

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 February 5, 2010. 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 24, 2009.

George Pavlou,

Acting Regional Administrator, Region 2.

■ Part 52 of 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 FF—New Jersey

■ 2. Section 52.1582 is amended by revising paragraph (l) to read as follows:

§ 52.1582 Control strategy and regulations: Ozone.

* * * * *

(l) *Attainment Determination.* EPA is determining that the 1-hour ozone nonattainment areas in New Jersey listed below have attained the 1-hour ozone standard on the date listed and that the reasonable further progress and attainment demonstration requirements of section 182(b)(1) and related requirements of section 172(c)(9) (contingency measures) of the Clean Air Act do not apply to these areas.

(1) Philadelphia-Wilmington-Trenton (consisting of Burlington, Camden, Cumberland, Gloucester, Mercer, and Salem Counties) as of November 15, 2005. EPA also has determined, as of November 15, 2005, the Philadelphia-Wilmington-Trenton severe 1-hour ozone nonattainment area is not subject to the imposition of the section 185 penalty fees.

(2) Atlantic City (consisting of Atlantic and Cape May Counties) as of *January 6, 2010.*

(3) Warren County as of *January 6, 2010.*

* * * * *

Subpart HH—New York

■ 2. Section 52.1683 is amended as follows:

■ a. By revising paragraph (f)(1).

■ b. In paragraph (f)(2)(i) by removing the comma at the end of the paragraph and adding a period in its place.

■ c. In paragraph (f)(2)(ii) by removing “, and” at the end of the paragraph and adding in its place a period.

■ d. By adding paragraphs (f)(2)(iv), (f)(2)(v), (f)(2)(vi), and (f)(2)(vii).

§ 52.1683 Control strategy: Ozone.

* * * * *

(f) * * *

(1) EPA is determining that the 1-hour ozone nonattainment areas in New York listed below have attained the 1-hour ozone standard on the date listed and that the reasonable further progress and attainment demonstration requirements of section 182(b)(1) and related requirements of section 172(c)(9) (contingency measures) of the Clean Air Act do not apply to these areas.

(i) Albany-Schenectady-Troy (consisting of Albany, Greene, Montgomery, Rensselaer, Saratoga, and Schenectady Counties) as of *January 6, 2010.*

(ii) Buffalo-Niagara Falls (consisting of Erie and Niagara Counties) as of *January 6, 2010.*

(iii) Essex County as of *January 6, 2010.*

(iv) Jefferson County, as of *January 6, 2010.*

(v) Poughkeepsie (consisting of Dutchess, and Putnam Counties and northern Orange County) as of *January 6, 2010.*

(2) * * *

(iv) Buffalo-Niagara Falls (consisting of Erie and Niagara Counties) as of *January 6, 2010.*

(v) Jamestown (consisting of Chautauqua County) as of *January 6, 2010.*

(vi) Poughkeepsie (consisting of Dutchess, Orange and Putnam Counties) as of *January 6, 2010.*

(vii) Essex County (consisting of Whiteface Mountain) as of *January 6, 2010.*

* * * * *

[FR Doc. E9-28971 Filed 12-4-09; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R04-OAR-2009-0338-200908; FRL-9089-1]

Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; North Carolina: Redesignation of Great Smoky Mountains National Park 1997 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a request submitted on July 24, 2009, from the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NCDENR), Division of Air Quality (DAQ), to redesignate the Great Smoky Mountains National Park (GSMNP) 1997 8-hour ozone nonattainment area (herein referred to as the “GSMNP Area”) to attainment for the 1997 8-hour ozone national ambient air quality standards (NAAQS). The GSMNP Area for the 1997 8-hour ozone standard is comprised of portions of Haywood and Swain Counties in North Carolina. EPA’s approval of the redesignation request is based on the determination that the GSMNP Area has met the criteria for redesignation to attainment set forth in the Clean Air Act (CAA), including the determination that the GSMNP Area has attained the 8-hour ozone standard. Additionally, EPA is approving a revision to the North Carolina State Implementation Plan (SIP) including the 8-hour ozone maintenance plan for the GSMNP Area that contains the new 2011 and 2020 motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_x) and an insignificance finding for volatile organic compounds (VOC) contribution from motor vehicles to the 8-hour ozone pollution in the GSMNP Area. Through this action, EPA is also finding the NO_x MVEBs and the VOC insignificance finding adequate for the purposes of transportation conformity. This action also approves the emissions inventory submitted with the maintenance plan

