

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R03-OAR-2014-0525; FRL-9920-17-Region 3]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Harrisburg-Lebanon-Carlisle-York Nonattainment Areas to Attainment for the 1997 Annual and the 2006 24-Hour Fine Particulate Matter Standard

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the Commonwealth of Pennsylvania's requests to redesignate to attainment the Harrisburg-Lebanon-Carlisle-York nonattainment areas (hereafter "the Areas") for the 1997 annual and 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standard (NAAQS). EPA is also determining that the Areas continue to attain the 1997 annual and the 2006 24-hour PM<sub>2.5</sub> NAAQS. EPA is also approving as revisions to the Pennsylvania State Implementation Plan (SIP) the associated maintenance plans to show maintenance of the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS through 2025 for the Areas. The maintenance plans include the 2017 and 2025 PM<sub>2.5</sub> and nitrogen oxides (NO<sub>x</sub>) mobile vehicle emissions budgets (MVEBs) for the Areas for the 1997 annual and the 2006 24-hour PM<sub>2.5</sub> NAAQS. EPA is finding the 2017 and 2025 PM<sub>2.5</sub> and NO<sub>x</sub> MVEBs adequate for transportation conformity purposes and is finalizing the approval of the budgets. Furthermore, EPA is approving as revisions to the Pennsylvania SIP the 2007 base year emissions inventory for the Areas for the 1997 annual and the 2006 24-hour PM<sub>2.5</sub> NAAQS.

**DATES:** This final rule is effective on December 8, 2014.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2014-0525. 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 Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto, (215) 814-2182, or by email at [quinto.rose@epa.gov](mailto:quinto.rose@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On October 17, 2014 (79 FR 62389), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania that included proposals for several rulemaking actions. First, EPA proposed to find that the Areas met the requirements for redesignations from nonattainment to attainment for the 1997 annual and the 2006 24-hour PM<sub>2.5</sub> NAAQS under section 107(d)(3)(E) of the Clean Air Act (CAA). Second, EPA proposed approval of the associated maintenance plans for the Areas submitted on April 22, 2014, as revisions to the Pennsylvania SIP because they meet the requirements of section 175A of the CAA. Third, EPA proposed approval of the 2007 base year emissions inventory as meeting the requirements of section 172(a)(3) of the CAA. Fourth, EPA proposed approval of the 2017 and 2025 PM<sub>2.5</sub> and NO<sub>x</sub> MVEBs submitted by Pennsylvania for Cumberland, Dauphin, Lebanon, and York Counties for transportation conformity purposes. Details of Pennsylvania's submittal and the rationale for EPA's proposed actions are explained in the NPR and will not be restated here. No public comments were received on the NPR.

As stated in the NPR, EPA's proposed approvals were contingent upon the U.S. Court of Appeals for the District of Columbia (D.C. Circuit Court) granting EPA's June 26, 2014 motion to lift the stay of the Cross State Air Pollution Rule (CSAPR). Following a favorable decision from the Supreme Court on April 29, 2014, *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014), EPA filed a motion asking the D.C. Circuit Court to lift the stay and toll all deadlines in CSAPR by three years, and on October 23, 2014, the D.C. Circuit Court granted EPA's motion. *EME Homer City Generation, L.P. v. EPA*, No.

11-1302 (D.C. Cir. Oct. 23, 2014), ECF No. 1518738 at 3.

EPA plans to take administrative action to amend the regulatory text of CSAPR to reflect the D.C. Circuit Court's October 23, 2014 order tolling all deadlines in CSAPR by three years, including provisions governing the sunset of the Clean Air Interstate Rule (CAIR). CAIR will therefore sunset at the end of 2014 and be replaced by CSAPR beginning January 1, 2015. Relative to CAIR, CSAPR requires similar or greater emission reductions from relevant upwind areas starting in 2015 and beyond. The emission reductions associated with CAIR that helped the Areas achieve attainment of the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS can therefore be considered permanent and enforceable for purposes of redesignation under section 107(d)(3)(E)(iii) of the CAA.

