

applicants for employment could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is also exempt from the regulatory flexibility analysis requirements of sections 603 and 604.

#### Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a "significant regulatory action," requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

#### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995, codified at 2 U.S.C. 1532, requires agencies to prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### Catalog of Federal Domestic Assistance

There is no Catalog of Federal Domestic Assistance number for this final rule.

#### List of Subjects in 38 CFR Part 2

Authority delegations (Government agencies).

Approved: April 19, 2007.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

■ For the reasons set forth in the preamble, the Department of Veterans Affairs amends 38 CFR part 2 as follows:

#### PART 2—DELEGATIONS OF AUTHORITY

■ 1. The authority citation for part 2 continues to read as follows:

**Authority:** 5 U.S.C. 302, 552a; 38 U.S.C. 501, 512, 515, 1729, 1729A, 5711; 44 U.S.C. 3702, and as noted in specific sections.

■ 2. Amend § 2.6, by revising paragraph (j) to read as follows:

#### § 2.6 Secretary's delegations of authority to certain officials (38 U.S.C. 512).

\* \* \* \* \*

(j) *Delegation to the Chairman, Board of Veterans' Appeals.* In cases where OEDCA has recused itself from a case due to an actual, apparent, or potential conflict of interest, the Chairman, Board of Veterans' Appeals, is delegated authority to make procedural agency decisions to dismiss, in whole or in part, EEO discrimination complaints filed by agency employees, former employees, and applicants for employment; to make substantive final agency decisions where complainants do not request an EEOC hearing; to take final agency action following a decision by an EEOC Administrative Judge; and to make final agency decisions ordering appropriate remedies and relief where there is a finding of discrimination.

\* \* \* \* \*

[FR Doc. E7-9286 Filed 5-14-07; 8:45 am]

**BILLING CODE 8320-01-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 81

[EPA-R03-OAR-2006-0682; FRL-8314-6]

#### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Redesignation of the West Virginia Portion of the Wheeling, WV-OH 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a redesignation request and a State

Implementation Plan (SIP) revision submitted by the State of West Virginia. The West Virginia Department of Environmental Protection (WVDEP) is requesting that the Marshall and Ohio County, West Virginia (Wheeling) portion of the Wheeling, WV-OH area (herein referred to as the "Area") be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the State submitted a SIP revision consisting of a maintenance plan for Wheeling that provides for continued attainment of the 8-hour ozone NAAQS for the next 12 years, until 2018. EPA is also approving the adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the Wheeling 8-hour ozone maintenance plan for purposes of transportation conformity, and is approving those MVEBs. EPA is approving the redesignation request and the maintenance plan revision to the West Virginia SIP in accordance with the requirements of the CAA.

**EFFECTIVE DATE:** This final rule is effective on June 14, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2006-0682. All documents in the docket are listed in the [www.regulations.gov](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 [www.regulations.gov](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. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street, SE., Charleston, WV 25304.

**FOR FURTHER INFORMATION CONTACT:** Amy Caprio, (215) 814-2156, or by e-mail at [caprio.amy@epa.gov](mailto:caprio.amy@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On October 2, 2006 (71 FR 57894), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed approval of West Virginia's redesignation request

and a SIP revision that establishes a maintenance plan for Wheeling that sets forth how Wheeling will maintain attainment of the 8-hour ozone NAAQS for the next 12 years. The formal SIP revision was submitted by the WVDEP on July 24, 2006. Other specific requirements of West Virginia's redesignation request SIP revision for the maintenance plan and the rationales for EPA's proposed actions are explained in the NPR and will not be restated here.

On October 20, 2006, EPA received a comment, from the West Virginia Division of Highways, in support of its October 2, 2006 NPR. Also, on October 28, 2006, EPA received adverse comments on the said October 2, 2006 NPR. A summary of the comments submitted and EPA's responses are provided in Section II of this document.

## II. Summary of Public Comments and EPA Responses

*Comment:* The commenter stated that on behalf of the West Virginia Division of Highways, they would like to go on record as supporting the redesignation of the Wheeling, West Virginia portion of the Wheeling, WV-OH interstate area from nonattainment to attainment.

*Response:* EPA acknowledges the comment of support for our final action.

*Comment:* The commenter states that the Wheeling Area redesignation is based on 2002–2004 air quality data, and should instead be based on the most recent three years of air quality data, 2004–2006.

