

and normal operation from measurements taken by a single PM and mercury CEM.) PCA questions if this was the EPA's intent.

The EPA is granting the petition to consider the question of types of continuous monitoring allowed during startup and shutdown for mercury and PM.

#### 8. Coal Mills (NESHAP and NSPS)

In the EPA's recent amendments to the Standards for Performance for Coal Mills, we exempted coal mills at cement manufacturing facilities whose only heat source was kiln exhaust. See 74 FR 51952, October 8, 2009. This change was made in response to comment from PCA. PCA argued that coal mills were similar to inline raw mills. In the case of inline raw mills, we consider the raw mill to be an integral part of the kiln. PCA requested the same treatment for coal mills, and the EPA agreed. However, in the amendments to the Portland Cement NESHAP and NSPS, the EPA did not address coal mills. This omission was due to the lack of information on emissions from coal mills. The EPA is granting reconsideration to reconsider the status of coal mills under the cement NESHAP.

#### 9. PM Standard for Modified Sources Under the NSPS

The EPA adopted the level of the new source standard under the NESHAP as the NSPS for both new and modified kilns. 75 FR at 54996. As PCA notes in its petition, there need not be functional equivalence between the NESHAP and NSPS PM limits for modified kilns, and further comment on the issue is appropriate. Petition p. 17. PCA also notes that the NSPS for modified kilns could have associated costs which need to be accounted for pursuant to CAA section 111(a)(1). Since such kilns would not be subject to the section 112(d) new source standard, any costs for such modified kilns to control PM to the new source limit could not be attributed to the section 112(d) new source limit. In addition, PCA notes that existing Portland cement kilns cannot be assumed to find ways to avoid triggering the NSPS modification criteria when making physical or operational changes due to the stringency of the newly adopted standards for PM.

The EPA believes that PCA's arguments on this point have merit and warrant reconsideration of the NSPS standard for PM for modified kilns.

#### IV. Requests for an Administrative Stay

PCA also requests that the EPA issue an administrative stay of the rule pursuant to section 705 of the Administrative Procedure Act (APA), which authorizes an agency, when it finds that "justice so requires" to "postpone the effective date of action taken by it, pending judicial review. Petition p. 6. PCA also alludes to the authority in section 307(d)(7)(B) of the CAA under which the EPA may issue a stay for up to three months if it grants a petition to reconsider a final rule.

First, the effective date of the NESHAP and NSPS—November 8, 2010—has already passed and thus a stay under APA section 705 is not appropriate. See 76 FR 4780, 4800 (Jan. 26, 2011) ("[p]ostponing an effective date implies action before the effective date arrives").

Section 307(d)(7)(B) of the CAA authorizes the EPA to stay a rule's effectiveness for three months during reconsideration. Since the EPA is largely denying the petitions to reconsider and is not granting reconsideration as to challenges to the principal standards in the NESHAP or NSPS, an administrative stay is not appropriate under that authority.

In reaching these conclusions, the EPA evaluated not only the legal applicability of the statutory provisions cited in PCA's petition, but also the merits criteria for granting stays—the likelihood of success on the merits, possibility of irreparable harm to the petition, harm to other parties, and the ultimate public interest. As discussed above, the EPA believes that the NESHAP is validly based on the performance of cement kilns. The EPA's technical evaluation of kilns' performance is also sound because burning alternative fuels (whether or not those fuels are classified as solid waste) does not appreciably effect the amount of HAP cement kilns emit.

The EPA also does not believe that the industry is facing the prospect of irreparable harm. As explained above, the industry's legitimate concern of having to make critical investment decisions without knowing the final rules on waste classification and standards for solid waste incinerators has been rectified by the EPA's issuance of a final regulatory definition of non-hazardous secondary materials that are solid waste and CISWI standards. In addition, given the similarity of many of the emissions limits, the compliance strategy for either rule would be expected to be similar.

