

TABLE 1—Continued

Country	Insurance indemnity limit
Paraguay .....	N/A.
Peru .....	N/A.
Philippines .....	\$295.
Pitcairn Island .....	N/A.
Poland .....	\$1465.
Portugal .....	\$5000.
Qatar .....	\$2730.
Reunion .....	\$5000.
Romania .....	\$5000.
Russia .....	\$5000.
Rwanda .....	N/A.
St. Christopher & Nevis .....	\$225.
St. Helena .....	\$185.
St. Lucia .....	\$435.
St. Pierre & Miquelon .....	\$5000.
St. Vincent & The Grenadines .....	\$145.
San Marino (Republic of) .....	\$2390.
Sao Tome & Principe .....	\$480.
Saudi Arabia .....	N/A.
Senegal .....	\$940.
Serbia-Montenegro .....	\$5000.
Seychelles .....	N/A.
Sierra Leone .....	N/A.
Singapore .....	\$4780.
Slovak Republic (Slovakia) .....	\$5000.
Slovenia .....	\$4780.
Solomon Islands .....	N/A.
Somalia .....	\$480.
South Africa .....	\$1915.
Spain .....	\$480 (surface); \$955 (air).
Sri Lanka .....	\$40.
Sudan .....	N/A.
Suriname .....	\$580.
Swaziland .....	\$610.
Sweden .....	\$5000.
Switzerland .....	\$5000.
Syria .....	\$3345.
Taiwan .....	\$500.
Tajikistan .....	\$410.
Tanzania .....	\$250.
Thailand .....	\$480.
Togo .....	\$2380.
Tonga .....	\$560.
Trinidad & Tobago .....	\$1010.
Tristan Da Cunha .....	N/A.
Tunisia .....	\$2390.
Turkey .....	\$955.
Turkmenistan .....	\$730.
Turks & Caicos Islands .....	N/A.
Tuvalu .....	\$5000 (surface); \$730 (air).
Uganda .....	N/A.
Ukraine .....	\$5000.
United Arab Emirates .....	\$5000.
Uruguay .....	N/A.
Uzbekistan .....	\$410.
Vanuatu .....	N/A.
Vatican City .....	\$2390.
Venezuela .....	N/A.
Vietnam .....	N/A.
Wallis & Fortuna Islands .....	\$1755 (air only).
Western Samoa .....	\$320.
Yemen .....	\$600.
Zaire .....	N/A.

TABLE 1—Continued

Country	Insurance indemnity limit
Zambia .....	\$585.
Zimbabwe .....	\$600.

**Stanley F. Mires,**  
*Chief Counsel, Legislative.*  
 [FR Doc. 97-13683 Filed 5-23-97; 8:45 am]  
**BILLING CODE 7710-12-U**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[OH107-1a; KY94-9717a; FRL-5830-5]

**Clean Air Act Promulgation of Extension of Attainment Date for Ozone Nonattainment Area; Ohio; Kentucky**

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

**ACTION:** Direct final rule.

**SUMMARY:** USEPA is extending the attainment date for the Cincinnati-Hamilton interstate moderate ozone nonattainment area from November 15, 1996 to November 15, 1997. This extension is based in part on monitored air quality readings for the national ambient air quality standard (NAAQS) for ozone during 1996. Accordingly, USEPA is revising the table in the Code of Federal Regulations concerning ozone attainment dates in this area. In this action, USEPA is approving the States' request through a "direct final" rulemaking; the rationale for this approval is set forth below. Elsewhere in this **Federal Register**, USEPA is proposing approval and soliciting comment on this action; if adverse comments are received, USEPA will withdraw the direct final rulemaking and address the comments received in a new final rule; otherwise no further rulemaking will occur on this attainment date extension request.

**DATES:** This rule becomes effective July 28, 1997 unless substantive adverse comments not previously addressed by the State or USEPA are received by June 26, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Comments may be mailed to Joseph M. LeVasseur at the USEPA Region 4 address listed below or to J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), Region 5 at the address listed below. Copies of the material submitted by the Kentucky

Natural Resources and Environmental Protection Cabinet (KNREPC) may be examined during normal business hours at the following locations:

Environmental Protection Agency, Atlanta Federal Center, Region 4 Air Planning Branch, 61 Forsyth Street S.W., Atlanta, Georgia 30303-3104.  
 Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

Copies of the materials submitted by the Ohio Environmental Protection Agency (OEPA) may be examined during normal business hours at the following locations:

Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

OEPA, Division of Air Pollution Control, 1800 Watermark Drive, Columbus, OH 43215.