##### II. Final Action

EPA is approving the redesignation of the Areas from nonattainment to attainment for the 1997 annual and the 2006 24-hour PM<sub>2.5</sub> NAAQS. EPA has evaluated Pennsylvania's redesignation requests and determines that the Areas meet the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA finds that the monitoring data demonstrate that the Areas have attained the 1997 annual and the 2006 24-hour PM<sub>2.5</sub> NAAQS. EPA also finds that the attainment of the Areas is in part due to the emissions reductions resulting from the implementation of CAIR in Pennsylvania and in the states upwind of Pennsylvania. As stated previously, EPA intends to commence implementation of CSAPR beginning on January 1, 2015 and those emission reductions originally required under CAIR will be permanent and enforceable through the implementation of CSAPR. EPA is determining that the Areas continue to attain the 1997 annual and the 2006 24-hour PM<sub>2.5</sub> NAAQS. Final approval of these redesignation requests would change the designation of: (a) Harrisburg-Lebanon-Carlisle and York Areas from nonattainment to attainment for the 1997 annual PM<sub>2.5</sub> NAAQS, and (b) Harrisburg-Lebanon-Carlisle-York Area from nonattainment to attainment for the 2006 24-hour PM<sub>2.5</sub> NAAQS. EPA is also approving the associated maintenance plans for the Areas submitted on April 22, 2014, as revisions to the Pennsylvania SIP because they meet the requirements of section 175A of the CAA. In addition,

EPA is approving the 2007 base year emissions inventory as meeting the requirement of section 172(a)(3) of the CAA. Furthermore, in this rulemaking action, EPA finds adequate and is approving the 2017 and 2025 PM<sub>2.5</sub> and NO<sub>x</sub> MVEBs submitted by Pennsylvania for Cumberland, Dauphin, Lebanon, and York Counties for transportation conformity purposes. Within 24 months from the effective date of EPA's adequacy determination, the transportation partners will need to demonstrate conformity to the 2017 and 2025 PM<sub>2.5</sub> and NO<sub>x</sub> MVEBs pursuant to 40 CFR 93.104(e).

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for this action to become effective immediately upon publication. A delayed effective date is unnecessary due to the nature of a redesignation to attainment, which eliminates CAA obligations that would otherwise apply. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the Commonwealth of Pennsylvania of the obligation to comply with nonattainment-related planning requirements for the Areas pursuant to Part D of the CAA and approves certain emissions inventories and MVEBs for the Areas. For these reasons, EPA finds good cause under 5 U.S.C. 553(d) for this action to become effective on the date of publication of this notice.

### III. Statutory and Executive Order

#### A. General Requirements

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to

attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
  - does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
  - is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
  - 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);
  - does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
  - does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct

costs on tribal governments or preempt tribal law.

#### 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 action 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).

#### C. 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 February 6, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 approving Pennsylvania's redesignation requests, maintenance plans, 2007 base year emissions inventory, and MVEBs for transportation conformity purposes for the Harrisburg-Lebanon-Carlisle and York Areas for the 1997 annual PM<sub>2.5</sub> NAAQS and the Harrisburg-Lebanon-Carlisle-York Area for the 2006 24-hour PM<sub>2.5</sub> NAAQS, 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, Incorporation by reference, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

##### 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: November 21, 2014.  
**Shawn M. Garvin,**  
*Regional Administrator, Region III.*

40 CFR parts 52 and 81 are amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart NN—Pennsylvania**

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by adding two entries

for 1997 Annual PM<sub>2.5</sub> Maintenance Plan and one entry for 2006 24-Hour PM<sub>2.5</sub> Maintenance Plan at the end of the table. The added text read as follows:

