

#### IV. Administrative Requirements

##### A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator 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 Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

##### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et. seq.*, the EPA 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, the EPA 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 that are less than 50,000.

SIP revision approvals under Section 110 and Subchapter I, Part D, of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the EPA certifies that this proposed rule would not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State actions. The CAA forbids the EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256-266 (S. Ct. 1976); 42 U.S.C. section 7410(a)(2).

##### C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA 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 the private sector, of \$100 million or more. Under Section 205, EPA 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 EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated today 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 approves pre-existing requirements under State or local law, and imposes no new Federal 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 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA 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 this rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

##### E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607(b), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 23, 1998. 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, Administrative practice and procedure, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Motor vehicle pollution, Carbon monoxide, Reporting and recordkeeping requirements.

Dated: September 28, 1995.

**Jack W. McGraw,**  
Acting Regional Administrator, Region VIII.

**Editorial note:** This document was received at the Office of the Federal Register December 17, 1997.

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 G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(71) to read as follows:

##### § 52.320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(71) The Governor of Colorado submitted carbon monoxide contingency measures for Colorado Springs and Fort Collins with a letter dated February 18, 1994. This submittal was intended to satisfy the requirements of section 172(c)(9) of the Clean Air Act for contingency measures which were due on November 15, 1993.

(i) Incorporation by reference.

(A) Colorado Air Quality Control Commission Nonattainment Areas regulation, 5 CCR 1001-20, Section VI, City of Fort Collins Nonattainment Area, and Section VII, Colorado Springs Nonattainment Area, adopted on November 12, 1993, effective on December 30, 1993.

\* \* \* \* \*

[FR Doc. 97-33320 Filed 12-22-97; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 58

[AD-FRL-5939-8]

RIN 2060-AF71

#### Withdrawal of Direct Final Rule for Ambient Air Quality Surveillance for Lead

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to an adverse comment, EPA is withdrawing the direct final rule for Ambient Air Quality Surveillance for Lead. EPA published the direct final rule on November 5, 1997 at 62 FR 59813. As stated in that **Federal Register** document, if adverse or critical comments were received by December 5, 1997, the effective date would be delayed and notice would be published in the **Federal Register**. EPA subsequently received adverse

comments on that final rule. EPA will address the comments received in a subsequent final action in the near future. EPA will not institute a second comment period on this document.

**DATES:** The direct final rule published at 62 FR 59813 is withdrawn as of December 19, 1997.

**FOR FURTHER INFORMATION CONTACT:** Brenda Millar, Emissions, Monitoring, and Analysis Division (MD-14), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, Telephone: (919)541-4036, e-mail: millar.brenda@epa.gov.

**SUPPLEMENTARY INFORMATION:** See the information provided in the direct final rule located in the final rules section of the November 5, 1997 **Federal Register** and in the informational document located in the proposed rule section of the November 5, 1997 **Federal Register**.

#### List of Subjects in 40 CFR Part 58

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Quality assurance requirements, Ambient air quality monitoring network.

Dated: December 18, 1997.

**Robert Brenner,**

*Acting Assistant Administrator for Air and Radiation.*

[FR Doc. 97-33452 Filed 12-18-97; 4:30 pm]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 940246-4137; I.D. 121697D]

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Snowy Grouper; Commercial Trip Limit Reduction

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

**ACTION:** Trip limit reduction.

**SUMMARY:** NMFS reduces the commercial trip limit for snowy grouper in the exclusive economic zone (EEZ) off the southern Atlantic states to 300 lb (136 kg). This trip limit reduction is necessary to protect the snowy grouper resource.

**DATES:** Effective 12:01 a.m., local time, December 20, 1997, through December 31, 1997.

**FOR FURTHER INFORMATION CONTACT:** Peter Eldridge, 813-570-5305.

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery off the southern Atlantic states is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (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 by regulations at 50 CFR part 622.

The commercial quota for snowy grouper, one of the species in the

snapper-grouper complex, is 344,508 lb (156,266 kg), gutted weight, each fishing year. The fishing year is January 1 through December 31. In accordance with 50 CFR 622.44(c)(2), a commercial trip limit of 2,500 lb (1,134 kg) applies until the quota is reached. When the quota is reached, or is projected to be reached, NMFS is required to reduce the commercial trip limit to 300 lb (136 kg), through the end of the fishing year.

Based on current statistics, NMFS has projected that the commercial quota for snowy grouper will be reached on December 19, 1997. Accordingly, the commercial trip limit for snowy grouper in or from the EEZ off the southern Atlantic states is reduced to 300 lb (136 kg) effective 12:01 a.m., local time, December 20, 1997, through December 31, 1997. During this period, no more than 300 lb (136 kg), round weight or gutted weight, of snowy grouper may be possessed on board or landed, purchased, or sold from a vessel that has a valid commercial permit for snapper-grouper per day. The possession of a valid commercial permit notwithstanding, the bag and possession limits apply when a vessel is operating as a charter vessel or headboat.

#### Classification

This action is taken under 50 CFR 622.43(a) and 622.44(c) and is exempt from review under Executive Order 12866.

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

Dated: December 16, 1997.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 97-33385 Filed 12-18-97; 11:43 am]

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