

(4) *Regulated area* includes the waters of the Patapsco River, Baltimore, MD, Inner Harbor within the immediate vicinity of the southwest corner of the harbor adjacent to the Maryland Science Center. The area is bounded on the south and west by the shoreline promenade, bounded on the north by a line drawn along latitude 39°16'58" North and bounded on the east by a line drawn along longitude 076°36'36.5" West. All coordinates reference Datum NAD 1983.

(b) *Special local regulations:* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the event area.

(c) *Effective period.* This section will be enforced from 2:30 p.m. to 9:30 p.m. on August 2, 2008.

Dated: July 15, 2008.

**Fred M. Rosa, Jr.,**

*Rear Admiral, U.S. Coast Guard, Commander,  
Fifth Coast Guard District.*

[FR Doc. E8-17055 Filed 7-24-08; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2008-0109; FRL-8694-8]

#### Determination of Attainment for the Ozone National Ambient Air Quality Standards for Nonattainment Areas in Delaware, District of Columbia, Maryland, Pennsylvania, and Virginia

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

**ACTION:** Final rule.

**SUMMARY:** EPA has determined that two severe 1-hour ozone nonattainment areas, Philadelphia-Wilmington-Trenton, and the Metropolitan Washington, DC, attained the 1-hour ozone National Ambient Air Quality Standards (NAAQS) by the applicable attainment date of November 15, 2005. EPA has also determined that these areas are not subject to the imposition of the penalty fees under section 185 of

the Clean Air Act (CAA). These determinations of attainment are not a redesignation to attainment for these severe areas for which air quality monitoring data indicates attainment of the standard. EPA is issuing this final action to fulfill obligations to make such determinations under the CAA.

**DATES:** *Effective Date:* This final rule is effective on August 25, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2008-0109. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (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 through <http://www.regulations.gov> or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

**FOR FURTHER INFORMATION CONTACT:**

Christopher Cripps, (215) 814-2179, or by e-mail at [cripps.christopher@epa.gov](mailto:cripps.christopher@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, “we,” “us,” and “our” refer to EPA.

#### I. Background

On April 28, 2008, (73 FR 22896), EPA published a notice of proposed rulemaking (NPR) for these actions. The NPR proposed to determine that two severe 1-hour ozone nonattainment areas, Philadelphia-Wilmington-Trenton, and Metropolitan Washington, DC, attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005, and, proposed to find that these areas are not subject to the imposition of the penalty fees under section 185 of the CAA. These proposals were based on three years of complete, quality-assured ambient air quality monitoring data for 2003 through 2005 ozone seasons. These proposed determinations of attainment were not a redesignation to attainment for these severe areas for which air quality monitoring data indicates attainment of the standard.

We received two letters supporting the proposed actions and received no adverse public comments on the NPR. The background for this action, the requirements of section 185 of the CAA,

and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

The geographic boundaries of each nonattainment area affected by this action can be found in the NPR (73 FR 22896 at 22896–22897, April 28, 2008). *See also*, the tables entitled “Ozone (1-Hour Standard)” in the following sections of 40 CFR part 81: §§ 81.308, 81.309, 81.321, 81.339 and 81.347 for Delaware, the District of Columbia, Maryland, Pennsylvania, and Virginia, respectively. Note that for each State the codification of these determinations in 40 CFR part 52 the name of the 1-hour severe ozone nonattainment area used is the name of that area as it appears in the table entitled “Ozone (1-Hour Standard)” in 40 CFR part 81 for that State.

#### II. Final Action

##### A. Philadelphia Area

Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Philadelphia-Wilmington-Trenton, severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that this area is not subject to the imposition of the section 185 penalty fees.

##### B. Washington Area

Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Metropolitan Washington, DC, severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that this area is not subject to the imposition of the section 185 penalty fees.

#### IV. Statutory and Executive Order Reviews

##### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 Fed. Reg. 28355 (May 22, 2001)). This final action determines that two areas have attained a previously-established NAAQS based on an objective review of measured air quality data and imposes no additional requirements. Accordingly, the Administrator certifies that these final

rules will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because these rules do not impose any additional enforceable duties, they do 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). These final rules also do not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will they have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because these final actions determine that each of two areas has attained a Federal standard, and do not alter the relationship or the distribution of power and responsibilities established in the CAA. In addition, these rules do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. These final rules also are not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because they are not economically significant.

These rules do not involve establishment of technical standards, and thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. These final rules do not impose an information collection burden under the provisions of the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### *B. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### *C. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 23, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action that determines that the Philadelphia-Wilmington-Trenton and Metropolitan Washington, DC, severe zone nonattainment areas attained the 1-hour ozone NAAQS and are not required to impose section 185 penalty fees may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 52**

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

Dated: July 8, 2008.

**Donald S. Welsh**,  
*Regional Administrator, Region III.*

#### **PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

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

#### **Subpart I—Delaware**

■ 2. Section 52.426 is amended by adding paragraph (f) to read as follows:

##### **§ 52.426 Control strategy plans for attainment and rate-of-progress: Ozone.**

\* \* \* \* \*

(f) Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Philadelphia-Wilmington-Trenton severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that the Philadelphia-Wilmington-Trenton severe 1-hour ozone nonattainment area is not subject to the imposition of the section 185 penalty fees.

