

(ii) Additional material.
 (A) Remainder of May 18, 1995 State submittal.
 3. Section 52.2061 is added to read as follows:

§ 52.2061 Operating permits.

(a) Emission limitations and related provisions which are established in Pennsylvania operating permits as federally enforceable conditions shall be enforceable by EPA. EPA reserves the right to deem permit conditions not federally enforceable. Such a determination will be made according to appropriate procedures, and be based upon the permit, permit approval procedures, or permit requirements which do not conform with the operating permit program requirements or the requirements of EPA's underlying regulations.

(b) (reserved)

4. Section 52.2062 is added to read as follows:

§ 52.2062 Plan approvals.

(a) Emission limitations and related provisions which are established in Pennsylvania plan approvals as federally enforceable conditions shall be enforceable by EPA. EPA reserves the right to deem plan approval conditions not federally enforceable. Such a determination will be made according to appropriate procedures, and be based upon the plan approval, the relevant approval procedures, or plan requirements which do not conform with the plan approval program requirements or the requirements of EPA's underlying regulations.

(b) (reserved)

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding the entry for Pennsylvania in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

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Pennsylvania

(a) Pennsylvania Department of Environmental Resources [now known as the Pennsylvania Department of Environmental Protection]; submitted on May 18, 1995; full approval effective on August 29, 1996.

(b) (Reserved)

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. ; I.D. 052896A]

RIN 0648-A158

Fisheries of the Exclusive Economic Zone Off Alaska; Delay of the Pollock Season

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

ACTION: Final rule.

SUMMARY: NMFS is delaying from August 15 to September 1 of each fishing year, the opening of the second (non-roe) directed fishing season for pollock in the Bering Sea and Aleutian Islands management area (BSAI). NMFS is also prohibiting vessels from participating in the directed pollock fishery for 7 days after the September 1 opening if the vessel participated in any of the directed groundfish fisheries in the Gulf of Alaska (GOA) or in the BSAI during any portion of the 7-day period prior to the September 1 opening. This action is necessary to allow some pollock processor vessels and shoreside processing plants to more fully realize potential salmon processing opportunities, particularly for late-run pink salmon. This action is intended to further the objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Island Area (FMP).

EFFECTIVE DATE: August 15, 1996.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) prepared for the original 1993 non-roe season delay or the supplemental EA/RIR prepared for this action may be obtained from the North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99510-2252; telephone: 907-271-2809.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Fishing for groundfish by U.S. vessels in the exclusive economic zone of the BSAI is managed by NMFS according to the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations that appear at 50 CFR part 679.

Under regulations at § 679.20(a)(5)(i)(A), the initial total allowable catch (TAC) amounts specified for pollock in the BSAI subareas and the Bogoslof District are divided into two seasonal allowances. Subject to other regulatory provisions, the first seasonal allowance is available for directed fishing from January 1 until noon, A.l.t., April 15 (the roe or "A" season). The second seasonal allowance is available for directed fishing from noon A.l.t., August 15 through the end of the fishing year (the non-roe or "B" season). NMFS annually apportions the initial pollock TACs between the roe and non-roe seasons after consultation with the Council during the annual groundfish TAC specification process set forth at § 679.20(a).

Recent high abundance of Alaska pink salmon, as well as poor salmon market conditions, have caused renewed interest by the salmon industry and groundfish processors to explore opportunities for new salmon product types and markets. This interest prompted the Council to recommend a delay in the opening date of the pollock non-roe season from August 15 to September 1 to provide pollock processors the opportunity to participate in the processing operations for late-run pink salmon. A proposed rule to implement the Council's recommendation was published in the Federal Register on June 12, 1996 (61 FR 29726). Public comment was invited through July 8, 1996. No letters of comment were received. No changes to the proposed rule are made in the final rule, except to incorporate the regulatory format into the new consolidated regulations governing the fisheries in Federal waters off Alaska (50 CFR part 679).

This rule annually delays the opening of the pollock non-roe season until September 1 for both the inshore and the offshore components, with a fixed season ending date of November 1 of each year. Vessels participating in the Community Development Quota (CDQ) directed pollock fishery are exempt from the season ending date restriction. This final rule also prohibits a vessel from participating in the directed pollock fishery during the 7 days after the September 1 opening (i.e., from noon A.l.t. September 1 until noon A.l.t. September 8) if the vessel participated in any groundfish fishery in either the BSAI or the GOA during any portion of the 7-day period prior to the opening of the pollock non-roe season (i.e., from noon A.l.t., August 25 until noon, September 1, A.l.t.). Vessels participating in the directed CDQ

pollock fishery are exempt from this prohibition.

Further justification for each of the measures implemented under the final rule is discussed in the preamble to the proposed rule.

Classification

The Director, Alaska Region, NMFS, determined that this final rule is necessary for the conservation and management of the BSAI fisheries and that it is consistent with the Magnuson Act and other applicable laws.

The Council prepared an FRFA as part of the RIR prepared for the 1993 delay of the non-roe season to August 15. A copy of this analysis as well as the supplemental analysis prepared by the Council for the season delay to September 1 is available from the Council (see ADDRESSES).