**§ 52.2020 Identification of plan.**

\* \* \* \* \*  
 (e) \* \* \*  
 (1) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
1997 Annual PM <sub>2.5</sub> Maintenance Plan.	Harrisburg-Lebanon-Carlisle PM <sub>2.5</sub> Nonattainment Area.	4/22/14	12/08/14 [Insert <i>ister citation</i> ].	<b>Federal Reg-</b> See § 52.2036(r) and § 52.2059(k).
1997 Annual PM <sub>2.5</sub> Maintenance Plan.	York PM <sub>2.5</sub> Nonattainment Area	4/22/14	12/08/14 [Insert <i>ister citation</i> ].	<b>Federal Reg-</b> See § 52.2036(r) and § 52.2059(l).
2006 24-Hour PM <sub>2.5</sub> Maintenance Plan.	Harrisburg-Lebanon-Carlisle-York PM <sub>2.5</sub> Nonattainment Area.	4/22/14	12/08/14 [Insert <i>ister citation</i> ].	<b>Federal Reg-</b> See § 52.2036(r) and § 52.2059(m).

■ 3. Section 52.2036 is amended by adding paragraph (r) to read as follows:

**§ 52.2036 Base year emissions inventory.**

(r) EPA approves as revisions to the Pennsylvania State Implementation Plan the 2007 base year emissions inventory for the Harrisburg-Lebanon-Carlisle and York 1997 annual fine particulate matter (PM<sub>2.5</sub>) nonattainment areas, and the Harrisburg-Lebanon-Carlisle-York 2006 24-hour PM<sub>2.5</sub> nonattainment area submitted by the Pennsylvania Department of Environmental Protection on April 22, 2014. The emissions

inventory includes emissions estimates that cover the general source categories of point, area, nonroad, and onroad sources. The pollutants that comprise the inventory are nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOCs), PM<sub>2.5</sub>, ammonia (NH<sub>3</sub>), and sulfur dioxide (SO<sub>2</sub>).

■ 4. Section 52.2059 is amended by adding paragraphs (k), (l) and (m) to read as follows:

**§ 52.2059 Control strategy: Particular matter.**

\* \* \* \* \*

(k) EPA approves the maintenance plan for the Harrisburg-Lebanon-Carlisle nonattainment area for the 1997 annual PM<sub>2.5</sub> NAAQS submitted by the Commonwealth of Pennsylvania on April 22, 2014. The maintenance plan includes the 2017 and 2025 PM<sub>2.5</sub> and NO<sub>x</sub> mobile vehicle emissions budgets (MVEBs) for the Dauphin, Lebanon and Cumberland Counties to be applied to all future transportation conformity determination and analyses for the Harrisburg-Lebanon-Carlisle nonattainment area for the 1997 annual PM<sub>2.5</sub> NAAQS.

**HARRISBURG-LEBANON-CARLISLE AREA'S MOTOR VEHICLE EMISSION BUDGETS FOR THE 1997 ANNUAL PM<sub>2.5</sub> NAAQS IN TONS PER YEAR**

Type of control strategy SIP	Year	PM <sub>2.5</sub>	NO <sub>x</sub>	Effective date of SIP approval
Maintenance Plan .....	2017	365	10,287	12/08/14
	2025	275	7,024	12/08/14

(l) EPA approves the maintenance plan for the York nonattainment area for the 1997 annual PM<sub>2.5</sub> NAAQS submitted by the Commonwealth of

Pennsylvania on April 22, 2014. The maintenance plan includes the 2017 and 2025 PM<sub>2.5</sub> and NO<sub>x</sub> mobile vehicle emissions budgets (MVEBs) for the York

County to be applied to all future transportation conformity determination and analyses for the York nonattainment area for the 1997 annual PM<sub>2.5</sub> NAAQS.

**YORK AREA'S MOTOR VEHICLE EMISSION BUDGETS FOR THE 1997 ANNUAL PM<sub>2.5</sub> NAAQS IN TONS PER YEAR**

Type of control strategy SIP	Year	PM <sub>2.5</sub>	NO <sub>x</sub>	Effective date of SIP approval
Maintenance Plan .....	2017	192	5,390	12/08/14
	2025	144	3,398	12/08/14

(m) EPA approves the maintenance plan for the Harrisburg-Carlisle-Lebanon-York PM<sub>2.5</sub> nonattainment area for the 2006 24-hour PM<sub>2.5</sub> submitted by the Commonwealth of Pennsylvania on

April 22, 2014. The maintenance plan includes the 2017 and 2025 PM<sub>2.5</sub> and NO<sub>x</sub> mobile vehicle emissions budgets (MVEBs) for the Dauphin, Lebanon, Cumberland, and York Counties be

applied to all future transportation conformity determination and analyses for the Harrisburg-Carlisle-Lebanon-York nonattainment area for the 2006 24-hour PM<sub>2.5</sub> NAAQS.

