulemaking. The safety risk posed by the failure to use the parking brakes on school buses, which may result in unintended movement of the vehicle, is very small. The risk does not justify requiring that all school buses have a warning system to remind drivers to use the brake.

This completes the agency's review of the petition, in accordance with 49 CFR part 552. Based on the available information, we believe that there is no reasonable possibility that the actions requested by Schmitt would be taken at the conclusion of a rulemaking proceeding and that the problem alleged by Schmitt does not warrant the expenditure of agency resources to conduct a rulemaking proceeding. Accordingly, we deny Schmitt's petition.

**Authority:** 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: April 4, 2001.

**Stephen R. Kratzke,**

*Associate Administrator for Safety Performance Standards.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 600

[I.D. 032001C]

#### Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

**ACTION:** Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

**SUMMARY:** The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Monkfish Fishery Management Plan (Monkfish FMP). However, further review and consultation may be necessary before a final determination is made to issue EFPs. Therefore, NMFS announces that the Regional Administrator proposes to issue EFPs that would allow up to 5 vessels to conduct fishing operations otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The vessels would collect biological data using sink gillnets, as well as collect environmental data, which will be used to characterize the blackfin monkfish (*Lophius gastrophysus*) component of the monkfish fishery off North Carolina and Virginia. A component of this experiment would also report and observe gear interactions in the monkfish gillnet fishery with threatened or endangered sea turtles, marine mammals, and sea birds. Before issuance of the EFPs, NMFS will take the necessary steps to ensure consistency with its obligations under the Endangered Species Act. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

**DATES:** Comments on this action must be received at the appropriate address or fax number (see **ADDRESSES**) on or before April 25, 2001.

**ADDRESSES:** Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on EFP Proposal." Comments may also be sent via facsimile (fax) to (978) 281-9135.

**FOR FURTHER INFORMATION CONTACT:** Bonnie Van Pelt, Fishery Management Specialist, 978-281-9244.

**SUPPLEMENTARY INFORMATION:** The North Carolina Department of Environment and Natural Resources Division of Marine Fisheries submitted an application for EFPs on March 5, 2001. The EFPs will facilitate collection of spatial and temporal data that would be used to identify the blackfin monkfish

component of the monkfish fishery and the distribution and migration of monkfish off North Carolina and Virginia during the spring and early summer of 2001. The study would occur in waters between Avon, North Carolina and Chincoteague, Virginia, 30 nautical miles seaward of the coast. The purpose of the study is to collect and properly identify the different species of monkfish in the study area to determine the occurrence and relative abundance of blackfin monkfish in the commercial gillnet catch.

The Monkfish FMP is specific for only one species, the American monkfish or goosefish (*Lophius americanus*), although the fisheries literature identifies two other species, blackfin monkfish (*L. gastrophysus*) and reticulated goosefish (*Lophiodes reticulatus*) that may be found in the western central Atlantic (Fischer, 1978). Over the past 2 years, the North Carolina Division of Marine Fisheries (NCDMF) and local fishermen have collected several specimens that have been identified as blackfin monkfish. The proportion of the harvest that is blackfin monkfish is unknown, but this species may comprise up to 10 percent of the catch from the waters off North Carolina and Virginia. Dockside identification of this species, which is difficult at best, is complicated by the common practice of processing at sea and the landing of monkfish tails only, which is allowed under the Monkfish FMP.

Based on the premise that blackfin monkfish may comprise up to 10 percent of the commercial monkfish catch using gillnets, the number of blackfin monkfish that would need to be identified to validate the percent composition of this species is estimated by the applicant to be 2,500 individuals. If blackfin monkfish comprise 10 percent of the catch, the total monkfish catch believed necessary for a statistically valid survey would be 25,000 monkfish. Assuming an average weight of 8 lb (3.6 kg) per fish, the amount of harvest is expected to be approximately 200,000 lb (90.72 mt) of whole monkfish.

The target species expected to be harvested under the EFP are blackfin monkfish and American monkfish. Incidental species expected to be caught in the fishery are skates, rays, and sharks. While the monkfish caught may be sold by participants to defray the costs of the experiment, the landed monkfish must meet the minimum fish size requirements.