Moreover, the EPA does not believe that a stay of the rules' compliance date

is in the public interest. The standards in the rule are projected to result in significant health benefits (thousands of serious health incidences avoided, including thousands fewer acute myocardial infarctions) and the rules' monetized benefits are projected to substantially exceed the rules' social costs. 75 FR at 55027 Table 13 and 55028 (social costs estimated at \$926 to 950 million (2005\$) and net monetized benefits are estimated at \$6.5 billion to \$18 billion (2005\$ and a 7 percent discount rate). Cement kilns' mercury emissions are among the highest of any emitting source category, and contribute significantly to the national inventory of airborne mercury. 75 FR at 54979 (cement industry contributes 7.5 tons of mercury emissions per year to national inventory of 50 tons per year). We note that mercury is a potent and bioaccumulative neurotoxin that remains in the environment for an extended period of time. As a result, the additional mercury that would be emitted as the result of a stay of the rule would remain in the environment for many years. The NESHAP here for the first time adopts statutorily-compliant limits to control those emissions. The EPA does not believe it in the public interest to delay those controls.

#### V. Conclusion

For all of the reasons discussed above, the petitions to reconsider the final NESHAP and NSPS for Portland cement plants are denied in part and granted in part. The EPA likewise denies the petitions for an administrative stay.

Dated: May 11, 2011.

**Lisa P. Jackson,**  
*Administrator.*

[FR Doc. 2011-12095 Filed 5-16-11; 8:45 am]

**BILLING CODE 6560-50-P**

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## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### 49 CFR 191, 192, 193, and 195

[Docket No. PHMSA-2011-0121]

### Pipeline Safety: National Pipeline Mapping System Data Submissions and Submission Dates for Gas Transmission and Gathering Systems and Liquefied Natural Gas Annual Reports

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Issuance of advisory bulletin.

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**SUMMARY:** This document advises owners and operators of gas transmission and gathering systems and Liquefied Natural Gas (LNG) facilities that they have until August 15, 2011, to submit their Calendar Year 2010 Annual Reports. This document also provides guidance for Calendar Year 2010 National Pipeline Mapping System (NPMS) submissions.

**FOR FURTHER INFORMATION CONTACT:** Roger Little, 202-366-4569 or by e-mail at [Roger.Little@dot.gov](mailto:Roger.Little@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule on November 26, 2010, under Docket No. PHMSA 2008-0291 [75 FR 72878], titled: "Pipeline Safety: Updates to Pipeline and Liquefied Natural Gas Reporting Requirements" (One Rule). This rulemaking revised the Pipeline Safety Regulations (49 CFR part 190-199) to improve the reliability and utility of data collections from operators of natural gas pipelines, hazardous liquid pipelines, and LNG facilities. As a result of the rulemaking, several annual and incident report forms were created while other forms were revised. Included among these forms, PHMSA created a new Annual Report for LNG facilities (LNG Annual Report; PHMSA F-7100.3-1) and revised the Annual Report for Natural or Other Gas Transmission and Gathering Systems (Gas Transmission and Gathering Annual Report; PHMSA F-7100.2-1). The One Rule revised § 191.17 to

specify that these reports should be submitted no later than March 15 for the preceding year, except for Calendar Year 2010, where reports should be submitted by June 15, 2011. This delayed reporting date for Calendar Year 2010 was added to allow companies time to update their information for submission according to the revised form.

After the One Rule was published, PHMSA received a petition from the American Gas Association (AGA) on December 22, 2010, asking for reconsideration of the information collected on the LNG Annual Report form. PHMSA reviewed the petition and has revised the form based on AGA's recommendation. PHMSA is using this document to announce that we are extending the reporting date for the LNG Annual Report form to August 15, 2011, to allow further time to prepare the electronic system PHMSA will use to collect the information. Next year, the filing date will go back to the March 15 date specified in the regulation.

In addition, PHMSA determined that further clarifications were needed to Parts K and L on the revised Gas Transmission and Gathering Systems annual report, specifically to correct boundaries for Specified Minimum Yield Strength, and to clarify certain sections of Part L that were not applicable to the regulated community at present. Accordingly, PHMSA has blacked out those sections of the form to clarify the intent of the information collection. In addition, PHMSA is extending the Gas Transmission and Gathering Systems report filing deadline

from the stated June 15, 2011, to August 15, 2011, for PHMSA to prepare the electronic system it will be using to collect the information. This will also align the filing date with the new LNG Annual Report. Next year, the filing date of the Gas Transmission and Gathering Systems report will go back to the March 15 date specified in the regulation. The forms are available at the following URL: <http://www.phmsa.dot.gov/pipeline/library/forms>.

