

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[I.D. 073099B]

**Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Bering Sea and Aleutian Islands Area; Exempted Fishing Permit**

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

**ACTION:** Issuance of an exempted fishing permit.

**SUMMARY:** NMFS announces the issuance of exempted fishing permit (EFP) 99-03 to Groundfish Forum, Inc. The EFP authorizes Groundfish Forum to conduct an experiment in the Bering Sea and Aleutian Islands management area (BSAI) that would test the accuracy of at-sea observer basket sampling practices, the design and use of automated species composition sampling, and the effect of fish stratification in trawls on size composition sampling. This EFP is necessary to provide information not otherwise available through research or commercial fishing operations. The intended effect of this action is to promote the purposes and policies of the Magnuson-Stevens Fishery Conservation and Management Act.

**ADDRESSES:** Copies of the EFP and the Environmental Assessment analyzing the potential impacts of fishing activities to be conducted under the EFP are available from the Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel.

**FOR FURTHER INFORMATION CONTACT:** Susan Salvesson, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) authorizes the issuance of EFPs for fishing for groundfish in a manner that would otherwise be prohibited under existing regulations. The procedures for issuing EFPs are set out at 50 CFR 679.6 and 600.745(b).

NMFS received the application for EFP 99-03 from Groundfish Forum, Inc. on March 23, 1999. Groundfish Forum is an industry group representing small and medium size factory trawlers that mainly process head and gut product forms. The Alaska Fisheries Science Center (AFSC), NMFS, determined the application to be sufficiently complete to warrant further consideration by

NMFS and the North Pacific Fishery Management Council (Council). The Council's April 1999 meeting agenda, which was published in the **Federal Register** on April 6, 1999 (64 FR 16707), provided public notice of the Council's intent to review and consider the EFP and receive testimony from interested members of the public on the proposed experimental fishing activity. The Council endorsed the Groundfish Forum's EFP application at its April 1999 meeting.

The application requested authorization for Groundfish Forum to test the accuracy of at-sea observer basket sampling practices, the design and use of automated species composition sampling, and the effect of fish stratification in trawls on size composition sampling. The supporting experimental design described in the application was developed in coordination with the North Pacific Groundfish Observer Program, AFSC, NMFS. NMFS is supportive of experimentation to assess the accuracy of catch composition and accounting given the agency's responsibility to monitor and manage total mortality of fishery resources as a result of the fishing activities authorized under the FMP. Successful completion of the experiment could provide data for improvements in observer sampling of catch and facilitate more accurate accounting of total catch mortality associated with the commercial North Pacific groundfish fisheries.

NMFS currently relies on NMFS-certified observers to determine species composition of sampled hauls using standard species composition sampling methods. In mixed species fisheries, observers onboard trawl vessels typically rely on basket samples of fish collected randomly as fish are transferred from the trawl codend into a holding bin (trawl catcher vessels) or as fish are transferred from live tanks into the processing line (catcher/processor vessels). Concern exists that these species composition sampling techniques may not accurately reflect the catch composition of an individual haul. This EFP will provide information not otherwise available through research or commercial fishing operations because it is not economically feasible for vessels to participate in an experiment of this extent and rigor during the fast-paced commercial fisheries.

The experimental fishery will be conducted by one vessel in the BSAI flathead sole and Greenland turbot fisheries. Fishing under the EFP would take place in Bycatch Zone 2 of the Bering Sea in areas normally fished for

flathead sole and Greenland turbot. The operator of the participating vessel will determine exact fishing locations. Fishing operations will start on or about September 3, 1999, and will last 3 to 4 weeks. This time line is set to accommodate the schedule of NMFS personnel associated with the experiment. The effective period for the EFP may be revised to a later time period in 1999 pending prior agreement between the permit holder and the Administrator, Alaska Region, NMFS (Regional Administrator).

The experiment authorized under the EFP is comprised of three parts. Part I will test the accuracy of basket sampling for species composition and part II will test alternative automated species composition methods. These two parts of the experiment will consist of 30 tows each for a total of 60 tows. The desired catch composition of each tow in parts I and II is 50 percent or more flatfish, with flathead sole being the predominant flatfish species. In the event that the actual catch composition is markedly and consistently different from these desired percentages, Groundfish Forum and NMFS personnel will evaluate the actual catch composition's effect on the experiment and encourage the participating vessel to find remedies to maintain the quality of the experiment. Failure to achieve an acceptable catch composition may result in discontinuation of the experiment.

The flathead sole fishery was chosen for the first two parts of the experiment because it is a mixed fishery in which flatfish and roundfish are commonly caught together in tows; typical tows are fairly long (2-3 hours); and typical haul size is fairly large [around 15 metric tons (mt) on average], but not so large as to necessarily overwhelm the accounting necessary for the experiment. Mixed catches, tow duration, and size of hauls are important factors in determining the potential for catch to be stratified when sampled. Stratification of catch can adversely affect the quality of observer data collected under current sampling procedures. Additional reasons for selecting the flathead sole fishery are that it is currently the most economically viable flatfish fishery for the average sized head-and-gut trawl catcher/processor vessel and the fishery can be conducted during late summer when weather conditions are amenable for the experiment.

