

Through submission of this NO_x waiver request and NO_x control revisions to its state implementation plan, the State has elected to adopt the program provided for under Section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose new requirements, such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen oxides, Ozone, Volatile organic compounds, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 4201-7671q.
 Note: Incorporation by reference of the State Implementation Plan for the State of Maine was approved by the Director of the Federal Register on July 1, 1982.
 Dated: December 1, 1995.
 Carol M. Browner,
Administrator.
 Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart U—Maine

2. Section 52.1020 is amended by adding paragraph (c)(41) to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

(41) Revisions to the State Implementation Plan submitted by the Maine Department of Environmental Protection on August 5, 1994 related to

NO_x controls in Oxford, Franklin, Somerset, Piscataquis, Penobscot, Washington, Aroostook, Hancock and Waldo Counties.

(i) Incorporation by reference.

(A) A Letter from the Maine Department of Environmental Protection dated August 5, 1994 submitting a revision to the Maine State Implementation Plan.

(B) Chapter 138 of the Maine DEP's regulations, "Reasonably Available Control Technology for Facilities that Emit Nitrogen Oxides" for sources only in Oxford, Franklin, Somerset, Piscataquis, Penobscot, Washington, Aroostook, Hancock and Waldo Counties (excepted portions include Sections 1.A.1. and 3.B.). This rule was effective August 3, 1994.

3. In § 52.1031, Table 52.1031 is amended by adding state citation 138 in numerical order to read as follows:

§ 52.1031 EPA-approved Maine regulations.

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TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by State	Date approved by EPA	FEDERAL REGISTER citation	52.1020	
138 ...	* Reasonably Available Control Technology For Facilities That Emit Nitrogen Oxides.	* 8/3/94	* December 26, 1995	* 60 FR	* (c)(41)	* Affects sources only in Oxford, Franklin, Somerset, Piscataquis, Penobscot, Washington, Aroostook, Hancock and Waldo Counties (excepted portions of rule include Sections 1.A.1. and 3.B.).

4. Section 52.1023 is amended by adding paragraph (c) to read as follows:

§ 52.1023 Control strategy: Ozone.

* * * * *

(c) *Approval.* EPA is approving an exemption request submitted by the Maine Department of Environmental Protection on September 7, 1995, for the Northern Maine area from the NO_x requirements contained in Section 182(f) of the Clean Air Act. This approval exempts Oxford, Franklin, Somerset, Piscataquis, Penobscot, Washington, Aroostook, Hancock and Waldo Counties from the requirements to implement controls beyond those approved in § 52.1020(c)(41) for major sources of nitrogen oxides (NO_x), nonattainment area new source review (NSR) for new sources and modifications that are major for NO_x, and the applicable NO_x-related

requirements of the general and transportation conformity provisions.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 677

[Docket No. 950822211-5291-02; I.D. 080395A]

RIN 0648-AD80

North Pacific Fisheries Research Plan; Amendment 1

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

ACTION: Final rule; technical amendments.

SUMMARY: NMFS issues a final rule to implement Amendment 1 to the North Pacific Fisheries Research Plan (Research Plan). Regulations implementing Amendment 1 delay full implementation of the Research Plan until 1997 and establish 1996 observer coverage requirements for the Research Plan fisheries. This delay is necessary to provide the North Pacific Fishery Management Council (Council) additional time to address certain issues presented by implementation of the Research Plan. Two technical amendments also are implemented to clarify provisions for refunding excess payments of 1995 Research Plan fee assessments and to clarify 1996 observer coverage requirements for groundfish vessels.

EFFECTIVE DATE: January 1, 1996.

ADDRESSES: Copies of the Observer Plan may be obtained from the Fisheries Management Division, Alaska Region, NMFS, 709 West 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori J. Gravel.

Copies of the Research Plan as revised by Amendment 1, the environmental assessment/regulatory impact review prepared for the Research Plan, and the final report "Establishing the Fee Percentage and Standard Exvessel Prices for 1995" may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

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

SUPPLEMENTARY INFORMATION:

Background

Regulations implementing the Research Plan became effective October 6, 1994 (59 FR 46126, September 6, 1994). Since then, these regulations have been amended three times. The first regulatory amendment was published in the Federal Register on January 9, 1995 (60 FR 2344), to clarify 1995 observer coverage requirements and revise the definition of certain terms set out under § 677.2. A second regulatory amendment was published on July 5, 1995 (60 FR 34904), to require vessels and shoreside processors to facilitate transmission of observer data. The third regulatory amendment was published on August 16, 1995 (60 FR 42470), to revise 1995 observer coverage requirements for crab catcher vessels and exempt certain crab catcher vessels required to obtain observer coverage from paying 1995 Research Plan fees.

