

Additionally, during the pendency of this litigation, in the ordinary course of its administrative action, EPA has taken final action on some of the SIP submissions originally at issue in the litigation.<sup>1</sup>

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed consent decree. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

### III. Additional Information About Commenting on the Proposed Consent Decree

Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2021-0304, via <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in

the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the <https://www.regulations.gov> website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

**Gautam Srinivasan,**  
*Associate General Counsel.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-10023-17-Region 10]

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

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final modification of NPDES general permit.

**SUMMARY:** The Director, Water Division, Environmental Protection Agency (EPA) Region 10, is modifying 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. EPA has decided to modify the permit to allow for seasonal discharge (between June 10 and December 31) within 1 NM of wintering critical habitat (Unit 5) for the spectacled eider (Part III.B.7 of the modified general permit). All other conditions of the permit remain unchanged. Between March 1 and March 31, 2021, EPA accepted comments on the proposed modification. Only the conditions subject to modification were reopened for public comment. EPA received a single comment letter from the FLC. The comments were non-significant and supported the proposed modification; therefore, EPA is not required to prepare a Response to Comments document.

**DATES:** The issuance date of the modified General Permit is May 3, 2021. The modified General Permit will become effective June 2, 2021.

**ADDRESSES:** 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>.

**FOR FURTHER INFORMATION CONTACT:** Copies of the 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](mailto:washington.audrey@epa.gov) or [goodman.sally@epa.gov](mailto:goodman.sally@epa.gov).

### SUPPLEMENTARY 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. 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 permit modification allowing seasonal discharge within 1 NM of Unit 5 applies

<sup>1</sup> See, for example, 86 FR 11125 (February 24, 2021).

to all vessels covered under EPA's General Permit, which include both hook and line ("longline") and trawl catcher processors, and is 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.

EPA conducted new analyses to identify impacts to spectacled eiders and their critical habitat that could result from the 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 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 Biological Opinion, received on March 8, 2021, 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.

**Daniel D. Opalski,**

*Director, Water Division, Region 10.*

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2021-0314; FRL-10023-24-OGC]

### Proposed Consent Decree, Clean Air Act Citizen Suit

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed consent decree; request for public comment.

**SUMMARY:** In accordance with the Clean Air Act, as amended (CAA or the Act), notice is given of a proposed consent decree in *Center for Biological Diversity, et al. v. Regan*, No. 3:20-cv-05436-EMC (N.D. Cal.). On August 6, 2020, Plaintiffs the Center for Biological Diversity, the Center for Environmental Health, and the Sierra Club (collectively, Plaintiffs) filed a complaint in the United States District Court for the Northern District of California, San Francisco Division. On October 29, 2020, Plaintiffs filed an amended complaint. Plaintiffs alleged that the Environmental Protection Agency (EPA or the Agency) failed to perform certain non-discretionary duties in accordance with the Act to: make timely findings that certain states failed to timely submit required plan submissions for areas designated as nonattainment for the 2010 sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standards (NAAQS); timely respond to a state implementation plan (SIP) submittal from the State of Illinois for the Alton Township 2010 SO<sub>2</sub> NAAQS nonattainment area; and make timely determinations whether certain areas designated as nonattainment for the 2010 SO<sub>2</sub> NAAQS attained the standard by the attainment date. The proposed consent decree would establish deadlines for EPA to undertake certain actions.

**DATES:** Written comments on the proposed consent decree must be received by June 2, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OGC-2021-0314, online at <https://www.regulations.gov> (EPA's preferred method). Follow the online instructions for submitting comments.

**Instructions:** All submissions received must include the Docket ID number for this action. Comments received may be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Additional Information about Commenting on the Proposed Consent Decree" heading under the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via [https://](https://www.regulations.gov)

[www.regulations.gov](https://www.regulations.gov), as there may be a delay in processing mail and faxes. Hand-deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

EPA continues to carefully and continuously monitor information from the CDC, local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID-19.

**FOR FURTHER INFORMATION CONTACT:** Emily Seidman, Air and Radiation Law Office (7426Y), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone (202) 564-0906; email address [seidman.emily@epa.gov](mailto:seidman.emily@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Obtaining a Copy of the Proposed Consent Decree

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2021-0314) contains a copy of the proposed consent decree.

The electronic version of the public docket for this action contains a copy of the proposed consent decree and is available through <https://www.regulations.gov>. You may use <https://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select "search."

#### II. Additional Information About the Proposed Consent Decree

The proposed consent decree would establish deadlines for EPA to take action pursuant to the CAA. First, the proposed consent decree would establish a deadline for EPA to take action pursuant to CAA section 110(k) on a SIP submission by the State of Illinois for Alton Township, for the Alton Township portion of the Metropolitan St. Louis Interstate Air Quality Control Region nonattainment area for the 2010 SO<sub>2</sub> NAAQS. The proposed consent decree would require EPA to take action on the SIP submission by no later than March 1, 2022.

Second, the proposed consent decree would establish deadlines for EPA to take action pursuant to CAA section 179(c)(1) to determine whether the following nonattainment areas for the