Participating vessels will be selected by the applicant based on knowledge of the gillnet fishery for monkfish,

familiarity with local fishing methodology, familiarity with the survey area, and possession of monkfish gillnet gear. Up to five vessels would participate in the experiment and would be required to comply with all conditions of the EFP. A weekly trip limit of 7000 lb (3.18 mt) in any given period not to exceed 7 days, will be allowed instead of daily trip limits, as well as an allowance for the limited use of 8-inch (20.32-cm) mesh gillnets in an attempt to select for the smaller blackfin monkfish.

The EFPs would allow up to five vessels to fish 40 monkfish Days-at-Sea (DAS) per vessel, while exempting vessels from the eligibility and permit requirements associated with DAS permits under the Monkfish FMP. In order to ensure that the data collected are not biased by fishing behavior in response to fish movements, exemptions would allow participating vessels to possess and land monkfish in excess of the daily trip limit specified under 50 CFR 648.94(b)(2)(v). In order to obtain data on blackfin monkfish distribution and abundance, a species that is reportedly smaller than the American monkfish (*Lophius americanus*), the participating vessels may be required to temporarily retain monkfish that are less than the minimum fish size (50 CFR 648.93(a)(1)), and to fish with gear that is less than the minimum gillnet mesh size requirement (50 CFR 648.91(c)(1)(iii)). The experiment will run from the date of issuance of the EFPs through June 30, 2001. However, should additional data collection be necessary beyond this date, the experiment may be extended, but without the monkfish DAS exemption provisions and allowance for exemptions to monkfish landing and possession limits specified under the Monkfish FMP.

Participating vessels would be required to fish in accordance with a sampling plan designed by the applicant, maintain logbooks documenting fishing activities, carry on-board observers trained in blackfin monkfish taxonomy, land all monkfish suspected of being blackfin monkfish in a whole condition to aid in identification, and allow biological information to be collected from the catches. The applicant anticipates up to 10 percent observer coverage. However, given the need for information on gear interactions in the monkfish gillnet fishery with threatened and endangered sea turtles off North Carolina and Virginia, the Regional Administrator is seeking public comment on the appropriate level of observer coverage for this experimental fishery. In

addition, the Regional Administrator is also seeking comments on whether all monkfish, regardless of whether they are suspected of being blackfin monkfish, be landed in whole condition for identification purposes.

The applicant recognizes that the monkfish gillnet fishery may be responsible for sea turtle mortality and has formulated a system of area closures triggered by dates, water temperatures, and/or observed sea turtle interactions, to minimize the impact of the experimental fishery on threatened or endangered sea turtles. Five time-specific areas have been established for the experiment to minimize the probability of interactions of threatened or endangered sea turtles with monkfish gillnet gear.

#### Time-specific Area Closures

EFP participants will be authorized to fish in:

(a) *Area 1*- North of a line running 090° (M) from Avon, NC, 35° 20'30" N, to a line running 090° (M) from Chincoteague, VA, 37° 56'00" N, from March 16 through March 31, 2001;

(b) *Area 2*- North of a line running 090° (M) from Oregon Inlet, NC, 35° 46'00" N, to a line running 090° (M) from Chincoteague, VA 37° 56'00" N from April 1 through April 30, 2001;

(c) *Area 3*- North of a line running 090° (M) from Currituck Beach Light, NC, 36° 22'30" N, to a line running 090° (M) from Chincoteague, VA, 37° 56'00" N, from May 1 through May 31, 2001;

(d) *Area 4*- North of a line running 090° (M) from Cape Henry, VA, 36° 55'54" N, to a line running 090° (M) from Chincoteague, VA, 37° 56'00" N, from June 1 through June 15, 2001; and

(e) *Area 5*- North of a line running 090° (M) from Wachapreague Inlet, VA, 37° 34'36" N, to a line running 090° (M) from Chincoteague, VA, 37° 56'00" N, from June 16 through June 30, 2001.

Should observers or fishermen report surface water temperatures in excess of 60 degrees Fahrenheit for 3 consecutive days within an area, all EFP participants shall move their fishing operations northward to the next time-specific fishing area.