PHMSA has also received a number of questions regarding NPMS submissions. The NPMS consists of geospatial data, attribute data, public contact information, and metadata pertaining to the interstate and intrastate hazardous liquid trunklines and hazardous liquid low-stress lines as well as gas transmission pipelines, LNG plants, and hazardous liquid breakout tanks regulated by PHMSA. Most operators submit their NPMS data to PHMSA at the same time they file their annual report. For example, gas transmission operators who file their annual report on the regular filing date of March 15 for the previous calendar year would also submit their NPMS data on March 15 for the previous calendar year, reflecting assets as of December 31, 2010. Although PHMSA is extending the filing date for annual report submissions, operators are encouraged to file their NPMS data at their regularly scheduled times.

For clarification purposes, PHMSA is providing the following table which explains the reporting dates for annual reporting:

|  | Normal submission date<br>(49 CFR cite) | Calendar year 2010 submission<br>(49 CFR cite) | Calendar year 2010 extended<br>submission date |
|--|---|--|--|
| Gas Transmission and Gathering Systems Annual Report (PHMSA-F 7100.2-1). | March 15 (§ 191.15(a))                  | June 15, 2011 (§ 191.15(a))                    | Aug. 15, 2011.                                 |
| LNG Annual Report (PHMSA-F 7100.3-1).                                    | March 15 (§ 191.15(b))                  | June 15, 2011 (§ 191.15(b))                    | Aug. 15, 2011.                                 |
| Hazardous Liquid Annual Report (PHMSA-F 7000-1.1).                       | June 15 (§ 195.49)                      | Aug. 15, 2011 (§ 195.49)                       |  |

**Advisory Bulletin (ADB-11-03)**

*To:* Owners and Operators of Gas Transmission and Gathering Pipeline Facilities, LNG Facilities, and Hazardous Liquid Pipeline Facilities.

*Subject:* Submission Dates and Minor Form Changes for Calendar Year 2010 Gas Transmission and Gathering Systems Annual Reports, LNG Annual Reports; and NPMS Data submissions.

*Advisory:* This document advises owners and operators of gas and LNG pipeline facilities that PHMSA is

extending the reporting date for Calendar Year 2010 Gas Transmission and Gathering Systems Annual Reports (PHMSA F-7100.2-1) and LNG Annual Reports (PHMSA F-7100.3-1) to August 15, 2011. These forms were previously scheduled for submission on June 15, 2011. Any questions regarding these submissions may be directed to the Office of Pipeline Safety operator helpline at 202-366-8075.

In addition, operators subject to the NPMS statutory mandate are

encouraged to file their annual data submissions based on their regularly scheduled dates. For example, hazardous liquid operators who normally submit their NPMS data on June 15 when they file their annual report are encouraged to file their 2010 NPMS data submission on June 15, reflecting assets as of December 31, 2010, even though the Hazardous Liquid Annual report is not required for submission until August 15, 2011. Any questions regarding NPMS submissions

can be directed to Amy Nelson at 202-493-0591.

Issued in Washington, DC, on May 10, 2011.

**Alan K. Mayberry,**

*Deputy Associate Administrator for Field Operations.*

[FR Doc. 2011-11954 Filed 5-16-11; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 110218142-1276-02]

RIN 0648-BA91

#### Fisheries of the Northeastern United States; Northeast Skate Complex Fishery; Framework Adjustment 1

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

**ACTION:** Final rule.

**SUMMARY:** This final rule implements approved measures in Framework Adjustment 1 to the Northeast Skate Complex Fishery Management Plan (Skate FMP). Framework Adjustment 1 was developed by the New England Fishery Management Council (Council) to adjust the possession limits for the skate wing fishery in order to slow the rate of skate wing landings, so that the available Total Allowable Landings limit (TAL) is taken by the fishery over a longer duration in the fishing year (FY) than occurred in FY 2010, thus ensuring a steady market supply. The action would also allow vessels that process skate wings at sea to land skate carcasses for sale into the bait market, without counting the carcass landings against the TAL (skate wings are already converted to live weight for monitoring). Although recommended by the Council as part of Framework 1, this final rule announces that NMFS has disapproved a proposal to increase the incidental possession limit for skate wings that would apply after the skate wing possession limit trigger is reached. This final rule does not adjust the skate fishery specifications for FY 2011.