(under the CAA section 172(c)(3)). On March 12, 2008, EPA issued a revised ozone standard. EPA later announced on September 16, 2009, that it may reconsider this revised ozone standard. The current action, however, is being taken to address requirements under the 1997 8-hour ozone NAAQS. Requirements for the GSMNP Area under the 2008 standard will be addressed in the future.

DATES: *Effective Date:* This rule will be effective January 6, 2010.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2009-0338. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information 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 at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jane Spann or Nacosta Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Jane Spann may be reached by phone at (404) 562-9029 or via electronic mail at spann.jane@epa.gov. The telephone number for Ms. Ward is (404) 562-9140 and the electronic mail at ward.nacosta@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. What Is the Background for the Actions?

On July 24, 2009, North Carolina, through the NCDENR, DAQ, submitted a request to redesignate the GSMNP Area to attainment for the 1997 8-hour ozone standard, and for EPA approval of the North Carolina SIP revision containing a maintenance plan for the GSMNP Area. In an action published on October 16, 2009, (74 FR 53198) EPA proposed to approve the redesignation of the GSMNP Area to attainment. EPA also proposed approval of North Carolina's plan for maintaining the 1997 8-hour NAAQS as a SIP revision, including the emissions inventory submitted pursuant to CAA section 172(c)(3); and proposed to approve the NO_x MVEBs and VOC insignificance finding for the GSMNP Area that were contained in the maintenance plan. In the October 16, 2009, proposed action, EPA also provided information on the status of EPA's transportation conformity adequacy determination for the GSMNP Area NO_x MVEBs and the VOCs insignificance finding. EPA received no comments on the October 16, 2009, proposal.

In this action, EPA is also finalizing its determination that the new NO_x MVEBs and the VOC insignificance finding for the GSMNP Area are adequate for transportation conformity purposes. The MVEBs included in the maintenance plan area are as follows:

TABLE 1—GSMNP AREA MVEBS
[Kilograms per day¹]

	2011	2020
NO _x MVEBs	179.9	127.0

¹North Carolina has provided the conversion factor of 907.1847 kilograms per ton, rounded to two decimal places for tons to allow for comparison of the MVEBs to the emissions inventory (expressed in tons per day) in this Area.

EPA's adequacy public comment period on these MVEBs and the VOC insignificance finding (as contained in North Carolina's submittal) began on May 18, 2009, and closed on June 17, 2009. No comments were received during EPA's adequacy public comment period. Through this **Federal Register** notice, EPA is finding the 2011 and 2020 NO_x MVEBs, and the VOC insignificance finding, as contained in North Carolina's submittal, adequate. These MVEBs and the insignificance finding meet the adequacy criteria contained in the Transportation Conformity Rule. The new NO_x MVEBs must be used for future transportation conformity determinations.

Additionally, transportation partners in this area should note the VOC insignificance finding in future conformity determinations.

