



ENVIRONMENTAL PROTECTION AGENCY

[FRL-10020-19-Region 10]

Proposed Modification of NPDES General Permit for Offshore Seafood Processors in Alaska (AKG524000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Modification of NPDES General Permit.

SUMMARY: In June 2019, EPA Region 10 reissued a National Pollutant Discharge Elimination System (NPDES) General Permit for offshore seafood processors operating in federal waters off the coast of Alaska. The permit, which became effective on July 17, 2019, authorizes discharges of seafood processing waste from vessels that: discharge at least 3 nautical miles (NM) or greater from the Alaska shore; and, which engage in the processing of fresh, frozen, canned, smoked, salted or pickled seafood, the processing of mince, or the processing of meal, paste and other secondary by-products. On March 30, 2020, the Freezer Longline Coalition (FLC) requested that EPA modify the permit to allow for a currently-prohibited seasonal discharge (between June 10 and December 31, the fleet's "B Season") within 1 NM of wintering critical habitat (Unit 5) for the spectacled eider. According to the FLC, the requested modification is a result of changing fish migration patterns and ice coverage in the Bering Sea, and is "necessary to ensure the continued commercial viability of its members." While requested by FLC, a permit modification would apply to all vessels covered under the Permit. EPA has tentatively decided to modify the permit to allow for discharge within 1 NM of Unit 5 during the fleet's B season. All other conditions of the permit will remain unchanged. EPA is only accepting comments on the modified

authorization for vessels to seasonally discharge within 1 NM of spectacled eider wintering critical habitat (Part III.B.7 of the modified general permit). Only the conditions subject to modification are reopened for public comment.

DATES: Comments on the proposed modification must be received by [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

ADDRESSES: Comments on the proposed modification should be sent electronically to goodman.sally@epa.gov.

FOR FURTHER INFORMATION CONTACT:

Permit documents may be found on the EPA Region 10 website at:

<https://www.epa.gov/npdes-permits/npdes-general-permit-offshore-seafood-processors-alaska>. Copies of the draft modified general permit and fact sheet are also available upon

request. Requests may be made to Audrey Washington at (206) 553-0523 or to Sally

Goodman at (206) 553-0782. Requests may also be electronically mailed to:

washington.audrey@epa.gov or goodman.sally@epa.gov.

SUPPLEMENTAL INFORMATION:

I. General Information

There are currently 73 vessel operators authorized to discharge under the permit. In October 2019, FLC reported to EPA that within the past two fishing seasons, sea ice in the Bering Sea had not reached as far south, formed later in the year, and persisted for a shorter duration, and that as a result, a large percentage of the Pacific cod population in the Bering Sea have migrated further north than previously found/harvested, including areas near and within spectacled eider wintering habitat. Under 40 CFR § 122.62(a)(2), EPA has tentatively decided to modify the permit. While FLC raised the issue of Pacific cod migrating into more northern reaches of the Bering Sea as a primary motivation in their permit modification request, the modification allowing discharge within 1 NM of Unit 5 would apply to all vessels covered under EPA's General Permit, which include both hook and line ("longline")

and trawl catcher processors, and would not be conditioned upon targeted species. The At-Sea Processors Association, which represents trawl catcher processor vessels, has indicated that up to 12 pelagic trawlers could potentially target pollock within 1 NM of Unit 5, assuming the permit is modified.

EPA has conducted new analyses to identify impacts to spectacled eiders and their critical habitat that could result from the proposed modification, revised the previously concurred-upon Biological Evaluation (BE), and on July 9, 2020, requested formal consultation with USFWS under 50 CFR part 402. New analyses conducted in the BE have led EPA to change its previous determination from *not likely* to adversely affect the federally threatened spectacled eider or its critical habitat to *likely* to adversely affect the species or critical habitat. USFWS concurred on the EPA's determination that the Permit actions are likely to adversely affect species listed under the Endangered Species Act or designated critical habitat. The draft Biological Opinion, received on November 10, 2020, includes mitigations to minimize take and impact on species and habitat, which are also included in the Permit. They are: permittees must create a Best Management Practices Plan; discharges are not authorized in certain protected areas and habitats; vessels must be moving while discharging; permittees must conduct daily sea surface monitoring; and, EPA will use the information gathered from visual monitoring in evaluation during the next permit cycle.

II. Other Legal Requirements

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

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Director,
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Region 10.