*Response:* EPA disagrees that the 2006 data was available as a basis for redesignating Wheeling to attainment, and also disagrees with the comment that the redesignation cannot be based on the quality assured 2002–2004 air quality data. EPA may redesignate an area to attainment of the 8-hour ozone NAAQS if three years of quality assured data indicate that the area has attained the standard and the most recent quality assured air quality data indicate that the area is still attaining the standard at the time of the redesignation. EPA has determined that the Wheeling, WV portion of the Wheeling, WV-OH nonattainment area has attained compliance with the 8-hour ozone NAAQS subsequent to the calendar year 2004 ozone season (April–October) based on three years (2002–2004) of quality assured data. It is also worth noting that while our determination that the Area has attained the standard is based on the 2002–2004 data, the 2005 calendar year quality assured data and the newly available quality assured data from 2006, indicate that the Area continues to attain the standard. The

2005 and 2006 data support our conclusion in the notice of proposed rulemaking (NPR) on October 2, 2006 (71 FR 57894) that emissions reductions in the Area can be attributed to permanent and enforceable measures throughout the Area and that air quality monitoring data indicates that the Area continues to attain the 8-hour ozone NAAQS.<sup>1</sup>

*Comment:* The commenter asserts that EPA should not approve the redesignation of Wheeling because the Wheeling monitor was twice relocated during calendar years 2004 and 2005. The commenter states that (at its current location) the Wheeling ozone monitor should operate for one additional year in order to confirm attainment of the NAAQS and that EPA should not act on WVDEP's redesignation request until the air quality data for the additional monitoring period have been evaluated.

*Response:* Since 1982, WVDEP has operated and maintained an ozone monitoring station for the West Virginia portion of the Wheeling Area. The commenter refers to the Wheeling monitor as having been relocated from "Site 7" to "Site 9," and finally to "Site 10." The monitoring station was originally located at WVDEP's Northern Panhandle Regional Office. The station continued to operate at this location (Site 7) until WVDEP had to discontinue the operations at the site due to the relocation of its Northern Panhandle Regional Office prior to the calendar year 2004 ozone season (April through October). As a result, WVDEP installed an interim ozone station in the Wheeling Area which was located approximately four miles south of the station's original location and collected data for the 2004 ozone season (Site 9). In anticipation of the 2005 season, WVDEP established a new site for the Wheeling ozone monitor which was approximately three-tenths of a mile south of the monitor's original location (Site 10). The new monitoring site is similar in characteristics to the original monitoring site. The sites are located in the same river valley with no obstructions between the sites and have a similar distribution of surrounding ozone sources. Both monitoring locations are located within the City of Wheeling, West Virginia and the surrounding areas have comparable population density, with no large industrial sources, and no adjacent

highways. The current location of the Wheeling ozone monitor is in an area which has the infrastructure and arranged access to operate for many years.

The data from monitoring sites 7, 9, and 10 were pooled for two three-year periods: (1) 2002, 2003, and 2004 (Sites 7 and 9) and (2) 2003, 2004 and 2005 (Sites 7, 9, 10). In addition, the data from monitoring sites 9 and 10 were pooled for 2004–2006. *See also*, footnote 1. The commenter asserted that data obtained from Site 9 was a "poor site" and that the data obtained from this site in 2004 was of low value for purpose of the 8-hour ozone NAAQS. EPA evaluated ozone statistics for the Wheeling Area for 2004 (i.e., number of days with eight-hour averages greater than 0.0084 ppm and 4th highest eight-hour average for the year), and found them to be reasonable and consistent when compared to ozone measurements collected in Wheeling and at other nearby monitoring stations in the Ohio River Valley during the period examined (1998 thru 2005).

Based on a review of ozone air quality data from the Wheeling Area for this period, the proximity and characteristics of the monitoring sites, and giving consideration to WVDEP's reasons for relocating the ozone monitoring station during period of 2003–2005, EPA has concluded that the integrity of ozone data submitted for this Area was not affected by the fact that the data was collected from three different, and relatively close together, monitoring locations. This data is acceptable for purposes of redesignating the Wheeling Area to attainment of the 8-hour ozone NAAQS.

*Comment:* The commenter asserts that cold and wet summers, rather than enforceable emissions reductions are a significant cause of improvement of air quality in Wheeling, although the commenter also asserts based on the number of days exceeding 84 ppb in 2005 that the air quality is actually not improving.

*Response:* In accordance with Appendix I to 40 CFR Part 50, compliance with the 8-hour ozone NAAQS is met at an ambient air monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm; it is not based on the number of days which exceed the 8-hour ozone standard. Additionally, EPA uses the three-year averaging period to minimize year to year variations in the summer (i.e., ozone season) weather. *See* Redesignation of Pittsburgh, Pennsylvania, 66 FR 53094, 53100

<sup>1</sup> The fourth highest 8-hour ozone monitoring values at the Ohio County, West Virginia monitor for 2006 were 0.085 ppm, 0.083 ppm, 0.079 ppm, and 0.079 ppm. Thus the design value at the Area monitor for monitoring years 2004–2006 are still showing attainment of the 8-hour NAAQS with a value of 0.077 ppm at the Wheeling monitor.