EFPs would be issued to up to five vessels to exempt them from monkfish DAS requirements (as well as other associated permitting and gear marking requirements under the Limited Access Monkfish DAS gillnet fishery), monkfish possession and landing limits, minimum fish size requirement (for data collection only), and minimum gillnet mesh sizes of the Monkfish FMP, found at 50 CFR part 648, subpart F.

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

Dated: April 4, 2001

**Bruce C. Morehead,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[I.D. 033001B]

#### **Fisheries off the West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Intent to Prepare an Environmental Impact Statement (EIS) for Fishing Conducted Under the Pacific Coast Groundfish Fishery Management Plan (FMP).**

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

**ACTION:** Notice of intent to prepare an EIS; request for written comments.

**SUMMARY:** NOAA announces its intention to prepare an EIS, in accordance with the National Environmental Policy Act (NEPA), to assess the impacts of Federal management of the Pacific Coast groundfish fishery on the human environment. The scope of the EIS analysis will include issues related to the conduct of the fishery, including the effects of the groundfish fishery on essential fish habitat (EFH).

**DATES:** Written comments will be accepted on or before June 30, 2001. Public scoping meetings are scheduled for May 22-23, May 29-30, June 5 and June 12, 2001 (see **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** Written comments on suggested alternatives and potential impacts should be sent to Donna Darm, Acting Administrator, Northwest Region, NMFS, 7600 Sand Point Way N.E., BIN C15700, Bldg. 1, Seattle, WA 98115-0070. Comments also may be sent via facsimile (fax) to 206-526-6736. Comments will not be accepted if submitted via e-mail or Internet. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson, Northwest Region, NMFS, 206-526-6140; fax: 206-526-6736 and e-mail: bill.robinson@noaa.gov or Svein Fougner, Southwest Region, NMFS, 562-980-4000; fax: 562-980-

4047 and e-mail: svein.fougner@noaa.gov.

#### **SUPPLEMENTARY INFORMATION:**

##### **Dates and Times for the Meetings**

The following locations and times have been set for scoping meetings:

1. Oregon - Hatfield Marine Science Center, meeting Room 9, 2040 SE Marine Science Drive, Newport, OR, May 22, 2001, beginning at 7 p.m.;
2. Oregon - Oregon State University, Seafood Laboratory, 2021 Marine Drive, Astoria, OR, May 23, 2001, beginning at 7 p.m.;
3. California - Humboldt Bay Harbor, Recreation and Conservation District, Woodley Marina, 601 Startare Drive, Eureka, CA, May 29, 2001, beginning at 5 p.m.;
4. California - California Department of Fish and Game, 4665 Lampson Avenue, Los Alamitos, CA, May 30, 2001, beginning at 3 p.m.;
5. Washington - NMFS, 7600 Sand Point Way NE, Building 9, Seattle, WA, June 5, 2001, beginning at 7 p.m.; and California - Park Plaza International Hotel, 1177 Airport Blvd., Burlingame, CA, June 12, 2001, beginning at 7 p.m.

There are 82 species managed under the Pacific Coast Groundfish FMP, seven of which have been declared overfished. The groundfish stocks support an array of commercial, recreational, and tribal fishing interests in state and Federal waters off the coasts of Washington, Oregon, and California. In addition, groundfish are also harvested incidentally in non-groundfish fisheries, most notably the trawl fisheries for pink shrimp, spot/ridgeback prawns, California halibut, and sea cucumber. To rebuild overfished species, restrictive management measures for most commercial and recreational fishing sectors have recently been adopted.

To define management issues and provide a clear basis for public comments, a summary of the current Federal management system for the Pacific Coast groundfish fishery will be reviewed during the public scoping hearings. A principal objective of the scoping and public input process is to identify a reasonable set of management alternatives that, with adequate analysis, will sharply define critical issues and provide a clear basis for choice among the alternatives. Therefore, the EIS will include a range of reasonable management alternatives and an analysis of their impacts.

The intent of the EIS is to present an overall picture of the environmental effects of fishing as conducted under the Pacific Coast Groundfish FMP.