Part III of the experiment will assess the effect of fish stratification in a haul on sampling for species size composition. This portion of the experiment will take place immediately following the successful completion of

parts I and II and will rely on a small number of tows targeting Greenland turbot. This fishery was chosen for part III because it presents a reasonable opportunity for harvesting target species of different sizes. The revenue received from the limited harvest of Greenland turbot also will support the participating vessel's involvement in the experiment.

All of the incidental catch amounts of pollock and Pacific cod harvested in the flatfish fishing activities authorized under the EFP must be retained to minimize discard amounts, contrary to existing regulations that require retention of these two species only up to a specified maximum retainable catch allowance (§ 679.27). For all other non-flatfish species, standard maximum retainable catch allowances established in regulations at 50 CFR 679.20 will apply based on retained flatfish as the basis species.

The catch of groundfish under this EFP must not exceed a total of 925 mt during parts I and II of the experiment and 342 mt during part III. If these authorized amounts are found to be insufficient to fully conduct the experiment, the applicant must confer with the Regional Administrator and obtain a modification to the EFP according to regulations at § 679.6 prior to any catch of groundfish in excess of these amounts.

The total catch of Greenland turbot authorized under all parts of the EFP is limited to the smallest of the following amounts: (1) An amount equal to 35 percent of the amount of pollock, Pacific cod, and flatfish other than Arrowtooth flounder caught and retained by the permitted vessel during parts I and II of the experiment; (2) the amount of Greenland turbot caught when a total of 342 mt of groundfish have been caught during part III of the experiment; or (3) a total of 175 mt of Greenland turbot caught at any time during the experiment (parts I, II, or III).

If Pacific halibut bycatch during part III of the EFP exceeds 10.2 mt, fishing activities under the EFP must cease and the experiment will be terminated by the Regional Administrator. Although an upper limit of halibut bycatch equal to 10.2 mt is established for part III, the halibut bycatch limit likely will not prevent the harvest of the entire allowable amount of turbot based on 1997-98 observer data collected on halibut bycatch rates in the Greenland turbot fishery. Limits on the catch of prohibited species during parts I and II of the experiment are not established given the objective of the experimental design approved by NMFS for this portion of the experiment.

Existing regulations governing retention and release of prohibited species, as defined at § 679.21(b), will apply to the vessel participating in the experiment except that no deck-sorting of groundfish or prohibited species will be allowed during parts I and II of the experiment. Deck-sorting of halibut will be required during Part III of the experiment to reduce halibut bycatch mortality.

Groundfish and prohibited species catch associated with this experiment will not be deducted from total allowable catch (TAC) or prohibited species bycatch allowances specified for the 1999 groundfish fisheries.

The participating vessel is required to carry three NMFS-certified observers. Other on-board EFP personnel will include a NMFS scientist and one Groundfish Forum project coordinator. The vessel operator also will need to provide crew members or other qualified personnel to assist observers and to carry out the sorting and weighing of fish prior to discard. NMFS staff have recommended that the experiment be conducted on a trawl catcher/processor vessel used primarily to produce headed and gutted product because the problem of catch stratification is most often associated with the fisheries and vessel configurations of that sector.

Vessel owners interested in participating in this EFP experiment must apply through a "request for proposals" (RFP) process administered by Groundfish Forum. The participating vessel will be chosen on the basis of how well the vessel's owners and crew are able to identify creative, workable solutions to the logistical challenges described in the experimental design developed jointly by NMFS and Groundfish Forum. The selection of a participating vessel will be made through a NMFS-directed review of applications. In the event that more than one vessel equally satisfies the requirements in the RFP, the participating vessel will be selected by lottery.

The Regional Administrator has approved the EFP application and has issued EFP 99-03 to Groundfish Forum subject to the permit terms and conditions summarized above. Failure of the permit holder to comply with the terms and conditions of the EFP may be grounds for revocation, suspension, or modification of the EFP under 15 CFR part 904 with respect to any or all persons and vessels conducting activities under the EFP. Failure to comply with applicable laws also may result in sanctions imposed under those laws.

## Classification

The Regional Administrator determined that fishing activities conducted under this action would not affect endangered and threatened species or modify critical habitat in any manner not considered in prior consultations on the groundfish fisheries.

This notice is exempt from review under E.O. 12866. It also is exempt from the Regulatory Flexibility Act (RFA) because prior notice and opportunity for public comment are not required for this notice. Therefore, the analytical requirements of the RFA are inapplicable.

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

Dated: August 6, 1999.

**Gary C. Matlock,**

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

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## COMMODITY FUTURES TRADING COMMISSION

### Proposed Amendments to Chicago Board of Trade Corn Futures Contract Regarding the Delivery Listing Cycle

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of availability of proposed amendments to contract terms and conditions.

**SUMMARY:** The Chicago Board of Trade (CBT or Exchange) has proposed amendments to the corn futures contract that would list November and January as additional delivery months. The proposed amendments were submitted under the Commission's 45-day Fast Track procedures which provides that, absent any contrary action by the Commission, the proposed amendments may be deemed approved on September 9, 1999—45 days after the Commission's receipt of the proposals. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

**DATES:** Comments must be received on or before August 27, 1999.

**ADDRESSES:** Interested persons should submit their views and comments to