**FOR FURTHER INFORMATION CONTACT:** Randolph O. Cano at (312) 886-6036 or Joseph M. LeVasseur at (404) 562-9035.

**SUPPLEMENTARY INFORMATION:**

**Request for Attainment Date Extension for the Cincinnati-Hamilton Metropolitan Moderate Ozone Nonattainment Area**

On November 7, 1996, OEPA requested a one-year attainment date extension for the Ohio portion of the Cincinnati-Hamilton moderate ozone nonattainment area which consists of Hamilton, Butler, Clermont and Warren Counties in Ohio. Similarly, on November 15, 1996 KNREPC requested a one-year attainment date extension for the Kentucky portion of the Cincinnati-Hamilton moderate ozone nonattainment area which consists of Kenton, Boone and Campbell Counties. Since this area was classified as a moderate ozone nonattainment area, the statutory ozone attainment date, as prescribed by section 181(a) of the Clean Air Act (CAA), is November 15, 1996. The submittals request that the attainment date be extended to November 15, 1997.

**CAA Requirements and USEPA Actions Concerning Designation and Classification**

Section 107(d)(4) of the CAA requires the States and USEPA to designate areas as attainment, nonattainment, or unclassifiable for ozone as well as other pollutants for which national ambient air quality standards (NAAQS) have been set. Section 181(a)(1) requires that ozone nonattainment areas be classified as marginal, moderate, serious, severe,

or extreme, depending on their air quality. In a series of **Federal Register** documents, USEPA completed this process by designating and classifying all areas of the country for ozone. See, e.g., 56 FR 58694 (Nov. 6, 1991); 57 FR 56762 (Nov. 30, 1992).

Areas designated nonattainment for ozone are required to meet attainment dates specified under the CAA. The Cincinnati-Hamilton ozone nonattainment area was designated nonattainment and classified moderate for ozone pursuant to 56 FR 58694 (Nov. 6, 1991). By this classification, its attainment date became November 15, 1996. A discussion of the attainment dates is found in 57 FR 13498 (April 16, 1992) (the General Preamble).

**CAA Requirements and USEPA Actions Concerning Meeting the Attainment Date**

Section 181(b)(2)(A) requires the Administrator, within six months of the attainment date, to determine whether ozone nonattainment areas attained the NAAQS. For ozone, USEPA determines attainment status on the basis of the expected number of exceedances of the NAAQS over the most recent three-year period. See General Preamble, 57 FR 13506. In the case of moderate ozone nonattainment areas, the three-year

period is 1994–1996. CAA section 181(b)(2)(A) further states that, for areas classified as marginal, moderate, or serious, if the Administrator determines that the area did not attain the standard by its attainment date, the area must be reclassified upward.

A review of the actual ambient air quality ozone data from the USEPA Aerometric Information Retrieval System (AIRS), shows that a number of air quality monitors located in the Cincinnati-Hamilton ozone nonattainment area recorded exceedances of the NAAQS for ozone during the three year period from 1994 to 1996. At one of these monitors, Warren County, OH, the number of expected exceedances was 2.0 per year, for 1994 and 1995. Because these exceedances averaged more than 1.0 over the three year period, they constitute a violation of the ozone NAAQS for the Cincinnati-Hamilton area during this three-year period. Thus, the area did not meet the November 15, 1996 attainment date.

However, CAA section 181(a)(5) provides an exemption from these bump up requirements. Under this exemption, USEPA may grant up to two, one-year extensions of the attainment date under specified conditions:

Upon application by any State, the Administrator may extend for one additional year (hereinafter referred to as the "Extension Year") the date specified in table 1 of paragraph (1) of this subsection if—

(A) The State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

(B) No more than one exceedance of the national ambient air quality standard level for ozone has occurred in the area in the year preceding the Extension Year.

No more than two one-year extensions may be issued for a single nonattainment area.

The USEPA interprets this provision to authorize the granting of a one-year extension under the following minimum conditions:

- (1) The State requests a one-year extension,
- (2) all requirements and commitments in the USEPA-approved SIP for the area have been complied with, and
- (3) the area has no more than one measured exceedance of the NAAQS at each monitor in the area during the year that includes the attainment date (or the subsequent year, if a second one-year extension is requested).