#### **Subpart J—District of Columbia**

■ 3. Section 52.476 is amended by adding paragraph (d) to read as follows:

##### **§ 52.476 Control strategy: Ozone.**

\* \* \* \* \*

(d) Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Washington severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that the Washington severe 1-hour ozone nonattainment area is not subject to the imposition of the section 185 penalty fees.

#### **Subpart V—Maryland**

■ 4. Section 52.1076 is amended by adding paragraphs (o) and (p) to read as follows:

##### **§ 52.1076 Control strategy plans for attainment and rate-of-progress: Ozone.**

\* \* \* \* \*

(o) Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Washington, DC severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that the Washington, DC severe 1-hour ozone nonattainment area is not subject to the imposition of the section 185 penalty fees.

(p) Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Philadelphia-Wilmington-Trenton severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable

attainment date of November 15, 2005. EPA also has determined that the Philadelphia-Wilmington-Trenton severe 1-hour ozone nonattainment area is not subject to the imposition of the section 185 penalty fees.

#### Subpart NN—Pennsylvania

■ 5. Section 52.2037 is amended by adding paragraph (n) to read as follows:

**§ 52.2037 Control strategy plans for attainment and rate-of-progress: Ozone.**

\* \* \* \* \*

(n) Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Philadelphia-Wilmington-Trenton severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that the Philadelphia-Wilmington-Trenton severe 1-hour ozone nonattainment area is not subject to the imposition of the section 185 penalty fees.

#### Subpart VV—Virginia

■ 6. Section 52.2428 is amended by adding paragraph (e) to read as follows:

**§ 52.2428 Control Strategy: Carbon monoxide and ozone.**

\* \* \* \* \*

(e) Based upon EPA's review of the air quality data for the 3-year period 2003 to 2005, EPA has determined that the Washington, DC severe 1-hour ozone nonattainment area attained the 1-hour ozone NAAQS by the applicable attainment date of November 15, 2005. EPA also has determined that the Washington, DC severe 1-hour ozone nonattainment area is not subject to the imposition of the section 185 penalty fees.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 070917520-8831-03]

RIN 0648-AW06

#### Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fisheries of the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues a final rule that implements Amendment 89 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) to establish Bering Sea habitat conservation measures. Amendment 89 prohibits nonpelagic trawling in certain waters of the Bering Sea subarea to protect bottom habitat from the potential adverse effects of nonpelagic trawling. Amendment 89 also establishes the Northern Bering Sea Research Area for studying the impacts of nonpelagic trawling on bottom habitat. This rule is necessary to protect portions of the Bering Sea subarea bottom habitat from the potential effects of nonpelagic trawling and to provide the opportunity to further study the effects of nonpelagic trawling on bottom habitat. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

**DATES:** Effective August 25, 2008.

**ADDRESSES:** Copies of the FMP amendment, maps of the Bering Sea subarea nonpelagic trawl closure areas and Northern Bering Sea Research Area, and the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) for this action may be obtained from NMFS Alaska Region, P. O. Box 21668, Juneau, AK 99802, or from the Alaska Region NMFS website at <http://www.alaskafisheries.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Melanie Brown, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The Bering Sea and Aleutian Islands Management Area (BSAI) groundfish fisheries are managed under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations implementing the FMP appear at 50 CFR parts 679 and 680. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

#### Background

In June 2007, the Council recommended closing areas in the Bering Sea subarea to nonpelagic trawling as a precautionary measure to prevent the potential adverse effects of nonpelagic trawling on portions of bottom habitat. These areas are (1) the Bering Sea Habitat Conservation Area

(BSHCA); (2) the St. Lawrence Island Habitat Conservation Area; (3) the St. Matthew Island Habitat Conservation Area; (4) the Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area; and (5) the Northern Bering Sea Research Area (NBSRA). These closed areas include locations that have not been previously fished with nonpelagic trawl gear, nearshore bottom habitat areas that support subsistence marine resources, blue king crab habitat, and a research area for further study of the potential impacts of nonpelagic trawling on bottom habitat. The closed areas that extend into State of Alaska waters apply to federally permitted vessels operating in State of Alaska waters.

Detailed background information for each of the closed areas is in the preamble to the proposed rule (73 FR 12357, March 7, 2008). The Council submitted Amendment 89 for review by the Secretary of Commerce, and a notice of availability of the amendment was published in the **Federal Register** on February 27, 2008 (73 FR 10415), with comments on the amendment invited through April 28, 2008. The comments on the proposed rule were invited through April 21, 2008. The FMP was approved by the Secretary of Commerce on May 19, 2008.

#### Regulatory Amendments

This final rule adds definitions to § 679.2 and new coordinate tables and figures for the areas closed to nonpelagic trawling and the research area. The definitions for the BSHCA; NBSRA; and Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area refer to Tables 42, 43, and 44, and Figures 16, 17, and 21 to part 679, respectively, because of the complexity of the area boundaries. The definitions for the St. Lawrence Island Habitat Conservation Area and St. Matthew Island Habitat Conservation Area refer to Tables 45 and 46 to part 679 for the area boundaries; no figures are necessary due to the simple shapes of these closures.

This final rule also adds § 679.22(a)(16) through (20) to close the BSHCA; St. Matthew Island Habitat Conservation Area; St. Lawrence Island Habitat Conservation Area; Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area; and NBSRA to nonpelagic trawling.

#### Comments and Responses

NMFS received eight comments from individuals, the Council, and groups on the notice of availability for Amendment 89 (73 FR 10415, February 27, 2008). NMFS received 6,266