

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R04-OAR-2008-0592(b); FRL-8937-1]

**Approval and Promulgation of Air Quality Implementation Plans; Alabama: Birmingham 1997 8-Hour Ozone Contingency Measures****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Alabama State Implementation Plan (SIP), submitted by the Alabama Department of Environmental Management (ADEM), on February 6, 2008, to adopt specific contingency measures in the form of permit conditions for two cement kilns. These contingency measures are being adopted for the continued maintenance of the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) in Jefferson and Shelby Counties ("Birmingham Area"). On May 12, 2006, EPA approved the 8-hour ozone redesignation of the Birmingham Area from nonattainment to attainment for the 1997 8-hour ozone NAAQS (see, 71 FR 27631). Additional measures may be necessary in the future; however, these revisions qualify as contingency measures as required under Section 175A(d) of the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before August 31, 2009.**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2008-0592 by one of the following methods:

1. *http://www.regulations.gov*: Follow the online instructions for submitting comments.

2. *E-mail*: [benjamin.lynora@epa.gov](mailto:benjamin.lynora@epa.gov).

3. *Fax*: (404) 562-9019.

4. *Mail*: "EPA-R04-OAR-2008-0592," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

5. *Hand Delivery or Courier*: Ms. Lynora Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through

Friday, 8:30 to 4:30, excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:** Ms. Stacy Harder, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Ms. Harder may be reached by phone at (404) 562-9042, or by electronic mail at [harder.stacy@epa.gov](mailto:harder.stacy@epa.gov). For information relating to the Alabama State SIP, please contact Mr. Zuri Farngalo. Mr. Farngalo may be reached at (404) 562-9152, or by electronic mail at [farngalo.zuri@epa.gov](mailto:farngalo.zuri@epa.gov).

**SUPPLEMENTARY INFORMATION:** When the Birmingham Area was redesignated to attainment, Alabama was also required to submit a maintenance plan which provided for contingency measures should the Area violate the standard after being redesignated to attainment. The May 12, 2006, maintenance plan was designed to keep the Birmingham Area in attainment through 2017, initially, with a later extension of the maintenance plan to include a time period of no less than 20 years after the Area was redesignated originally. After attaining the 1997 8-hour ozone standard based on 2003-2005 ambient air monitoring data, the Birmingham Area violated the standard with 2004-2006 ambient air monitoring data. The February 6, 2008, SIP revision, provided by Alabama for EPA approval, was submitted to fulfill ADEM's commitment to adopt, within 18 months of a violation of the 1997 8-hour ozone standard, one or more contingency measures to help the Area re-attain the standard. EPA is proposing to approve the revisions pursuant to section 110 of the CAA. On March 27, 2008, EPA issued a revised ozone standard (see, 73 FR 16436). Today's action however, is being taken to address requirements under the 1997 8-hour ozone standard.

In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all

public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: July 16, 2009.

**J. Scott Gordon,***Acting Regional Administrator, Region 4.*

[FR Doc. E9-18028 Filed 7-29-09; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 0907201154-91155-01]

RIN 0648-AX99

**Fisheries of the Northeastern United States; Northeast (NE) Skate Complex Fishery; Notice of a Control Date for the Purpose of Limiting Entry to the Skate Bait Fishery; NE Skate Complex Fishery Management Plan (Skate FMP)****AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.**ACTION:** Advance notice of proposed rulemaking; request for comments.

**SUMMARY:** NMFS announces that it is considering, and is seeking public comment on, proposed rulemaking to control future access to the skate bait fishery in the NE skate complex if a management regime is developed and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to limit the number of participants in this component of the skate fishery. This component of the fishery includes vessels with open access skate permits that fish for skates to be sold as bait. This announcement is intended, in part, to promote awareness of potential eligibility criteria for future access so as to discourage new or speculative entry into the fishery while the New England Fishery Management Council (Council) considers whether and how access to the skate bait fishery should be controlled.

