

Federal modeling requirements. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the EPA views this as a noncontroversial submittal and anticipates no adverse comments. If no adverse comments are received in response to this action, 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 If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule.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. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by July 11, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2009-0881 by one of the following methods:

A. <http://www.regulations.gov>. Follow the online instructions for submitting comments.

B. *E-mail:* [cox.kathleen@epa.gov](mailto:cox.kathleen@epa.gov).

C. *Mail:* EPA-R03-OAR-2009-0881, Kathleen Cox, Associate Director, Office of Permits and Air Toxics, Mailcode 3AP10, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R03-OAR-2009-0881. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you

submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

**FOR FURTHER INFORMATION CONTACT:** Paul T. Wentworth, (215) 814-2183, or by e-mail at [wentworth.paul@epa.gov](mailto:wentworth.paul@epa.gov).

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: May 6, 2011.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2011-14231 Filed 6-9-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2011-0286; FRL-9318-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Control of Nitrogen Oxides Emissions From Glass Melting Furnaces

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision pertains to the control of nitrogen oxide (NO<sub>x</sub>) emissions from glass melting furnaces. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before July 11, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2011-0286 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov).

C. *Mail:* EPA-R03-OAR-2011-0286, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R03-OAR-2011-0286. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity

or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto, (215) 814-2182, or by e-mail at [quinto.rose@epa.gov](mailto:quinto.rose@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA. On July 23, 2010, the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision to its State Implementation Plan for the control of NO<sub>x</sub> from glass melting furnaces.

**I. Background**

The SIP revision consists of a regulation to control NO<sub>x</sub> emissions from glass melting furnaces. This SIP revision is based on the Ozone Transport Commission (OTC) control measure to reduce NO<sub>x</sub> emissions from glass melting furnaces. The OTC

members include Pennsylvania, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Virginia, and the District of Columbia. The OTC was created under section 184 of the CAA to establish regulatory programs to reduce ozone precursor emissions, which includes the reduction of NO<sub>x</sub> emissions from glass melting furnaces.

**II. Summary of SIP Revision**

The SIP revision adds definitions and terms to Title 25 of the Pennsylvania Code (25 Pa. Code) Chapter 121.1, relating to definitions, used in the substantive provision of this SIP revision. In addition, the SIP revision adds a new regulation pertaining to the NO<sub>x</sub> emission standards in 25 Pa. Code Chapter 129 (Standard of Sources) sections 129.301 through 129.310 (Control of NO<sub>x</sub> Emissions from Glass Melting Furnaces). The new regulation applies to an owner or operator of a glass melting furnace that emits or has the potential to emit NO<sub>x</sub> at a rate greater than 50 tons per year in the Commonwealth of Pennsylvania, including the local air pollution control agencies in Philadelphia and Allegheny Counties. The new regulation consists of the following: (1) New definitions and terms; (2) exemptions that the emission requirements do not apply during periods of start-up, shutdown or idling, if the owner or operator complies with the start-up, shutdown and idling requirements; (3) emission requirements which provide the owner or operator of a glass melting furnace to determine allowable NO<sub>x</sub> emissions by multiplying the tons of glass pulled by each furnace; (4) start-up requirements where the start-up exemption identifies the control technologies or strategies to be used to minimize emissions; (5) shutdown requirements where the duration as measured from the time the furnace operation drops below 25 percent of the permitted production capacity or fuel use capacity to when all emissions from the furnace cease, will not exceed 20 days; (6) idling requirements that provide the owner or operator operate the emission control system whenever technologically feasible during idling to minimize emissions; (7) compliance determination by installing, operating and maintaining continuous emissions monitoring systems (CEMS); (8) compliance demonstration on a furnace-by-furnace basis, facility-wide emissions averaging basis, or a system-wide emissions averaging basis among glass melting furnaces; and (9) reporting and recordkeeping requirements where the

owner or operator calculates and reports the CEMS data and glass production data used to show compliance with the allowable NO<sub>x</sub> emissions limitations on a quarterly basis no later than 30 days after the end of the quarter. A detailed summary of EPA’s review of and rationale for proposing to approve this SIP revision may be found in the Technical Support Document (TSD) for this action which is available on line at <http://www.regulations.gov>, Docket number EPA-R03-OAR-2011-0286.