**DATES:** Effective May 17, 2011.

**ADDRESSES:** An environmental assessment (EA) was prepared for Framework Adjustment 1 that describes the proposed action and other considered alternatives, and provides a thorough analysis of the impacts of the

proposed measures and alternatives. Copies of Framework 1, the EA, and the Initial Regulatory Flexibility Analysis (IRFA) are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council (Council), 50 Water Street, Newburyport, MA 01950. These documents are also available online at <http://www.nefmc.org>.

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

#### SUPPLEMENTARY INFORMATION:

##### Background

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*) (68 FR 49693, August 19, 2003). The FMP established biological reference points and overfishing definitions for each species based on abundance indices in the NMFS Northeast Fisheries Science Center bottom trawl survey.

Amendment 3 to the Skate FMP, which was implemented in July 2010, instituted an annual catch limit (ACL) and accountability measures (AMs) for the skate fishery (75 FR 34049, June 16, 2010). To ensure that the ACL is not exceeded, regulations implementing Amendment 3 established a possession limit of 5,000 lb (2,268 kg) of skate wings (11,350 lb (5,148 kg) whole weight) per trip for the skate wing fishery, and an AM that further reduces the wing fishery possession limit to an incidental level of 500 lb (227 kg) of skate wings (1,135 lb (515 kg) whole weight) when 80 percent of the TAL for the wing fishery is reached. In FY 2010, the combination of increased landings of skate wings and a delay in implementation of the 5,000-lb (2,268-kg) skate wing possession limit resulted in the fishery reaching the 80-percent TAL trigger in early September. Consequently, the skate wing fishery was limited to the incidental possession limit of 500 lb (227 kg) of skate wings per trip from September 3, 2010, through the end of FY 2010 on April 30, 2011.

Asserting that the imposition of the 500-lb (227-kg) skate wing possession limit so early in the FY caused disruptions in the supply of skate wings, economic hardship on fishing vessels and dealers, and threatened to undermine the market position of U.S. suppliers, members of the skate wing

fishing industry requested that the Council consider options to mitigate the potential for this situation to be repeated in FY 2011. In November 2010, the Council initiated Framework 1 to change the skate wing possession limits in order to maximize the duration of the skate fishing season in FY 2011. In January 2011, the Council approved Framework 1 and recommended that NMFS implement new possession limits for the skate wing fishery. On April 4, 2011, NMFS published a proposed rule (76 FR 18505) identifying the proposed measures in Framework 1 and informing the public of its intention to disapprove one measure recommended by the Council. Comments on the proposed rule were accepted through April 19, 2011.

#### Approved Measures

NMFS has approved the following changes to the regulations governing the skate fishery as proposed by the Council in Framework 1:

1. The skate wing fishery possession limit is changed from 5,000 lb (2,268 kg) of skate wings per trip to 2,600 lb (1,179 kg) per trip from May 1 through August 31, and 4,100 lb (1,860 kg) per trip from September 1 through April 30;

2. The skate wing fishery incidental possession limit trigger is changed from 80 percent of the skate wing TAL to 85 percent of the skate wing TAL; and

3. The regulations governing the allowable forms of skates that may be possessed and landed is changed to allow the landing of skate carcasses separate from skate wings.

The rationale for the Council's proposed measures in Framework 1 was provided in the preamble to the proposed rule for this action and is not repeated here. Regarding the change to the allowable forms of skates that may be possessed and landed, skates may now be possessed or landed either as wings only, wings with associated carcasses possessed separately, in whole form, or any combination of the three, provided that the weight of skate carcasses does not exceed 1.27 times the weight of skate wings on board. This ratio, based upon established wing-to-whole weight conversion factor for skates, is intended to assure that the only carcasses possessed and landed correspond to skates that have had their wings removed and are retained by the vessel for sale. When any combination of wings, carcasses, and whole skates are possessed, the possession limit is based on the equivalent whole weight limit where wing weight is converted to whole weight using the wing to whole weight conversion factor of 2.27. For example, a vessel possessing 100 lb