An informal consultation under the Endangered Species Act was initiated for this action on April 30, 1996. As a result of the informal consultation, the Regional Director determined that fishing activities conducted under this rule are not likely to adversely affect endangered or threatened species or critical habitat.

The Assistant Administrator for Fisheries, NOAA (AA), has determined, under the authority of 5 U.S.C. 553(d)(3), that good cause exists to waive a portion of the 30-day delayed effectiveness period for this rule. The AA finds that it is contrary to the public interest to delay the effectiveness of this rule for 30 days because it conveys a benefit to the fishing industry that would be denied it if the opening of the fishery were not delayed from August 15. By delaying the start of the fishery on August 15, processors will be able process pink salmon during a time when they otherwise would be processing pollock. Waiving a portion of the delayed effectiveness period and making this action effective August 15 will allow certain processors to provide a different market for pink salmon products and more fully utilize available pink salmon resources, which will increase the economic value of pink salmon. Once pink salmon processing has concluded, these processors will be able to commence pollock production at the same time as other processors that might not participate in pink salmon production. If part of the delayed effectiveness period were not waived, the pollock season would start on August 15, and then close shortly thereafter when the 30-day delayed effectiveness period expired. Such an abrupt opening and subsequent closure would be costly to the industry and confusing as well. In addition, some

processors could be denied the opportunity to process pink salmon unless they decided to forego some opportunities to process pollock, which is an unlikely even because the pollock resource is more valuable.

The AA also finds that it is unnecessary to delay the effectiveness of this rule for 30 days because based on public testimony before the Council, the pollock and salmon industries already anticipate a delay in the opening of the pollock fishery from August 15 to September 1 and have planned accordingly.

This final rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements

Dated: July 25, 1996.
Charles Karnella,
Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*

2. In § 679.20, paragraph (a)(5)(i)(A) is revised to read as follows:

§ 679.20 General limitations.

- (a) * * *
- (5) * * *
- (i) * * *

(A) *Seasonal allowances.* The TAC of pollock in each subarea or district of the BSAI will be divided, after subtraction of reserves, into two allowances. The first allowance will be available for directed fishing from 0001 hours Alaska local time (A.l.t.) January 1 through 1200 hours, A.l.t., April 15. The second allowance will be available for directed fishing from 1200 hours, A.l.t., September 1 through 1200 hours A.l.t., November 1, of each fishing year. Within any fishing year, unharvested amounts of the first allowance will be added to the second allowance, and harvests in excess of the first allowance will be deducted from the second allowance.

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3. In § 679.23, paragraph (e)(2) is revised, paragraph (e)(3) and paragraph (e)(4)(iii) are removed, and paragraph (e)(4) is redesignated as paragraph (e)(3) to read as follows:

§ 679.23 Seasons.

* * * * *

(e) * * *

(2) *Directed fishing for pollock.* (i) Subject to other provisions of this part, and except as provided in paragraphs (e)(2)(ii) and (e)(2)(iii) of this section, directed fishing for pollock is authorized from 0001 hours, A.l.t., January 1, through 1200 hours, A.l.t., April 15, and from 1200 hours A.l.t., September 1, through 1200 hours A.l.t., November 1, of each fishing year.

(ii) *Applicable through December 31, 1998.* (A) Subject to other provisions of this part and except as provided in paragraphs (e)(2)(ii)(B) and (e)(2)(ii)(C) of this section, directed fishing for pollock by the offshore component, defined at § 679.2 of this part, or by vessels delivering pollock to the offshore component, is authorized from 1200 hours A.l.t., January 26, through 1200 hours A.l.t., April 15.

(B) Directed fishing for pollock by the offshore component, or vessels delivering pollock to the offshore component is prohibited through 1200 hours, A.l.t., February 5, for those vessels that are used to fish prior to 1200 hours, A.l.t., January 26, for groundfish in the BSAI, groundfish in the GOA, as defined at § 679.2, or king or Tanner crab in the BSAI, as defined at § 679.2.

(C) Neither paragraphs (e)(2)(ii)(B) nor (e)(2)(iii) of this section apply to vessels used to fish exclusively in a directed fishery for pollock prior to 1200 hours, A.l.t., January 26, or during the period that extends from 1200 hours, A.l.t., August 25, through 1200 hours A.l.t., September 1, under the Western Alaska Community Development Quota program pursuant to subpart C and § 679.23(e)(2)(ii)(D) of this section.

(D) Directed fishing for pollock under the Western Alaska Community Development Quota program pursuant to subpart C of this part is authorized from 0001 hours A.l.t., January 1, through the end of the fishing year.

(iii) Directed fishing for pollock is prohibited during the second pollock season defined at paragraph (e)(2)(i) of this section through 1200 hours, A.l.t., September 8, for any vessel that is used to fish with trawl gear for groundfish in the BSAI or the GOA as defined at § 679.2 of this part, between 1200 hours A.l.t., August 25, and 1200 hours A.l.t., September 1.

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