

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 600****[I.D. 050101C]****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: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has received a proposal to conduct experimental fishing and has made a preliminary determination that the subject 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 Northeast Multispecies Fishery Management Plan (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 four federally permitted vessels in the limited access multispecies fishery to conduct fishing operations otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The vessels would collect catch data to support the development of new trawl mesh selectivity curves for the Southern New England (SNE) yellowtail flounder fishery. 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 on or before May 29, 2001.

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

FOR FURTHER INFORMATION CONTACT:

David M. Gouveia, Fishery Policy Analyst, (978) 281-9280, e-mail david.gouveia@noaa.gov.

SUPPLEMENTARY INFORMATION: The Rhode Island Department of Environmental Management, Division of Fish and Wildlife (applicant) submitted an application for EFPs on April 10, 2001. The EFPs will facilitate the collection of catch data that will support the development of trawl mesh selectivity curves for the SNE yellowtail flounder fishery. The applicant intends to provide the trawl mesh selectivity curves to fisheries managers as a tool for managers to match the minimum legal yellowtail flounder size with the size of yellowtail flounder retained by the appropriate mesh size.

The New England Fishery Management Council (Council) is currently developing Amendment 13 to the FMP (Amendment 13), which will include a rebuilding program associated with the overfishing definitions implemented under Amendment 9 to the FMP. As part of its November 2000 report, the Multispecies Monitoring Committee (MMC) provided management advice for the revised overfishing definitions, which serves as a guide for the development of rebuilding programs associated with the overfishing definitions. The MMC report concluded that SNE yellowtail flounder is at a low stock abundance and that fishing mortality should be as close to zero as practicable over the foreseeable future.

During the course of the development of Amendment 13, the Council has assembled a wide range of management alternatives in response to the SNE yellowtail flounder recommendations provided by the MMC. The management alternatives include: Trip limits; increases to the minimum fish and/or mesh sizes; area closures; and day-at-sea (DAS) reductions. Of the alternatives currently being considered to achieve the necessary reductions, the applicant states that the alternative for increasing minimum fish and/or mesh sizes may be more acceptable to the fishing community than widespread area closures. Implementation of large closures would likely have a severe impact on the SNE commercial fishing community, and the applicant is seeking additional information that may support the minimum fish and/or mesh size alternative.

The applicant acknowledges the studies used in the development of the current minimum fish and mesh size restrictions for the yellowtail flounder fishery, but notes that more recent

studies conducted within Massachusetts and Rhode Island state waters show different results than did the earlier studies.

The applicant proposes to examine the differences between the mesh selectivity of 6-inch (15.24-cm) diamond and 6.5-inch (16.51-cm) square mesh to 6.5-inch (16.51-cm) diamond and 7-inch (17.78-cm) square mesh. To accomplish this task, an alternate tow design will be utilized for a comparison of mesh selectivity. Each net configuration will be tested with and without a 3-inch (7.62-cm) liner. The applicants will charter up to four federally permitted vessels in the limited access multispecies fishery. Participating vessels will take four half-day trips (totaling 16 trips). All trips will be completed during daylight hours and must include at least two scientific personnel. Each trip will complete six tows (three with a liner and three without). Tows will last approximately 90 minutes each.

Participating vessels would be fishing under the multispecies DAS program, and thus would be authorized to retain and sell all legal-sized groundfish and bycatch species up to the regulatory amounts for each species. The proceeds generated from the sale of the fish would help defray the cost associated with the research. The research would be conducted in areas open to commercial fishing within statistical areas 537 and 539 from the date of the issuance of the EFPs through July 31, 2001.

The applicant will select participating vessels based on their owners' or operators' knowledge of the trawl fishery for yellowtail flounder, familiarity with local fishing methodology, familiarity with the survey area, and possession of trawl gear (except netting). The applicant will provide the proper mesh configuration. Vessels would be required to comply with all conditions of the EFP, as well as all applicable regulations specified under 50 CFR part 648, including the multispecies DAS program and all applicable trip and possession limits for all species caught.

For the purposes of comparing the catch from each mesh configuration, the EFP would also exempt the vessels from the multispecies minimum mesh size restrictions specified under 50 CFR 648.80(b)(2)(i), and allow participating vessels limited use of a 3-inch (7.62-cm) trawl mesh liner. In order to obtain data

on yellowtail flounder catch distribution, the participating vessels may be required to temporarily retain species that are less than the minimum fish size specified at 50 CFR 648.83(a)(1). No species less than the legal minimum fish size may be landed or sold.

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 fish taxonomy, and allow biological information to be collected from the catches.

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

Dated: May 7, 2001.

Bruce C. Morehead,

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

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