TABLE 1.—EXCEEDANCES OF THE OZONE AIR QUALITY STANDARD IN THE CINCINNATI-HAMILTON AREA 1994 TO 1996

Site	County/state	Year	Exceedances measured	Expected exceedances
Oxford <sup>1</sup>	Butler, OH	1994	0	0.0
Middletown	Butler, OH	1994	0	0.0
Middletown	Butler, OH	1995	2	2.0
Middletown	Butler, OH	1996	1	1.0
Hamilton	Butler, OH	1994	0	0.0
Hamilton	Butler, OH	1995	1	1.0
Hamilton	Butler, OH	1996	0	0.0
4430 SR 222	Clermont, OH	1994	1	1.0
4430 SR 222	Clermont, OH	1995	1	1.0
4430 SR 222	Clermont, OH	1996	0	0.0
11590 Grooms Rd	Hamilton, OH	1994	0	0.0
11590 Grooms Rd	Hamilton, OH	1995	0	0.0
11590 Grooms Rd	Hamilton, OH	1996	0	0.0
6950 Ripple Road	Hamilton, OH	1994	0	0.0
6950 Ripple Road	Hamilton, OH	1995	1	1.0
6950 Ripple Road	Hamilton, OH	1996	0	0.0
Cincinnati	Hamilton, OH	1994	0	0.0
Cincinnati	Hamilton, OH	1995	1	1.0
Cincinnati	Hamilton, OH	1996	0	0.0
Lebanon	Warren, OH	1994	2	2.0
Lebanon	Warren, OH	1995	2	2.0
Lebanon	Warren, OH	1996	0	0.0
KY 338	Boone, KY	1994	0	0.0
KY 338	Boone, KY	1995	0	0.0
KY 338	Boone, KY	1996	0	0.0
Dayton	Campbell, KY	1994	0	0.0
Dayton	Campbell, KY	1995	0	0.0
Dayton	Campbell, KY	1996	1	1.0
Covington	Kenton, KY	1994	0	0.0
Covington	Kenton, KY	1995	1	1.0
Covington	Kenton, KY	1996	1	1.0

<sup>1</sup> This site was shutdown after 1994, so no data are available for 1995 and 1996.

In both extension requests Ohio and Kentucky indicated that they satisfied the attainment date extension criteria in as much as no monitors in the Cincinnati-Hamilton area monitored more than one exceedance each during 1996. The 1996 monitoring data has been quality controlled and quality assured, as has been the data for 1994 and 1995. These data are summarized in Table 1. An examination of the data indicates that three of the ten monitors recorded one exceedance each during 1996.

Both Ohio and Kentucky certified that they are implementing the ozone State Implementation Plans (SIPs) for the area. USEPA conducted a review of the ozone SIPs, as contained in 40 CFR part 52 and USEPA's electronic version of the SIP, and believes that the states are implementing the USEPA approved ozone SIPs. Additionally, USEPA has not made a finding of failure to implement the SIPs for the area. This supports the States' certification that the area is implementing its SIPs.

Ohio is implementing the requirements of the approved Ozone SIP. Regarding implementation of the vehicle inspection and maintenance (I/M) program, Ohio enacted legislation authorizing the I/M program and adopted regulations for the operation of the program. The USEPA approved the program on April 4, 1995 (See 60 FR 16989). The State of Ohio awarded a contract for program operations, and on January 2, 1996, Ohio began testing vehicles in the Cincinnati area. The enactment of legislation, adoption of regulations, and the capital investment in structures and equipment to perform testing meets the implementation test. While the Cincinnati program has been suspended due to program performance problems, Ohio is in compliance with CAA implementation requirements. The Ohio Stage II vapor recovery program is fully implemented in the Cincinnati area. The State is also collecting emissions statements from sources in the area. The State is implementing its SIP for conformity. Also, the area is implementing its approved SIP which includes a program for controlling volatile organic compound (VOC) emissions from stationary sources. This includes the Non-Control Technique Guideline Reasonably Available Control Technique requirements approved within the past several years for the following plants in the Ohio portion of the area: Steelcraft Manufacturing Co, Chevron USA Inc, International Paper Co, Morton Thiokol, Armco Steel Co, Formica Corp, PMC Specialties Group, Hilton Davis Co, Monsanto Co, and Proctor and Gamble.

Kentucky is implementing the requirements of its approved ozone SIP for the Cincinnati-Hamilton interstate area. The Kentucky portion of the area is implementing its program for controlling oxides of nitrogen (NOx) and VOC emissions from stationary sources.

USEPA has determined that the requirements for a one-year extension of the attainment date have been fulfilled as follows:

(1) Ohio and Kentucky have formally submitted the attainment date extension requests.

(2) Ohio and Kentucky are currently in the process of implementing the USEPA-approved SIPs.