The Council requested that full implementation of the Research Plan be delayed for a 1-year period to provide additional time to reconsider certain elements of the Research Plan that were previously adopted by the Council. This Council action was developed during the Council's April and June 1995 meetings, as well as during a May 16, 1995, teleconference. The Council also expressed its intent to continue the fee collection program implemented for 1995 for the remainder of the year, so that adequate start-up funds may be collected for full implementation of the Research Plan in 1997.

A proposed rule to delay full implementation of the Research Plan was published in the Federal Register on September 11, 1995 (60 FR 47142). Comments on the proposed rule were invited through November 6, 1995. No written comments were received within the comment period. NMFS received oral comment on the proposed delay of

the Research Plan during a September 18, 1995, public hearing by teleconference. The public hearing teleconference provided opportunity for public participation in Anchorage, AK, Juneau, AK, Seattle, WA, and Newport, OR. Members of the public participating in the public hearing either provided no comment or endorsed the proposed delay of the Research Plan.

Section 313(c)(3) of the Magnuson Act requires that, within 45 days of the close of the public comment period, NMFS, in consultation with the Council, analyze the public comment received and publish final regulations for implementing an amendment to the Research Plan. Consultation with the Council was initiated at the Council's September 1995 meeting. Oral comment received by NMFS and the Council indicated widespread industry support for the proposed delay of the Research Plan. NMFS received no further comment subsequent to the September Council meeting that would require further consultation with the Council.

NMFS has approved a 1-year delay of the full implementation of the Research Plan under section 313(c) of the Magnuson Act. Upon reviewing the Council's reasons for this delay and comments by the industry endorsing this action, NMFS has determined that this final rule is consistent with the Magnuson Act. The reasons for this delay are discussed further in the proposed rule (60 FR 47142, September 11, 1995).

Consistent with the Council's expressed intent, NMFS will continue to assess fees through early 1996 for fish harvested and retained in the Research Plan fisheries during 1995. Lacking future regulatory action to the contrary, collected funds will be held in an interest-bearing account and will be used to award contracts to provide observers under the Research Plan starting in 1997. Adequate start-up funds will be collected during 1995; as a result, Research Plan fees will not be assessed for fish caught in 1996.

The Council intends that 1996 observer coverage levels remain unchanged from 1995 levels. These observer coverage requirements for the groundfish and crab fisheries are set out at § 677.10(a). As in 1995, participants in the groundfish and crab Research Plan fisheries will be responsible for making their own arrangements and paying for required observer coverage.

The Council's intent to maintain 1995 observer coverage levels through 1996 applies to mothership processor vessel and shoreside processor observer coverage requirements set out in regulations implementing Amendment

35 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. Final regulations implementing Amendment 35 are codified at 50 CFR 675.25(b) and are effective through December 31, 1995. In keeping with the Council's intent to maintain 1995 observer coverage levels in 1996, NMFS is extending the effective date of observer coverage requirements implemented under Amendment 35 through December 31, 1996, and including these requirements in the 1996 Research Plan observer coverage requirements at § 677.10(a).

NMFS notes that regulations at § 677.10(g) set out vessel safety requirements applicable in 1996 and beyond. No substantive changes to these requirements are implemented; however, the regulatory text is revised to clarify that these requirements apply to vessels required to carry observers in 1996 under § 677.10(a).

NMFS further notes that the following sections of the Observer Plan still will be in effect until full implementation of the Research Plan in 1997: (1) Standards of observer conduct; and (2) description, specifications, and work statement for certified domestic observer contractors, including conflict of interest standards for NMFS-certified observers and contractors and conditions for contractor and observer certification revocation. Copies of the Observer Plan dated May 1994 are available from NMFS (see **ADDRESSES**).

Technical Amendments

Two technical amendments are implemented to clarify NMFS's intent for the Research Plan in 1996. The first technical amendment is necessary to allow groundfish and crab processors that participate in the 1996 Research Plan fisheries to receive a refund for costs of 1995 observer coverage up to an amount equal to the sum of the fee assessments paid by the processor for retained catch during 1995.

Section 677.6(d)(3)(ii)(C) authorizes NMFS to refund excess payments of 1995 Research Plan fee assessments to processors that do not intend to participate in the Research Plan fisheries during the first half of 1996. This provision assumes that a fee assessment program would be ongoing in 1996 and that processors participating in the 1996 Research Plan fisheries could be credited for any excess payments of their 1995 fee assessments on their 1996 bills. However, the final rule to delay full implementation of the Research Plan does not authorize a fee assessment program during 1996. As a result,

regulatory language at § 677.6(d)(3)(ii)(C) must be removed so that all processors who are owed a refund from the 1995 fee assessment program can be issued a refund regardless of whether they participate in a Research Plan fishery during the first half of 1996 or not.

