

Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19901.

**FOR FURTHER INFORMATION CONTACT:**

Gregory Becoat, (215) 814-2036, or by e-mail at [becoat.gregory@epa.gov](mailto:becoat.gregory@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On November 17, 2009, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a revision to its SIP for an amendment to Regulation No. 1142/SIP Regulation No. 42—Specific Emission Control Requirements. This SIP revision added a new section, Section 2—Control of Nitrogen Oxide Emissions from Industrial Boilers and Process Heaters at Petroleum Refineries. The regulation was adopted in order to require new and/or additional controls on industrial boilers and process heaters with heat input capacities of equal to or greater than 200 million British thermal units per hour (mmBTU/hr) at petroleum refining facilities and to help Delaware attain and maintain the national ambient air quality standards (NAAQS) for the 1997 8-hour ozone standard by 2010.

**II. Summary of SIP Revision**

Regulation No. 1142/SIP Regulation No. 42 establishes applicability and compliance dates to any industrial boiler or process heater with a maximum heat input capacity of equal to or greater than 200 mmBTU/hr, which is operated or permitted to operate within a petroleum refinery facility (except for any Fluid Catalytic Cracking Unit carbon monoxide (CO) boiler). Regulation No. 1142/SIP Regulation No. 42 establishes NO<sub>x</sub> emission limitations for any industrial boiler or process heater with a maximum heat input capacity of equal to or greater than 200 mmBTU/hr, which is operated or permitted to operate within a petroleum refinery facility. The regulation also requires compliance with monitoring, recordkeeping, and reporting requirements.

**III. Proposed Action**

EPA is proposing to approve the amendment to Delaware's SIP revision Regulation No. 1142/SIP Regulation No. 42—Specific Emission Control Requirements submitted on November 17, 2009. This regulation will help to reduce NO<sub>x</sub> emissions from Delaware's large industrial boilers and process

heaters that are located at petroleum refineries and help Delaware attain and maintain the NAAQS for the 1997 8-hour ozone standard by 2010. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

**IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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 Clean Air Act. Accordingly, this action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed 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 Clean Air Act; 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 proposed rule, pertaining to Delaware's amendment to add a new section, Section 2—Control of Nitrogen Oxide Emissions from Industrial Boilers and Process Heaters at Petroleum Refineries to Regulation No. 1142/SIP Regulation No. 42—Specific Emission Control Requirements, 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: February 25, 2010.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2010-5583 Filed 3-12-10; 8:45 am]

**BILLING CODE 6560-50-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 100210083-0085-01]

**RIN 0648-AY67**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Commercial King and Spanish Mackerel Fisheries of the Gulf of Mexico; Control Date**

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

**ACTION:** Advanced notice of proposed rulemaking; request for comments.

**SUMMARY:** This notice announces that the Gulf of Mexico Fishery Management Council (Council) is considering additional management measures to further limit the number of participants or levels of participation in the commercial king and Spanish mackerel components of the coastal migratory pelagic fishery operating in the exclusive economic zone (EEZ) of the Gulf of Mexico. If such management

measures are implemented, the Council is considering June 30, 2009, as a possible control date for king mackerel and March 31, 2010, as a possible control date for Spanish mackerel. These dates may serve to determine eligibility of catch histories in the commercial king and Spanish mackerel fisheries. NMFS invites comments on the revision of these control dates.

**DATES:** Comments must be submitted by April 14, 2010.

**ADDRESSES:** You may submit comments, identified by RIN 0648–AY67, 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:** Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701

Instructions: No comments will be posted for public viewing until after the comment period has closed. 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. Comments should apply to the control date as an eligibility requirement for a catch share program, not the catch share program itself.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter “NOAA-NMFS–2010–0031” in the keyword search, then select “Send a Comment or Submission.” NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**SUPPLEMENTARY INFORMATION:** The commercial fishery for mackerel in the Gulf of Mexico is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared jointly by the South Atlantic Fishery Management Council and the Gulf of Mexico Fishery Management Council (Council), and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The Council anticipates that future action may be necessary to further control effort or participation of Gulf of Mexico (Gulf) king and Spanish mackerel through additional management actions. At its February 2010 meeting, the Council approved a motion to revise control dates for king and Spanish mackerel. Specifically, the Council may consider creating additional restrictions to limit participation including creating a catch share program. To discourage accelerated effort to develop a catch history before the program is implemented, the Council may establish eligibility criteria based on catch histories from, and before, the most recent full fishing seasons. The proposed control date for king mackerel would be June 30, 2009, and the proposed control date for Spanish mackerel would be March 31, 2010. Thus, landings of the respective species after these dates may not count toward potential eligibility under a future management program. The implementation of a future program to restrict access in the fishery would require preparation of an amendment to the FMP and publication of a notice of availability of the amendment with a comment period, publication of a proposed rule with a public comment period, approval of the amendment, and issuance of a final implementing rule.

The current control date for both king and Spanish mackerel is October 16, 1995. This current notice proposes an adjustment of the control dates for these fisheries to the end of the most recent fishing year to allow incorporation of more recent as well as historical fishing activity.

The revision of control dates for king and Spanish mackerel does not commit the Council or NMFS to any particular management regime. The Council may or may not make use of these control dates as part of the qualifying criteria for participation in any potential future catch share or fishery management program for Gulf group mackerel. Fishermen are not guaranteed future participation in the fishery, regardless of their entry date or intensity of participation in the fishery before or after the control dates under consideration. Future determinations of the Council may give variably weighted consideration to fishermen active in the fishery before and after the control dates. Other qualifying criteria, such as documentation of landings and sales, may be applied for entry into the fishery. Additionally, the Council may choose to take no further action to control entry or access to the fishery, in which case the control dates may be rescinded.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the commercial king and Spanish mackerel fisheries in the Gulf EEZ.

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

Dated: March 9, 2010.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2010–5603 Filed 3–12–10; 8:45 am]

**BILLING CODE 3510–22–S**