**III. Proposed Action**

EPA is proposing to approve the Pennsylvania SIP revision for the control of NO<sub>x</sub> emissions from glass melting furnaces submitted on July 23, 2010. This regulation will reduce emissions of NO<sub>x</sub> from glass melting furnaces. The reduction of NO<sub>x</sub> emissions will also help protect the public health from high levels of ozone and fine particulate matter (PM<sub>2.5</sub>), of which NO<sub>x</sub> is a precursor component. The reduction of NO<sub>x</sub> emissions also reduces visibility impairment and acid deposition. 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 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 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 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 proposed rule, pertaining to Pennsylvania's control of NO<sub>x</sub> emissions from glass melting furnaces, 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: May 25, 2011.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2011-14455 Filed 6-9-11; 8:45 am]

**BILLING CODE 6560-50-P**

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 223

[Docket No. 100813359-1195-01]

RIN 0648-AY96

#### Endangered and Threatened Species; Proposed Protective Regulations for the Gulf of Maine Distinct Population Segment of Atlantic Sturgeon

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

**ACTION:** Proposed rule; request for comments; notice of availability of an environmental assessment.

**SUMMARY:** This proposed rule proposes to extend the Endangered Species Act (ESA) section 9(a)(1)(A) through 9(a)(1)(G) prohibitions to all activities impacting the Gulf of Maine (GOM) Distinct Population Segment (DPS) of Atlantic sturgeon throughout its range except for two types of activities, scientific research and rescue/salvage activities, when those activities occur within the riverine range of the GOM DPS. The ESA section 9 prohibitions are comprehensive and pertain to any person subject to the jurisdiction of the United States. Specifically, section 9 of the ESA prohibits the import, export, taking, possession, sale or offering for sale in interstate or foreign commerce, delivery, receiving of, carrying, transportation, or shipping in interstate or foreign commerce any such species, or violation of any regulation pertaining to such species. On October 6, 2010, we, the National Marine Fisheries Service (NMFS), proposed to list the DPS of Atlantic sturgeon in the GOM as threatened under the ESA. When a species is listed as "threatened" under the ESA, we are required to issue protective regulations under section 4(d) of the ESA. Such protective regulations are ones deemed "necessary and advisable for the conservation of the species" and may include any act prohibited for endangered species under section 9(a)(1) of the ESA. The prohibitions and exceptions proposed in this rule are deemed necessary and advisable for the conservation of this species. We expect that the result of extending such prohibitions will be to protect the GOM DPS of Atlantic sturgeon from direct forms of take, such as physical injury or killing, and from indirect forms of take, such as harm that results from habitat degradation while still allowing scientific research as well as salvage of dead fish and rescue of injured fish by experienced personnel. These actions will help preserve and recover the GOM DPS of Atlantic sturgeon by addressing the negative effects from stressors impeding recovery of the DPS.

**DATES:** Comments on this proposal must be received by August 9, 2011.

**ADDRESSES:** You may submit comments, identified by the RIN No. 0648-AY96, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* To the attention of Lynn Lankshear at (978) 281-9394.

- *Mail or hand-delivery:* Submit written comments to the Assistant Regional Administrator, Protected Resources Division, NMFS, Northeast Region, 55 Great Republic Drive, Gloucester, MA 01930.

**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.

We 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 file formats only.

The proposed rule and other reference materials regarding this determination are available electronically at [http://www.nero.noaa.gov/prot\\_res/atlsturgeon/under](http://www.nero.noaa.gov/prot_res/atlsturgeon/under) the section titled "What's New" or by submitting a request to the Assistant Regional Administrator, Protected Resources Division, NMFS, Northeast Region, 55 Great Republic Drive, Gloucester, MA 01930.

**FOR FURTHER INFORMATION CONTACT:** Lynn Lankshear, NMFS, Northeast Region (978) 282-8473, Kimberly Damon-Randall, NMFS, Northeast Region (978) 282-8485 or Lisa Manning, NMFS, Office of Protected Resources (301) 713-1401.

#### SUPPLEMENTARY INFORMATION:

##### Background

As described in the **Federal Register** notices published October 6, 2010 (75 FR 61872 and 75 FR 61904), NMFS determined that there are five Atlantic sturgeon DPSs within the United States. Along with the GOM DPS, there are also the New York Bight (NYB), Chesapeake Bay (CB), Carolina, and South Atlantic DPSs. NMFS has determined that listing all of the U.S. Atlantic sturgeon DPSs except the GOM DPS as endangered is warranted.

The prohibitions listed under section 9(a)(1) of the ESA automatically apply when a species is listed as endangered but not when listed as threatened. Section 9 of the ESA prohibits any person subject to the jurisdiction of the United States from: (a) Importing any such species into, or exporting any such species from the U.S.; (b) taking any such species within the U.S. or the U.S. territorial sea; (c) taking any such species upon the high seas; (d)