The second technical amendment is necessary to clarify 1996 observer coverage requirements for groundfish vessels that are set out at § 677.10(a)(1). Under the general provisions, a catcher/processor or catcher vessel equal to or greater than 60 ft (18.3 m) length overall (LOA) but less than 125 ft (38.1 m) LOA that is used to participate for more than 3 fishing days in a directed fishery for groundfish during a calendar quarter must carry a NMFS-certified observer during at least 30 percent of its fishing days during that calendar quarter. This means that if a vessel equal to or greater than 60 ft (18.3 m) LOA but less than 125 ft (38.1 m) LOA retrieves fishing gear and retains amounts of any groundfish species in excess of the maximum retainable bycatch amounts specified in §§ 672.20(g) or 675.20(h) during more than 3 days of a calendar quarter, that vessel must carry a NMFS-certified observer for at least 30 percent of all fishing days within that calendar quarter. A fishing day is defined at § 677.2 as "a 24-hour period, from 0001 Alaska local time (A.l.t.) through 2400 A.l.t., in which fishing gear is retrieved and groundfish, halibut, or king or Tanner crab are retained. Days during which a vessel only delivers unsorted codends to a processor are not "fishing days." This final rule does not change these general provisions.

In addition, § 677.10(a)(1)(i) contains specific requirements that provide that, in addition to the general provisions, a vessel must carry a NMFS-certified observer during at least one fishing trip during the calendar quarter for each of six separate groundfish categories in which the vessel participates. These six categories are defined at § 677.10(a)(1)(ii); the groundfish categories are: the pollock fishery, the Pacific cod fishery, the sablefish fishery, the rockfish fishery, the flatfish fishery, and the other species fishery. Under current regulations, participation in one of these fisheries is based on whether the retained catch in that fishery, during any fishing trip, constitutes the predominant catch of all of the groundfish categories retained by the vessel. These specific categories were developed to ensure more complete observer coverage of directed fishing operations for groundfish and were not intended to include fishing operations that retained only bycatch amounts of

groundfish. This provision was intended to apply only to directed fishing operations for groundfish. Nonetheless, the actual language of the regulation, plus recent regulatory action, increased confusion concerning the meaning of this provision. It could be argued that the regulations implementing the individual fishing quota (IFQ) program for halibut inadvertently changed the requirements for observer coverage by increasing the probability that a person fishing for halibut would trigger a "fishing day" for groundfish. The IFQ regulations require IFQ card holders to retain all Pacific cod and rockfish, consistent with the maximum bycatch amounts specified for these species. All sablefish must be retained on board if a sablefish IFQ card holder is on board the vessel.

NMFS is implementing this technical amendment to § 677.10(a)(1)(ii) to clarify that the groundfish fishery categories subject to the separate observer coverage requirements apply only with respect to fishing operations that constitute "directed fishing" for groundfish as defined at §§ 672.2 and 675.2. This change is consistent with the original intent of the separate observer coverage requirement, past practice and the common understanding of the how the separate observer coverage requirements are supposed to be applied. It removes a possible unintended effect of the IFQ regulations. To the extent that this action has any substantive effect, it will relieve an unintended burden for additional observer coverage that otherwise might be imposed on fishermen participating in the IFQ program.

Classification

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. The reasons for this certification were summarized in the preamble to the proposed rule.

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

A delay of full implementation of the Research Plan until 1997 results in a 1-year hiatus of the fee assessment program authorized under the Research Plan. As such, this final rule relieves a restriction and, pursuant to authority at 5 U.S.C. 553(d)(1), the requirement for a 30-day delay in effective date is inapplicable. However, NMFS has determined to make this rule effective

on January 1, 1996, to coincide with the start of the 1996 fishing year.

One of the technical amendments implemented under this action clarifies NMFS' intent with respect to issuing refunds of excess payments of the 1995 Research Plan fee assessment. Without this amendment, processors participating in a Research Plan fishery during the first part of 1996 would not be eligible to receive a refund until 1997, when the Research Plan fee assessment program would be reinitiated and refund amounts could be credited against 1997 billed fees assessments.

The second technical amendment clarifies 1996 groundfish observer coverage requirements to exempt from observer coverage those vessels participating in a nongroundfish fishery and retaining bycatch amounts of groundfish. In that the first technical amendment ensures that an action that would have occurred under authority of a regulation issued through notice and comment rulemaking but for the delay in full implementation of the Research plan does in fact occur and that the second technical amendment simply clarifies NMFS intent in an existing regulation, good cause exists, pursuant to authority at 5 U.S.C. 553(b)(B), to waive prior notice and opportunity to comment on the technical amendments as such procedure is unnecessary. Because the technical amendments relieve restrictions, a delay in the effective date is not necessary under U.S.C. 553(d)(1).