(3) A review of actual ozone ambient air quality data for the Cincinnati-Hamilton area indicates that the area has monitored no more than one exceedance of the NAAQS at any monitor during 1996.

Therefore, USEPA approves the Ohio and Kentucky attainment date extension requests for the Cincinnati-Hamilton ozone nonattainment area. As a result, the Kentucky Control Strategy for Ozone which is codified at 40 CFR 52.930 and the Ohio Control Strategy for Ozone which is codified at 40 CFR 52.1885 are being amended to record these attainment date extensions. The chart in 40 CFR 81.318 entitled "Kentucky-Ozone" is being modified to reflect USEPA's approval of Kentucky's attainment date extension request. The chart in 40 CFR 81.336 entitled "Ohio-Ozone" is also being modified to reflect USEPA's approval of Ohio's attainment date extension request.

#### USEPA Action

USEPA is approving the attainment date extension requests for the Cincinnati-Hamilton moderate ozone nonattainment area from November 15, 1996 to November 15, 1997 without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, USEPA is proposing to approve this part 52 and part 81 action should adverse or critical comments be filed. This action will be effective July 28, 1997 unless, by June 26, 1997 adverse or critical comments are received.

If USEPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. USEPA will not institute

a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on July 28, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

#### Administrative Requirements

##### A. Executive Order (E.O.) 12866

This action has been classified as a Table 3 action for signature by the Regional Administrators under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

##### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Extension of an area's attainment date under the CAA does not impose any new requirements on small entities. Extension of an attainment date is an action that affects a geographical area and does not impose any regulatory requirements on sources. USEPA certifies that the approval of the attainment date extension will not affect a substantial number of small entities.

##### C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal

governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

USEPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

**D. Submission to Congress and the General Accounting Office**

Under section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, USEPA submitted 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 General Accounting Office prior to publication of the rule in this **Federal Register**. This rule is not a "major rule" as defined by section 804(2).

**E. Petitions for Judicial Review**

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 July 28, 1997. 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 grant Ohio and Kentucky an extension to attain the ozone NAAQS in the Cincinnati-Hamilton ozone nonattainment area as defined in 40 CFR 81.318 and 40 CFR 81.336 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, Ozone.

**40 CFR Part 81**

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

Dated: May 16, 1997.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

Dated: May 16, 1997.

**Valdas V. Adamkus,**

*Regional Administrator, Region 5.*

Parts 52 and 81 of chapter I, title 40 of the Code of Federal Regulations are amended as follows:

**PART 52—[AMENDED]**

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

**Authority:** 42 U.S.C. 7401-7671q.

**Subpart S—Kentucky**

2. Section 52.930 is amended by adding paragraph (d) to read as follows:

**§ 52.930 Control strategy: Ozone.**

\* \* \* \* \*

(d) Kentucky's November 15, 1996, request for a one-year attainment date extension for the Kentucky portion of the Cincinnati-Hamilton metropolitan moderate ozone nonattainment area which consists of Kenton, Boone, and Campbell Counties is approved. The date for attaining the ozone standard in these counties is November 15, 1997.

**Subpart KK—Ohio**

3. Section 52.1885 is amended by adding paragraph (bb) to read as follows:

**§ 52.1885 Control strategy: Ozone.**

\* \* \* \* \*

(bb) Ohio's November 7, 1996, request for a one-year attainment date extension for the Ohio portion of the Cincinnati-Hamilton metropolitan moderate ozone nonattainment area which consists of Hamilton, Butler, Clermont and Warren Counties is approved. The date for attaining the ozone standard in these counties is November 15, 1997.

**PART 81—[AMENDED]**

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

**Authority:** 42 U.S.C. 7401-7671q.

2. In Section 81.318, the "Kentucky—Ozone" table is amended by revising the entry for the "Cincinnati-Hamilton Area" to read as follows:

**§ 81.318 Kentucky.**

\* \* \* \* \*

**KENTUCKY—OZONE**

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Cincinnati-Hamilton Area:				
Boone County .....		Nonattainment .....		Moderate. <sup>2</sup>
Campbell County .....		Nonattainment .....		Moderate. <sup>2</sup>
Kenton County .....		Nonattainment .....		Moderate. <sup>2</sup>
* * * * *				

<sup>1</sup> This date is November 15, 1990, unless otherwise noted.

<sup>2</sup> Attainment date extended to November 15, 1997.

