

VII. EPA's Proposed Action

Based on complete, quality-assured ozone data for 2006–2008, and considering 2009 ozone data available to date, EPA is proposing to determine that the Chicago-Gary-Lake County, IL-IN ozone nonattainment area is attaining the 1997 eight-hour ozone standard.

EPA is proposing approval of Indiana's request to exempt Lake and Porter Counties from the section 182(f) NO_x RACT requirement. This proposed approval is based on EPA's review of the evidence provided by Indiana that the requirements of section 182(f)(1)(A), as elaborated upon in EPA's guidance for section 182(f) exemptions, have been met for Lake and Porter Counties. In the future, if EPA determines that a violation of the 1997 eight-hour ozone NAAQS has occurred in the Chicago-Gary-Lake County, IL-IN area or at the Chiwaukee Prairie monitoring site in Kenosha County, Wisconsin while Lake and Porter Counties are designated as nonattainment for the 1997 eight-hour ozone NAAQS, EPA will take action to revoke the exemption.

Final approval of Indiana's NO_x RACT exemption request would continue the deferral of the 2:1 new source offset sanction and the highway funding sanction that would have applied based on the finding of failure to submit the NO_x RACT regulations issued by the EPA on March 24, 2009. The deferral would remain in place contingent upon continued attainment of the 1997 eight-hour ozone NAAQS in the Chicago-Gary-Lake County, IL-IN area. If EPA approves a redesignation request for the area for the 1997 eight-hour ozone NAAQS, the sanctions clock will permanently stop at that time. If EPA determines that there is a violation of the 1997 eight-hour ozone NAAQS while Lake and Porter Counties remain designated as nonattainment for the 1997 eight-hour ozone NAAQS, the NO_x RACT waiver will no longer be applicable as of the effective date of any such determination by EPA. At that time, the sanctions will no longer be deferred and the sanctions clock will restart at the point at which it stopped. EPA will provide notice in the **Federal Register** of any such waiver revocation and of the restarting of the sanctions clock.

VIII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions,

EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: September 16, 2009.

Bharat Mathur,

Acting Regional Administrator, Region 5.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0907281181–91191–01]

RIN 0648–AX93

Fisheries of the Northeastern United States; Modification to the Gulf of Maine/Georges Bank Herring Midwater Trawl Gear Authorization Letter

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

ACTION: Proposed rule; reopening of comment period.

SUMMARY: NMFS reopens for 6 days the comment period on the proposed rule to modify the requirements of the Gulf of Maine/Georges Bank (GOM/GB) Herring Midwater Trawl Gear Letter of Authorization (LOA) for midwater trawl vessels issued All Areas and/or Areas 2 and 3 Atlantic herring limited access permits fishing in Northeast (NE) multispecies Closed Area I (CA I).

DATES: The deadline for written comments on the September 4, 2009 (74 FR 45798), proposed rule is reopened through September 27, 2009.

ADDRESSES: You may submit comments, identified by 0648–AX93, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-rulemaking portal: <http://www.regulations.gov>.
- Mail: Paper, disk, or CD-ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930–2276. Mark the outside of the envelope: "Modification to GOM/GB Midwater Trawl LOA."
- Fax: (978) 281–9135.

Instructions: All comments received are 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 (enter "N/A" in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF formats only.

FOR FURTHER INFORMATION CONTACT:

Douglas Potts, Fishery Policy Analyst, (978) 281-9341, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Background

The New England Fishery Management Council (Council) voted at its April 8, 2009, Council meeting to

request that the NMFS Northeast Regional Administrator modify the GOM/GB Herring Midwater Trawl Gear LOA to require midwater trawl vessels fishing in CA I to have 100-percent observer coverage; be prohibited from slipping codends (the practice of opening the codend of the net and releasing the catch before all of it is brought on board); and be required to pump aboard the vessel all fish caught, to allow sampling by the observer.

On September 4, 2009, the proposed rule to implement the Council's requested expanded observer coverage published in the **Federal Register** (74 FR 45798) with a 15-day comment period that closed on September 21,

2009. NMFS has received several requests from members of the fishing industry to extend the comment period until after the Council meeting on September 22-24, 2009. Therefore, to allow for additional public comment to be submitted after this proposed action is discussed at the Council meeting, NMFS is reopening the comment period on the proposed rule through September 27, 2009.

Dated: September 21, 2009.

James W. Balsiger,

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

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