List of Subjects in 50 CFR Part 677

Fisheries, Reporting and recordkeeping requirements.

Dated: December 15, 1995.

Gary Matlock,
Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 677 is amended as follows:

PART 677—NORTH PACIFIC FISHERIES RESEARCH PLAN

1. The authority citation for part 677 continues to read as follows:

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

2. In § 677.6, paragraph (d)(3)(ii)(C) is removed, paragraph (b)(2) is redesignated as paragraph (b)(3), paragraph (d)(3)(ii)(D) is redesignated as paragraph (d)(3)(ii)(C), new paragraph (b)(2) is added, and the heading to newly redesignated paragraph (b)(3) is revised to read as follows:

§ 677.6 Research Plan fee.

* * * * *

(b) * * *

(2) *Fee assessments during 1996.*

Processors of Research Plan fisheries will not be assessed fees based on catch from Research Plan fisheries that is retained during the 1996 calendar year.

(3) *Fee assessments applicable after December 31, 1996.* * * *

* * * * *

3. In § 677.10, the headings for paragraphs (a) and (b), the introductory text to paragraph (g), and paragraphs (a)(1)(ii)(A) through (F) are revised, paragraphs (a)(1)(i)(C) through (a)(1)(i)(F) are redesignated as paragraphs (a)(1)(i)(D) through (a)(1)(i)(G), respectively, and paragraphs (a)(1)(i)(C) and (a)(2)(iii) are added to read as follows:

§ 677.10 General requirements.

(a) *Observer requirements applicable through December 31, 1996—(1)* * * *

(i) * * *

(C) Each mothership processor vessel that receives pollock harvested by catcher vessels in the catcher vessel operational area, defined at § 675.22(g) of this chapter, during the second pollock season that starts on August 15 under § 675.23(e) of this chapter, is required to have a second NMFS-certified observer aboard, in addition to the observer required under paragraphs (a)(1)(i)(A) and (B) of this section, for each day of the second pollock season until the chum salmon savings area is closed under § 675.22(h)(2) of this chapter, or October 15, 1996, whichever occurs first.

* * * * *

(ii) * * *

(A) *Pollock fishery.* Directed fishing for groundfish that results in a retained catch of pollock, during any fishing trip, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (a)(1)(ii).

(B) *Pacific cod fishery.* Directed fishing for groundfish that results in a retained catch of Pacific cod, during any fishing trip, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (a)(1)(ii).

(C) *Sablefish fishery.* Directed fishing for groundfish that results in a retained catch of sablefish, during any fishing trip, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (a)(1)(ii).

(D) *Rockfish fishery.* Directed fishing for groundfish that results in a retained aggregate catch of rockfish of the genera *Sebastes* and *Sebastolobus*, during any fishing trip, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (a)(1)(ii).

(E) *Flatfish fishery.* Directed fishing for groundfish that results in a retained aggregate catch of all flatfish species, except Pacific halibut, during any fishing trip, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (a)(1)(ii).

(F) *Other species fishery.* Directed fishing for groundfish that results in a retained catch of groundfish, during any fishing trip, that does not qualify as a pollock, Pacific cod, sablefish, rockfish, or flatfish fishery as defined under paragraphs (a)(1)(ii)(A) through (E) of this section.

* * * * *

(2) * * *

(iii) Each shoreside processor that offloads pollock at more than one location on the same dock and has distinct and separate equipment at each location to process those pollock and that receives pollock harvested by catcher vessels in the catcher vessel

operational area, defined at § 675.22(g) of this chapter, during the second pollock season that starts on August 15, under § 675.23(e) of this chapter, is required to have a NMFS-certified observer, in addition to the observer required under paragraphs (a)(2)(i) and (ii) of this section, at each location where pollock is offloaded, for each day of the second pollock season until the chum salmon savings area is closed under § 675.22(h)(2) of this chapter, or October 15, 1996, whichever occurs first.

* * * * *

(b) *Observer requirements applicable after December 31, 1996—(1)* * * * (i) *

* * * * *

(g) *Vessel safety requirements applicable after December 31, 1995.*

Any vessel that is required to carry observers under paragraph (a) or (b) of this section must have onboard either:

* * * * *

4. In § 677.11, paragraph (a)(4) is revised to read as follows:

§ 677.11 Annual Research Plan specifications.

(a) * * *

(4) *Observer coverage.* For the period January 1, 1996, through December 31, 1996, observer coverage levels in Research Plan fisheries will be as required by § 677.10(a). After December 31, 1996, the level of observer coverage will be determined annually by NMFS, after consultation with the Council and the State of Alaska, and may vary by fishery and vessel or processor size, depending upon the objectives to be met for the groundfish, halibut, and king and Tanner crab fisheries. The Regional Director may change observer coverage inseason pursuant to § 677.10(b)(2)(ii).

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