**DATES:** The date of publication of this document, July 30, 2009, shall be known as the "control date" and may be

used for establishing eligibility criteria for determining levels of future access to the subject fishery, subject to Federal authority. Written comments must be received on or before 5 p.m., local time, August 31, 2009.

**ADDRESSES:** You may submit comments, identified by 0648-AX99, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.

- Fax: (978) 281-9135, Attn: Tobey Curtis.

- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on Skate Bait Fishery Control Date."

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Tobey Curtis, Fishery Policy Analyst, phone 978-281-9273, fax 978-281-9135.

**SUPPLEMENTARY INFORMATION:** In 2003, NMFS implemented the Skate FMP to manage a complex of seven skate species in the Northeast Region: Winter (*Leucoraja ocellata*); little (*L. erinacea*); thorny (*Amblyraja radiata*); barndoor (*Dipturus laevis*); smooth (*Malacoraja senta*); clearnose (*Raja eglanteria*); and rosette (*L. garmani*). The FMP established biological reference points and overfishing definitions for each species, and other management measures designed to rebuild species that were considered overfished (barndoor and thorny). Regulations for

the skate fishery are found at 50 CFR part 648 subpart O.

There are two distinct skate fisheries managed under the FMP: A skate wing fishery, which harvests the pectoral fins of large skates (primarily winter skate) for foreign and domestic food markets; and a skate bait fishery, which targets whole little skates to be sold primarily for bait in the American lobster fishery. The skate fishery currently operates under possession limits of 20,000 lb (9,072 kg) of wings for trips greater than 24 hr in duration, or 10,000 lb (4,536 kg) of wings for trips less than 24 hr in duration. Vessels participating in the skate bait fishery, however, can request a Letter of Authorization from the Regional Administrator to be exempt from these trip limits, and often land in excess of 20,000 lb (9,072 kg) of whole skates per trip to fill bait orders for lobster vessels.

In 2007, the Council began development of Amendment 3 to the Skate FMP. The amendment is intended to establish a rebuilding plan for smooth skate, which is currently considered overfished, and bolster the rebuilding plan for thorny skate, which remains overfished. Amendment 3, if approved by the Secretary of Commerce, will also implement annual catch limits (ACLs) and accountability measures (AMs), consistent with the new requirements of the reauthorized Magnuson-Stevens Act. The Council has also proposed new management measures for the skate bait fishery, including seasonal quotas, and reduced possession limits, under Amendment 3. Amendment 3 measures will be proposed through a separate rulemaking in the near future.

In light of these new proposed restrictions and their impacts, members of the skate bait industry and the Council's Skate Oversight Committee recommended that the Council consider restricting new entrants to the skate bait fishery. This Advance Notice of Proposed Rulemaking is intended to discourage new or speculative entry into the bait fishery while controlled access restrictions are considered by the Council. The date upon which this notice is published shall be known as the "control date," which is intended to

distinguish established participants from new or speculative entrants to the fishery. Entering the fishery before the control date does not necessarily ensure fishing vessels of future access to the skate resource on the grounds of previous participation, because additional and/or other qualifying criteria may be applied. The Council may choose different and variably weighted measures to qualify participants based on the type and length of participation in the skate bait fishery or any other criteria.

This notification establishes July 30, 2009 as the control date for potential use in determining historical or traditional participation in the skate bait fishery. Consideration of a control date does not commit the Council or NMFS to develop any particular management system or criteria for participation in this fishery. The Council may choose a different control date, or may choose a management program that does not make use of such a date.

Fishing vessels are not guaranteed future participation in the fishery, regardless of their entry dates or level of participation in this fishery before or after the control date. The Council may choose to give variably weighted consideration to vessels active in the fishery before and after the control date. The Council may also choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded. Any action by the Council will be taken pursuant to the requirements for the development of FMP amendments established under the Magnuson-Stevens Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the skate bait fishery in Federal waters.

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

Dated: July 24, 2009.

**James W. Balsiger,**

*Acting Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. E9-18264 Filed 7-29-09; 8:45 am]

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