As was discussed in greater detail in the October 16, 2009, proposal, this redesignation is for the 1997 8-hour ozone designations finalized in 2004 (69 FR 23857, April 30, 2004). Various aspects of EPA's Phase 1 8-hour ozone implementation rule were challenged in court and on December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit Court) vacated EPA's Phase 1 Implementation Rule for the 8-hour ozone standard. (69 FR 23951, April 30, 2004). *South Coast Air Quality Management Dist. (SCAQMD) v. EPA*, 472 F.3d 882 (DC Cir. 2006). On June 8, 2007, in response to several petitions for rehearing, the DC Circuit Court clarified that the Phase 1 Rule was vacated only with regard to those parts of the Rule that had been successfully challenged. Therefore, the Phase 1 Rule provisions related to classifications for areas currently classified under subpart 2 of title I, part D of the CAA as 8-hour nonattainment areas, the 8-hour attainment dates and the timing for emissions reductions needed for attainment of the 8-hour ozone NAAQS, remain effective. The June 8th decision left intact the Court's rejection of EPA's reasons for implementing the 8-hour standard in certain nonattainment areas under subpart 1 in lieu of subpart 2. By limiting the vacatur, the Court let stand EPA's revocation of the 1-hour standard and those anti-backsliding provisions of the Phase 1 Rule that had not been successfully challenged. The June 8th decision affirmed the December 22, 2006, decision that EPA had improperly failed to retain measures required for 1-hour nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review (NSR) requirements based on an area's 1-hour nonattainment classification; (2) Section 185 penalty fees for 1-hour severe or extreme nonattainment areas; and (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the CAA, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour NAAQS, or for failure to attain that NAAQS. The June 8th decision clarified that the Court's reference to conformity requirements for anti-backsliding purposes was limited to requiring the continued use of 1-hour MVEBs until 8-hour budgets were available for 8-hour conformity determinations, which is already required under EPA's conformity

regulations. The Court thus clarified that 1-hour conformity determinations are not required for anti-backsliding purposes.

With respect to the requirement for transportation conformity under the 1-hour standard, the Court in its June 8th decision clarified that for those areas with 1-hour MVEBs in their 1-hour maintenance plans, anti-backsliding requires only that those 1-hour budgets must be used for 8-hour conformity determinations until replaced by 8-hour budgets. To meet this requirement, conformity determinations in such areas must continue to comply with the applicable requirements of EPA's conformity regulations at 40 CFR Part 93. The GSMNP Area was never designated nonattainment for the 1-hour ozone standard and thus does not have 1-hour MVEBs to consider.

For the above reasons, and those set forth in the October 16, 2009, proposal for the redesignation of the GSMNP Area, EPA does not believe that the Court's rulings alter any requirements relevant to this redesignation action so as to preclude redesignation, and do not prevent EPA from finalizing this redesignation. EPA believes that the Court's December 22, 2006, and June 8, 2007, decisions impose no impediment to moving forward with redesignation of the GSMNP Area to attainment. Even in light of the Court's decisions, redesignation is appropriate under the relevant redesignation provisions of the CAA and longstanding policies regarding redesignation requests.

II. What Actions Is EPA Taking?

EPA is taking final action to approve North Carolina's redesignation request and to change the legal designation of the GSMNP Area from nonattainment to attainment for the 8-hour ozone NAAQS. The GSMNP Area is comprised of portions of Haywood and Swain Counties in North Carolina. EPA is also approving North Carolina's 8-hour ozone maintenance plan for the GSMNP Area (such approval being one of the CAA criteria for redesignation to attainment status), including the emissions inventory which was submitted pursuant to CAA section 172(c)(3). The maintenance plan is designed to help keep the GSMNP Area in attainment for the 8-hour ozone NAAQS through 2020. These approval actions are based on EPA's determination that North Carolina has demonstrated that the GSMNP Area has met the criteria for redesignation to attainment specified in the CAA, including a demonstration that the GSMNP Area has attained the 8-hour

ozone standard. EPA's analyses of North Carolina's 8-hour ozone redesignation request and maintenance plan are described in detail in the proposed rule published October 16, 2009 (74 FR 53198).

Consistent with the CAA, the maintenance plan that EPA is approving also includes 2011 and 2020 MVEBs for NO_x, and a VOC insignificance finding for the GSMNP Area. In this action, EPA is approving these 2011 and 2020 MVEBs, and the VOC insignificance finding. For regional emission analysis years that involve years prior to 2020, the new 2011 MVEB are the applicable budgets (for the purpose of conducting transportation conformity analyses). For regional emission analysis years that involve the year 2020 and beyond, the applicable budgets, for the purpose of conducting transportation conformity analyses, are the new 2020 MVEB. In this action, EPA is also finding adequate the GSMNP Area's new NO_x MVEBs and North Carolina's insignificance finding for VOC contribution from motor vehicles to the 8-hour ozone pollution for the GSMNP Area.