\* \* \* \* \*

3. In Section 81.336, the "Ohio—Ozone" table is amended by revising the entry for the "Cincinnati-Hamilton Area" to read as follows:

**§ 81.336 Ohio.**

\* \* \* \* \*

OHIO—OZONE

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Cincinnati-Hamilton Area:				
Butler County .....		Nonattainment .....		Moderate. <sup>2</sup>
Clermont County .....		Nonattainment .....		Moderate. <sup>2</sup>
Hamilton County .....		Nonattainment .....		Moderate. <sup>2</sup>
Warren County .....		Nonattainment .....		Moderate. <sup>2</sup>

<sup>1</sup> This date is November 15, 1990, unless otherwise noted.  
<sup>2</sup> Attainment date extended to November 15, 1997.

\* \* \* \* \*  
 [FR Doc. 97-13751 Filed 5-23-97; 8:45 am]  
 BILLING CODE 6560-50-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 951208293-7055-04; I.D. 110796F]

RIN 0648-AF01

**Fisheries of the Northeastern United States; Amendment 5 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries; Resubmitted Measures**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement three provisions of Amendment 5 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) that were initially disapproved but have been revised and resubmitted by the Mid-Atlantic Fishery Management Council (Council). These measures revise the overfishing definition for Atlantic mackerel, establish criteria for a moratorium vessel permit for *Illex* squid, and establish a 5,000-lb (2.27 mt) incidental catch permit for *Illex* squid. The intent of these measures is to prevent overfishing and to avoid overcapitalization of the domestic fleet in these fisheries.

**DATES:** Effective June 26, 1997.

**ADDRESSES:** Copies of Amendment 5 and its supporting documents, and the resubmission including the environmental assessment, regulatory impact review (RIR) and initial

regulatory flexibility analysis (IRFA), and other supporting documents are available upon request from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904-6790.

Comments regarding the burden-hour estimates or any other aspect of the collection-of-information requirements contained in this rule should be sent to Dr. Andrew A. Rosenberg, Regional Administrator, 1 Blackburn Dr, Gloucester, MA 01930, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), (Attention: NOAA Desk Officer), Washington, D.C. 20502.

**FOR FURTHER INFORMATION CONTACT:** Myles Raizin, Fishery Policy Analyst, 508-281-9104.

**SUPPLEMENTARY INFORMATION:**

**Background**

Amendment 5 was developed in response to concerns regarding overcapitalization expressed by industry representatives at several meetings of the Council and its Squid, Mackerel, and Butterfish (SMB) Committee in the early 1990's. Details concerning the development of Amendment 5 were provided in the preamble to the proposed rule, which was published in the **Federal Register** on December 20, 1995 (60 FR 65618), and are not repeated here.

NMFS, on behalf of the Secretary of Commerce (Secretary), reviewed Amendment 5 in light of the administrative record underlying it and the public comments received relative to the amendment and the proposed rule. Based upon this review, the following provisions of the amendment were found to be inconsistent with the national standards of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and, accordingly, were disapproved: (1) The *Illex* moratorium permit, (2) the use of long term potential

catch to cap allowable biological catch (ABC) for Atlantic mackerel, and (3) the exemption from the minimum mesh requirement for the *Loligo* fishery for a vessel fishing for sea herring whose catch is comprised of 75 percent or more of sea herring. Details concerning the disapprovals were provided in the preamble to the final rule implementing Amendment 5, which was published on April 2, 1996 (61 FR 14465), and are not repeated here.

At its June, 1996, meeting, the Council revised several of the disapproved measures for resubmission. Management measures for an *Illex* moratorium permit, an increase in the allowable incidental catch of *Illex*, and a cap on Atlantic mackerel ABC were resubmitted. A proposed rule to implement these measures was published in the **Federal Register** on December 23, 1996 (61 FR 67521). The preamble to the proposed rule described the measures. Comments were accepted through February 3, 1997. NMFS approved those measures on behalf of the Secretary on February 21, 1997.

Under the final rule, a vessel will qualify for a moratorium permit if 5,000 lb (2.27 mt) or more of *Illex* were landed from it and sold on at least 5 trips between August 13, 1981, and August 13, 1993. Additionally, a vessel that was under construction for, or was being rigged for, use in the directed fishery for *Illex* on August 13, 1993, qualifies for a moratorium permit if 5,000 lb (2.27 mt) or more of *Illex* were landed from it and sold on at least 5 trips prior to December 31, 1994. The *Illex* moratorium will terminate at the end of the fifth year following implementation unless extended by an amendment to the FMP.

The rule also implements an open-access incidental catch permit for *Illex* squid. The catch allowance associated with this permit is 5,000 lb (2.27 mt) per