(October 19, 2001). Therefore, the number of days exceeding 84 ppb are not relevant to a determination of whether an area (or portion thereof), has attained the 8-hour ozone NAAQS. Information relative to long term trends of West Virginia summer temperatures and rainfall-based data was obtained from the National Oceanic and Atmospheric Administration's (NOAA) National Climate Data Center (please see attached). Based on EPA's review, this information shows that the summers 2000 through 2006 experienced year to year variations in average summer temperature and rainfall typical of the summer seasons in the State of West Virginia. Thus the improvement in air quality is not due to unusually cold and wet summers. Rather, the improvement in air quality is due to the implementation of permanent and enforceable measures as explained in the NPR. The permanent and enforceable measures listed in the Wheeling NPR include the National Low Emissions Vehicle (NLEV), motor vehicle fleet turnover with new vehicles meeting the Tier 2 standards, and the Clean Diesel Program. These federal vehicle programs along with the NO<sub>x</sub> SIP Call resulted in a 0.9 tons per year (tpy) decrease in VOC emissions and a 69.8 tpy decrease in NO<sub>x</sub> emissions throughout the Wheeling Area between 2002 and 2004. Therefore, EPA believes that the improvement in 8-hour ozone air quality is a result of identifiable, permanent and enforceable reductions in ozone precursor emissions, not unusually cold and wet summers.

*Comment:* The commenter requests air quality data for time periods outside the time period to be used for redesignation, and for areas outside the West Virginia portion of the Wheeling Area which is the subject of this rulemaking, and other air quality data such as data provided by the Clean Air Status and Trends Network (CASTNET) and the National Atmospheric Deposition Program (NADP) monitoring networks, which has not been used to support this rulemaking. The commenter also insists that monitoring data from a rural ozone monitoring site, a CASTNET monitor, located in adjacent Noble County, Ohio should have been considered in this rulemaking.

*Response:* As discussed previously, the redesignation is demonstrated by the quality assured 2002–2004 ozone monitoring data, and continued attainment of the 8-hour ozone NAAQS is demonstrated by the quality assured 2005 and 2006 ozone monitoring data for the Wheeling Area. Other air quality data, from other monitoring networks or

for time periods outside the years being used to support the redesignation request, or which are located outside the Wheeling Area (i.e., Noble County, OH CASTNET monitor), are not relevant to the redesignation request. Furthermore, CASTNET and NADP monitors are not operated for purposes of the regional ozone monitoring network nor do they satisfy the quality assurance requirements necessary to support requests for redesignation.

Additionally, the United States Court of Appeals for the District of Columbia Circuit recently vacated EPA's April 30, 2004 "Final Rule To Implement the 8-Hour Ozone National Ambient Standard" (the Phase 1 implementation rule). *South Coast Air Quality Management District v. EPA*, 472 F.3d 882 (D.C. Cir. 2007). EPA issued a supplemental proposed rulemaking that set forth its views on the potential effect of the Court's ruling on this and other proposed redesignation actions. 72 FR 13452 (March 22, 2007). EPA proposed to find that the Court's ruling does not alter any requirements relevant to the proposed redesignations that would prevent EPA from finalizing these redesignations, for the reasons fully explained in the supplemental notice. EPA provided a 15-day review and comment period on this supplemental proposed rulemaking. The public comment period closed on April 6, 2007. EPA received six comments, all supporting EPA's supplemental proposed rulemaking, and supporting redesignation of the affected areas. EPA recognizes the support provided in these comments as well, but again, we do not believe any specific response to comments is necessary with respect to these comments. In addition, several of these comments included additional rationale for proceeding with these proposed redesignations. EPA had not requested comment on any additional rationale, does not believe any additional rationale is necessary, and similarly does not believe any specific response to these comments is necessary, and thus has not provided any.

### III. Final Action

EPA is approving the State of West Virginia's July 24, 2006 redesignation request and maintenance plan because the requirements for approval have been satisfied. EPA has evaluated West Virginia's redesignation request, submitted on July 24, 2006, and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that

Wheeling has attained the 8-hour ozone standard. The final approval of this redesignation request will change the designation of Wheeling from nonattainment to attainment for the 8-hour ozone standard. EPA is approving the associated maintenance plan for Wheeling, submitted on July 24, 2006, as a revision to the West Virginia SIP. EPA is approving the maintenance plan for Wheeling because it meets the requirements of section 175A.