III. Why Is EPA Taking These Actions?

EPA has determined that the GSMNP Area has attained the 8-hour ozone standard and has also determined that North Carolina has demonstrated that all other criteria for the redesignation of the GSMNP Area from nonattainment to attainment of the 8-hour ozone NAAQS have been met. *See*, section 107(d)(3)(E) of the CAA. EPA is also taking final action to approve the maintenance plan for the GSMNP Area as meeting the requirements of sections 175A and 107(d) of the CAA, and the emissions inventory as meeting the requirements of section 172(c)(3) of the CAA. Furthermore, EPA is finding adequate and approving the new 2011 and 2020 regional MVEBs contained in North Carolina's maintenance plan because these MVEBs are consistent with maintenance for the GSMNP Area. In the October 16, 2009, proposal to redesignate the GSMNP Area, EPA described the applicable criteria for redesignation to attainment and its analysis of how those criteria have been met. The rationale for EPA's findings and actions is set forth in the proposed rulemaking and summarized in this final rulemaking.

IV. What Are the Effects of These Actions?

Approval of the redesignation request changes the legal designation of the portions of Haywood and Swain Counties in North Carolina (in association with the GSMNP Area) for

the 1997 8-hour ozone NAAQS, found at 40 CFR part 81. The approval also incorporates into the North Carolina SIP a plan for maintaining the 8-hour ozone NAAQS in the GSMNP Area through 2020. The maintenance plan includes contingency measures to remedy future violations of the 1997 8-hour ozone NAAQS, establishes NO_x MVEBs for the years 2011 and 2020 for the GSMNP Area, and provides a finding that VOC are an insignificant contributor from motor vehicles to the 8-hour ozone pollution in the GSMNP Area. Additionally, this action approves the emissions inventory for this area pursuant to section 172(c)(3) of the CAA.

V. Final Action

After evaluating North Carolina's redesignation request, EPA is taking final action to approve the redesignation and change the legal designation of the portions of Haywood and Swain Counties in North Carolina (in association with the GSMNP Area) from nonattainment to attainment for the 1997 8-hour ozone NAAQS. Through this action, EPA is also approving into the North Carolina SIP the 8-hour ozone maintenance plan for the GSMNP Area, which includes the new NO_x MVEBs of 179.9 kilograms per day (kgd) for the year 2011, and 127.0 kgd for the year 2020. EPA is also finding adequate and approving the new 2011 and 2020 MVEBs contained in North Carolina's maintenance plan for the GSMNP Area. If transportation conformity is implemented in this area, the North Carolina transportation partners will need to use these new MVEBs pursuant to 40 CFR 93.104(e). Additionally, EPA is approving the emissions inventory for the GSMNP Area pursuant to section 172(c)(3) of the CAA.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this 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 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this 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 rule also does not have Tribal implications because it will 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). This action also does not have Federalism implications because it does 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). This action merely affects the status of a geographical area, does not impose any new requirements on sources or allow a State to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant and because the Agency does not have reason to believe that the rule concerns an environmental health risk or safety risk that may disproportionately affect children.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. 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 CAA. 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. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *February 5, 2010*. 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) of the CAA.)

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

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

Dated: November 20, 2009.

Beverly H. Banister,
Acting Regional Administrator, Region 4.

■ 40 CFR part 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 II—North Carolina

■ 2. Section § 52.1770(e) is amended by adding a new entry at the end of the table for "8-Hour Ozone Maintenance Plan for the Great Smoky Mountains National Park Area" to read as follows:

§ 52.1770	Identification of plan
*	* * * * *
(e)	* * *

EPA-APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register citation
* * * * *			
8-Hour Ozone Maintenance Plan for the Great Smoky Mountains National Park Area.	7/24/2009	12/07/09	[Insert first page of publication].

