

unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not 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 merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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. 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 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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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**. 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).

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 November 13, 2000. 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 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 20, 2000.

Felicia Marcus,
Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is 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 F—California

2. Section 52.220 is amended by adding paragraphs (c)(277)(i)(C)(2) and (c)(278) to read as follows:

§ 52.220 Identification of plan.

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- (c) * * *
- (277) * * *
- (i) * * *
- (C) * * *

(2) Rule 8.20, amended on March 3, 1999.

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(278) New and amended regulations for the following APCDs were submitted on January 21, 2000, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(1) Rule 1130 amended on October 8, 1999.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 00211038-0232-02; I.D. 101499D]

RIN 0648-AM93

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Resubmission of Disapproved Measure in Amendment 9

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement a previously disapproved measure that was originally contained in Amendment 9 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). This final rule establishes a commercial trip limit for greater amberjack. The intended effect is to prevent overfishing and conserve and manage greater amberjack.

DATES: This final rule is effective October 13, 2000.

ADDRESSES: Comments on ambiguity or unnecessary complexity arising from the language used in this rule should be directed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Dr. Peter J. Eldridge, telephone: 727-570-5305; fax: 727-570-5583; e-mail: Peter.Eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the South Atlantic Fishery Management Council (Council), approved by NMFS, 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.

On October 26, 1999, NMFS announced the availability of, and requested comments on, a resubmission of a measure to establish a 1,000-lb (454-kg) trip limit for greater amberjack (64 FR 57623). This measure was previously disapproved when it was submitted as part of the original submission by the Council of FMP Amendment 9. NMFS approved the resubmitted trip limit measure on January 26, 2000. On May 18, 2000, NMFS published a proposed rule to implement the approved measure and requested comments on the rule (65 FR 31507). The background and rationale for the resubmitted measure are contained in the preamble to the proposed rule and are not repeated here.

Comments and Responses

NMFS received three comments in response to the notice of availability for the resubmitted trip limit measure (64 FR 57623, October 26, 1999). No comments were received on the proposed rule. A summary of the comments received and NMFS' responses follow.

Comment 1: Two commenters supported the 1,000-lb (454-kg) commercial trip limit for greater amberjack as being necessary for the conservation and management of the species.

Response: NMFS agrees.

Comment 2: One commenter recommended that the trip limit be specified in number of fish rather than in pounds of fish because it is easier to count than to weigh fish at sea. Also, the commenter stated that greater amberjack were increasing in number and interfered with his fishing for yellowtail snapper.

Response: Although it is easier to count fish at sea than to weigh them, under the provisions of the Magnuson-Stevens Act, NMFS can only approve or disapprove a measure as it is proposed by the Council. NMFS approved the trip limit as proposed by the Council, after completing Secretarial review. This review considered all the available information. The current status of the greater amberjack stock relative to the FMP's current overfishing definition for this species is unknown. Current data show declines in average size and landings of greater amberjack. Accordingly, in FMP Amendment 9, the Council proposed precautionary measures to ensure that greater amberjack did not approach an overfished condition. Many fishermen north of Florida are reporting reduced abundance of greater amberjack. NMFS

agrees with the Council that it is necessary to implement the 1000-lb (454-kg) commercial trip limit, given all of the available information.

Comment 3: One commenter from north Florida opposed the commercial trip limit for greater amberjack. He stated that the commercial annual quota was not reached last year and that the trip limit would cause him economic hardship because the fishing grounds are 50 to 60 miles (80 to 96 km) offshore. He stated that the April spawning closure and the annual quota were sufficient to protect the greater amberjack resource.

Response: As noted here, the status of the greater amberjack stock relative to the FMP's current overfishing definition is unknown. However, considerable information as well as accounts from fishermen, particularly those north of Florida, indicate the resource may be declining. The Council and NMFS believe that it is better to take a precautionary management approach rather than risk overfishing the resource, given the uncertainty regarding the status of the stock. Thus, the Council proposed, and NMFS approved, the conservation measures for greater amberjack, including the commercial trip limit.

NMFS agrees that some fishing revenues could be lost due to the trip limit. During the 1996-97 fishing year, a total of 553 commercial fishing craft landed greater amberjack and took 3,685 trips on which landings of greater amberjack were reported. Of the 553 fishing craft that could be impacted, 73 reported a total of 290 trips that resulted in landings over 1,000 lb (454-kg) of greater amberjack. This represents 8 percent of all greater amberjack trips. For those 73 entities reporting at least one trip on which 1,000 lb (454-kg) of greater amberjack were reported, greater amberjack represented about 30 percent of their annual gross revenue. It is expected that these vessels will lose some revenue if they do not change their fishing behavior. However, it is known from empirical observations in other fisheries where a trip limit was implemented that fishing behavior indeed changes. A NMFS economic analysis, based on landings data for this fishery, indicated that fishermen could make additional trips and recover most of the lost revenue. The analysis further indicated that the overall outcome of the trip limit would be a loss of about 3 percent of net operating revenue per vessel. The potential loss could be reduced to the extent that the affected vessels could target other species. The trip limit is not expected to result in any of the affected small entities being

forced to cease operations. In approving and implementing the trip limit measure, NMFS decided that the long-term conservation benefits of the commercial trip limit exceeded the small revenue loss associated with the measure given the available information.

Change From the Proposed Rule

In § 622.44(c)(5), regarding commercial trip limits for greater amberjack, the provision that no more than one trip may be made per day has been removed. That additional restriction was not consistent with the Council's intent that the commercial trip limit restrict the amount of greater amberjack that may be possessed on board or landed, purchased, or sold from a vessel on any given day. Section 622.44(c)(5), as worded in this final rule, in combination with the existing regulatory language in § 622.44 introductory text, achieves the Council's intent.

Classification

The Administrator, Southeast Region, NMFS, determined that this resubmission of the greater amberjack trip limit is necessary for the conservation and management of greater amberjack and that the trip limit is consistent with the Magnuson-Stevens Act and other applicable law.

This final rule has been determined to be significant for purposes of Executive Order 12866.

The Council prepared a final supplemental environmental impact statement for FMP Amendment 9, which assessed the expected environmental impacts of the greater amberjack trip limit. A notice of its availability was published on October 9, 1998 (63 FR 54476).

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this final rule. Such comments should be sent to NMFS Southeast Regional Office (see ADDRESSES).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: September 6, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.44, paragraph (c)(5) is added to read as follows:

§ 622.44 Commercial trip limits.

* * * * *

(c) * * *

(5) Greater amberjack. Until the fishing year quota specified in § 622.42(e)(3) is reached, 1,000 lb (454 kg). See § 622.43(a)(5)(i) for the limitations regarding greater amberjack after the fishing year quota is reached.

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