EPA is also approving the MVEBs submitted by West Virginia in conjunction with its redesignation request. In this final rulemaking, EPA is notifying the public that we have found that the MVEBs for NO<sub>x</sub> and VOCs in the Wheeling 8-hour ozone maintenance plan are adequate and approved for conformity purposes. As a result of our finding, Marshall and Ohio Counties must use the MVEBs from the submitted 8-hour ozone maintenance plan for future conformity determinations. The adequate and approved MVEBs are provided in the following table:

ADEQUATE AND APPROVED MOTOR VEHICLE EMISSIONS BUDGETS (MVEBs) IN TONS PER DAY (TPD)

Budget year	NO <sub>x</sub>	VOC
2009 .....	4.3	2.5
2018 .....	1.7	1.4

Wheeling is subject to the CAA's requirements for basic ozone nonattainment areas until and unless it is redesignated to attainment.

## 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 action approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(e) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this final

rule 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 this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). This final rule also does 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 it 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 it affects the status of a geographical area, does not impose any new requirements on sources, or allow the state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This final rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission; to use VCS in place

of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. 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 final 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.

*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 rule 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**. This rule 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 July 16, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, to approve the redesignation request, maintenance plan and adequacy determination for MVEBs for Wheeling, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Nitrogen dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

*40 CFR Part 81*

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 8, 2007.

**William T. Wisniewski,**  
*Acting Regional Administrator, Region III.*

■ 40 CFR parts 52 and 81 are amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart XX—West Virginia**

■ 2. In § 52.2520, the table in paragraph (e) is amended by adding an entry for the 8-Hour Ozone Maintenance Plan, Wheeling, WV-OH Area at the end of the table to read as follows:

**§ 52.2520 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
8-Hour Ozone Maintenance Plan for the Wheeling, WV-OH Area.	Marshall and Ohio County .....	07/24/06	05/15/07 [Insert page number where the document begins].	

**PART 81—[AMENDED]**

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. In § 81.349 the table entitled "West Virginia—Ozone (8-Hour Standard)" is amended by revising the entry for the

Wheeling, WV-OH Area to read as follows:

**§ 81.349 West Virginia.**

\* \* \* \* \*

## WEST VIRGINIA—OZONE (8-HOUR STANDARD)

Designated area	Designation <sup>a</sup>		Category/classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
* * *	*	*	*	*
<b>Wheeling, WV-OH Area</b>				
Marshall County .....	5/15/07	Attainment.		
Ohio County .....	5/15/07	Attainment.		
* * *	*	*	*	*

<sup>a</sup> Includes Indian country located in each county or area except otherwise noted.

<sup>1</sup> This date is June 15, 2004, unless otherwise noted.

\* \* \* \* \*  
[FR Doc. E7-9287 Filed 5-14-07; 8:45 am]  
BILLING CODE 6560-50-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 060525140-6221-02]

RIN 0648-XA21

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper/Grouper Resources of the South Atlantic; Trip Limit Reduction

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

**ACTION:** Temporary rule; inseason adjustment.

**SUMMARY:** NMFS reduces the commercial trip limit for golden tilefish in the South Atlantic to 300 lb (136 kg) per trip in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the South Atlantic golden tilefish resource.

**DATES:** This rule is effective 12:01 a.m., local time, May 17, 2007, through January 1, 2008, unless changed by further notification in the **Federal Register**.

#### FOR FURTHER INFORMATION CONTACT:

Jason Rueter, telephone 727-824-5305, fax 727-824-5308, e-mail [jason.rueter@noaa.gov](mailto:jason.rueter@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Resources of the South Atlantic (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Under 50 CFR 622.44(c)(2), NMFS is required to reduce the trip limit in the commercial fishery for golden tilefish when 75 percent of the fishing year quota is met to 300 lb (136 kg) per trip, by filing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that 75 percent of the available commercial quota of 295,000 lb (133,810 kg), gutted weight, for golden tilefish will be reached on or before May 17, 2007. Accordingly, NMFS is reducing the commercial golden tilefish trip limit to 300 lb (136 kg) in the South Atlantic EEZ from 12:01 a.m., local time, on May 17, 2007, until the fishery closes or 12:01 a.m., local time, on January 1, 2008, whichever occurs first.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant

Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action in order to protect the fishery since the capacity of the fishing fleet allows for rapid over harvest of the quota. Prior notice and opportunity for public comment would require additional time and would likely result in a harvest well in excess of the established quota. For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

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

Dated: May 10, 2007.

**James P. Burgess,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 07-2392 Filed 5-10-07; 4:08 pm]

BILLING CODE 3510-22-S