PART 81—[AMENDED]

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

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

■ 2. In Section § 81.334, the table entitled "North Carolina—Ozone (8-Hour Standard)" is amended under "Haywood and Swain Cos. (Great Smoky NP), NC" by revising the entries

for "Haywood County (part)" and "Swain County (part)" to read as follows:

§ 81.334	North Carolina
*	* * * * *

NORTH CAROLINA—OZONE
[8-Hour standard]

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
Haywood and Swain Cos. (Great Smoky NP), NC:				
Haywood County (part)	This action is effective 12/07/09	Attainment.		
Swain County (part)	This action is effective 12/07/09	Attainment.		

^a Includes Indian Country located in each county or area, except as otherwise specified.
¹ This date is June 15, 2004, unless otherwise noted.
² Early Action Compact Area, effective date deferred until April 15, 2008.
³ November 22, 2004.

* * * * *
 [FR Doc. E9-28967 Filed 12-4-09; 8:45 am]
 BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 090130102-91386-02]

RIN 0648-AX59

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Bigeye Tuna Catch Limits in Longline Fisheries in 2009, 2010, and 2011

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations under authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act) to establish a catch limit for bigeye tuna (*Thunnus obesus*) in the U.S. pelagic longline fisheries in the western and central Pacific Ocean for each of the years 2009, 2010, and 2011. Once the limit of 3,763 metric tons (mt) is reached in any of those years, retaining, transshipping, or landing bigeye tuna caught in the western and central Pacific Ocean will be prohibited for the remainder of the year, with certain exceptions. The limit will not apply to the longline fisheries of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands (CNMI). This action is necessary for the United States to satisfy its international obligations under the Convention on the Conservation and

Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), to which it is a Contracting Party.

DATES: The rule is effective December 12, 2009.

ADDRESSES: Copies of supporting documents that were prepared for this final rule, including the regulatory impact review (RIR), environmental assessment (EA), and Supplemental EA, as well as the proposed rule, are available via the Federal e-Rulemaking portal, at <http://www.regulations.gov>. Those documents, and the small entity compliance guide prepared for this final rule, are also available from the Regional Administrator, NMFS, Pacific Islands Regional Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814-4700. The initial regulatory flexibility analysis (IRFA) and final regulatory flexibility analysis (FRFA) prepared for this rule are included in the proposed rule and this final rule, respectively.

FOR FURTHER INFORMATION CONTACT: Tom Graham, NMFS PIRO, 808-944-2219.

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is also accessible at <http://www.gpoaccess.gov/fr>.

Background

On July 8, 2009, NMFS published a proposed rule in the **Federal Register** (74 FR 32521) that would revise regulations at 50 CFR part 300, subpart O, in order to implement certain decisions of the WCPFC. The proposed rule was open to public comment through August 7, 2009.

This final rule is implemented under authority of the WCPFC Implementation Act (16 U.S.C. 6901 *et seq.*), which authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Department in which the United States Coast Guard is operating (currently the

Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of the United States under the Convention, including the decisions of the WCPFC. The authority to promulgate regulations has been delegated to NMFS.

The objective of this final rule is to implement, with respect to U.S. longline vessels, a Conservation and Management Measure (CMM) adopted by the WCPFC in December 2008, at its Fifth Regular Annual Session: CMM 2008-01, "Conservation and Management Measure for Bigeye and Yellowfin Tuna in the Western and Central Pacific Ocean."

This final rule provides for the timely implementation for U.S. longline fisheries of the annual catch limit for bigeye tuna established in CMM 2008-01 for each of the years 2009, 2010, and 2011. This final rule does not apply to the longline fisheries of American Samoa, Guam, or the CNMI, as described further below.

The preamble to the proposed rule includes further background information, including information on the Convention and the WCPFC, the international obligations of the United States under the Convention, the provisions of CMM 2008-01 as they relate to longline vessels, and the basis for the proposed regulations.

New Requirements

This final rule establishes annual bigeye tuna catch limits in U.S. longline fisheries in the Convention Area as follows:

Establishment of the Limit

CMM 2008-01 includes longline fishery-related provisions specifically applicable to Participating Territories in the WCPFC, which include American Samoa, Guam, and the CNMI. The longline fisheries of Participating Territories are subject to annual bigeye