HARRISBURG-CARLISLE-LEBANON-YORK AREA'S MOTOR VEHICLE EMISSION BUDGETS FOR THE 2006 24-HOUR PM<sub>2.5</sub> NAAQS IN TONS PER YEAR

Type of control strategy SIP	Year	PM <sub>2.5</sub>	NO <sub>x</sub>	Effective date of SIP approval
Maintenance Plan .....	2017	365	10,287	12/08/14
	2025	275	7,024	12/08/14
Maintenance Plan .....	2017	76	2,252	12/08/14
	2025	56	1,446	12/08/14
Maintenance Plan .....	2017	192	5,390	12/08/14
	2025	144	3,398	12/08/14

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

■ 5. The authority citation for part 81 continues to read as follows:  
**Authority:** 42 U.S.C. 7401 *et seq.*

■ 6. In § 81.339:  
 ■ a. The 1997 Annual PM<sub>2.5</sub> NAAQS table is amended by revising the entries for the Harrisburg-Lebanon-Carlisle, PA and York, PA Areas.  
 ■ b. The 2006 24-Hour PM<sub>2.5</sub> NAAQS tables are amended by revising the entry

for the Harrisburg-Lebanon-Carlisle-York, PA Area.

The revisions read as follows:

**§ 81.339 Pennsylvania.**  
 \* \* \* \* \*

PENNSYLVANIA—1997 ANNUAL PM<sub>2.5</sub> NAAQS  
 [Primary and secondary]

Designated area	Designation <sup>a</sup>		Classification	
	Date <sup>1</sup>	Type	Date <sup>2</sup>	Type
Harrisburg-Lebanon-Carlisle, PA:				
Cumberland County .....	12/08/14	Attainment ...		Moderate.
Dauphin County .....	12/08/14	Attainment ...		Moderate.
Lebanon County .....	12/08/14	Attainment ...		Moderate.
* * * * *				
York, PA:				
York County .....	12/08/14	Attainment ...		Moderate.
* * * * *				

<sup>a</sup> Includes Indian County located in each county or area, except as otherwise specified.  
<sup>1</sup> This date is 90 days after January 5, 2005, unless otherwise noted.  
<sup>2</sup> This date is July 2, 2014, unless otherwise noted.

\* \* \* \* \*

PENNSYLVANIA—2006 24-HOUR PM<sub>2.5</sub> NAAQS  
 [Primary and secondary]

Designated area	Designation <sup>a</sup>		Classification	
	Date <sup>1</sup>	Type	Date <sup>2</sup>	Type
Harrisburg-Lebanon-Carlisle-York, PA:				
Cumberland County .....	12/08/14	Attainment ...		Moderate.
Dauphin County .....	12/08/14	Attainment ...		Moderate.
Lebanon County .....	12/08/14	Attainment ...		Moderate.
York County .....	12/08/14	Attainment ...		Moderate.
* * * * *				

<sup>a</sup> Includes Indian County located in each county or area, except as otherwise specified.  
<sup>1</sup> This date is 30 days after November 13, 2009, unless otherwise noted.  
<sup>2</sup> This date is July 2, 2014, unless otherwise noted.

\* \* \* \* \*

[FR Doc. 2014-28591 Filed 12-5-14; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 140828724-4992-02]

RIN 0648-BE23

**Framework Action To Modify the Commercial Annual Catch Limit/Annual Catch Target Regulations for Three Individual Fishing Quota Species Complexes**

**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 framework action to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Gulf) (Reef Fish FMP) as prepared by the Gulf of Mexico Fishery Management Council (Council). The action modifies the commercial annual catch limit (ACL) and annual catch target (ACT) regulations for three individual fishing quota (IFQ) program species complexes in the Gulf. This rule clarifies that the established commercial quotas are equal to the commercial ACTs and adds commercial ACLs to the regulations for three IFQ species complexes: Other shallow-water grouper (Other SWG), deep-water grouper (DWG), and tilefishes. The purpose of this rule is to optimize allowable harvest of IFQ species in the Gulf, while preventing overfishing, in accordance with National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** This rule is effective January 7, 2015.

**ADDRESSES:** Electronic copies of the framework action, which includes a regulatory impact review and a Regulatory Flexibility Act analysis, may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Rich Malinowski, Southeast Regional Office, telephone: 727-824-5305.

**SUPPLEMENTARY INFORMATION:** NMFS and the Council manage the fisheries for Gulf Reef Fish Resources, which includes the complexes for Other SWG,

DWG, and tilefishes, under the Reef Fish FMP. Other SWG includes black grouper, scamp, yellowmouth grouper, yellowfin grouper; DWG includes warsaw grouper, snowy grouper, speckled hind, yellowedge grouper; and tilefishes include golden tilefish, blueline tilefish, and goldface tilefish. The Reef Fish FMP is implemented under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622. All weights specified in this rule are in gutted weight.

On October 1, 2014, NMFS published a proposed rule for this framework action and requested public comment (79 FR 59204). The proposed rule and framework action outline the rationale for the actions contained in this final rule. This final rule clarifies that the commercial quotas for the Other SWG, DWG, and tilefishes complexes are equal to the commercial ACTs specified in the Generic Annual Catch Limit/Accountability Measures Amendment (Generic ACL Amendment) and adds commercial ACLs to the regulations for these same three complexes. This final rule also removes outdated quotas for these species complexes.

**Comments and Responses**

NMFS received one comment letter on the proposed rule from a commercial fishing organization. The comment and NMFS' response is summarized below.

*Comment:* The commercial quotas should be set equivalent to the ACL, not the ACT, because they are managed under a highly functioning and certain IFQ program. The present commercial IFQ program for SWG, DWG, and tilefish demonstrates that management uncertainty is effectively zero and therefore setting the commercial quota for these species complexes at their ACLs rather than their ACTs is justified.

*Response:* NMFS disagrees that the commercial quotas for IFQ species complexes should be set equal to the ACLs and not the ACTs. At the June Council meeting, the Council voted to use the ACL/ACT control rule adopted in the Generic ACL Amendment and retain the 4 percent buffer between the ACL and ACT for species in the IFQ program. Using the ACL/ACT control rule results in a recommended 4 percent buffer because of the uncertainty in managing stock complexes. While the aggregate quota is unlikely to be exceeded in an IFQ program, there is less control over the individual stocks within the aggregate. The Other SWG complex and DWG complex each consist of four stocks, and the tilefish complex consists of three stocks. If the proportion of each stock that makes up the landings changes, it may be possible

to overfish a single stock within the complex even when the aggregate quota is not exceeded.

**Classification**

The Regional Administrator, Southeast Region, NMFS, has determined that this final rule is necessary for the conservation and management of Gulf reef fish and is consistent with the framework action, the FMP, the Magnuson-Stevens Act and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. NMFS received one comment on the proposed rule concerning the decision to keep the commercial quota at the commercial ACT level, which does not affect the current level of landings. Therefore, the basis for the certification that this final rule would not have any impact on small entities has not changed. Accordingly, a regulatory flexibility analysis was not required and none was prepared.

**List of Subjects in 50 CFR Part 622**

Fisheries, Fishing, Gulf of Mexico, Individual fishing quota.

Dated: November 25, 2014.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, 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 OF MEXICO, 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 § 622.39, paragraphs (a)(1)(ii) and (a)(1)(iii)(A) are revised to read as follows:

**§ 622.39 Quotas.**

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(ii) Deep-water groupers (DWG) have a combined quota, as specified in paragraphs (a)(1)(ii)(A) through (C) of