117°10′48.0″ W (Point G); thence running southerly to 32°42′13.0″ N, 117°10′51.0″ W (Point H); thence running generally northwesterly along the shoreline of Naval Air Station North Island to the place of beginning.

(b) * * *

(c) The U.S. Coast Guard may be assisted in the patrol and enforcement of this security zone by the U.S. Navy.

Dated: April 3, 2001.

**E.R. Riutta,**

*Vice Admiral, U.S. Coast Guard Commander, Eleventh Coast Guard District.*

[FR Doc. 01–9992 Filed 4–20–01; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[TX–126–4–7475; FRL–6969–5]**

## Approval and Promulgation of Air Quality State Implementation Plans (SIP); Texas: Low Emission Diesel Fuel

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to fully approve a State Implementation Plan (SIP) revision for the State of Texas establishing a Low Emission Diesel (LED) fuel for nine counties in the Dallas-Fort Worth Consolidated Metropolitan Statistical Area (CMSA). Beginning May 1, 2002, aromatic hydrocarbon content, cetane number and sulfur content will be regulated for diesel fuel sold in these counties for use in both motor vehicles and nonroad engines. We propose that the Texas LED fuel program requirements are necessary to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in the Dallas/Fort Worth ozone nonattainment area (DFW), and are therefore exempt from preemption under section 211(c)(4) of the Clean Air Act (the Act).

**DATES:** Comments should be received on or before May 23, 2001.

**ADDRESSES:** Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section, at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, Austin, Texas 78711–3087. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

**FOR FURTHER INFORMATION CONTACT:** Sandra Rennie, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7214.

**SUPPLEMENTARY INFORMATION:** Throughout this document ''we,'' ''us,'' and ''our'' refers to EPA.

Texas submitted an attainment demonstration SIP for the DFW 4-county nonattainment area on April 25, 2000. The SIP contained measures for reducing Nitrogen Oxides ($NO_X$), the pollutant identified as controlling the formation of ozone in this area. The LED fuel program was submitted as part of the attainment demonstration. This LED rule was codified in Chapter 114 of the Texas Administrative Code (TAC) (Sections 114.6, 114.312–114.317 and 114.319). See 30 TAC Chapter 114 (Apr. 19, 2000). Since the SIP submittal, the Texas Natural Resource Conservation Commission (TNRCC) has revised these LED regulations to expand the covered area, revise recordkeeping and reporting requirements and add a second more stringent phase of sulfur standards to be implemented May 1, 2006. See 30 TAC 114.312–317, 114.319 (Dec. 6, 2000). For purposes of today's action, we are proposing approval of the current LED regulations only insofar as they apply to the nine counties in the DFW CMSA,[1] and only with respect to the standards to be implemented on May 1, 2002.

### What Does the State's LED Regulation Include?

The State's LED SIP submittal for DFW requires that diesel fuel produced for delivery and ultimate sale within nine counties of the DFW CMSA have a maximum sulfur content of 500 ppm, have no more than 10% aromatic hydrocarbons by volume, and have a cetane number of 48 or greater. Alternative diesel fuel formulations that achieve equivalent emission reductions may also be used. The regulations apply to diesel fuel sold in the nonattainment counties of Dallas, Tarrant, Collin, and Denton, and the attainment counties of Parker, Johnson, Ellis, Kaufman, and Rockwall for use in either on-highway vehicles or nonroad engines. The State regulations require compliance by May 1, 2002.

### What Are the Requirements of the Clean Air Act?

Section 211(c)(4)(A) of the Act generally prohibits the State from prescribing or attempting to enforce controls respecting motor vehicle fuel characteristics or components that EPA has controlled under section 211(c)(1), unless the State control is identical to the Federal control. Under section 211(c)(4)(C), EPA may approve a non-identical state fuel control as a SIP provision, if the state demonstrates that the measure is necessary to achieve the NAAQS. We may approve a state fuel requirement as necessary if no other measures would bring about timely attainment, or if other measures exist and are technically possible to implement but are unreasonable or impracticable.

In this rulemaking, EPA does not need to determine whether the State requirements for LED fuel used in motor vehicles are preempted under section 211(c)(4)(A) before acting to approve the SIP submittal because EPA is finding the fuel requirements necessary under section 211(c)(4)(C) to achieve the ozone standard in the DFW nonattainment area.

### What Did the State Submit?

The State submitted the LED rules as part of the DFW SIP by letter from the Governor dated April 25, 2000. The SIP submittal contains 30 TAC Chapter 114 rules as adopted on April 19, 2000,[2] a request for a waiver from Federal preemption pursuant to Section 211(c)(4)(C) of the Act, and Texas laws providing the authority for the State to adopt and implement revisions to the SIP.

Texas submitted data and analyses to support a finding under section 211(c)(4)(C) that the LED fuel requirement for the nine counties is necessary for the DFW nonattainment area to achieve the ozone NAAQS. The State has (1) identified the quantity of reductions of $NO_X$ needed to achieve attainment of the ozone NAAQS; (2) identified all other control measures and the quantity of reductions each would achieve; (3) identified those control alternatives that were deemed

[1] There are 12 counties in the DFW CMSA. The nine counties subject to the LED requirements are Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall and Tarrant.

[2] As explained above, TNRCC subsequently revised these LED regulations on December 6, 2000. Because the State's SIP submittal for the DFW nonattainment area only requested approval of the LED program for the nine counties and only for the standards effective May 1, 2002, today's action proposes approval of the current State LED regulations only insofar as they apply to the nine counties and only with respect to the standards to be implemented May 1, 2002.

unreasonable or impracticable; and (4) shown that even with the implementation of all reasonable and practicable control measures, the State would need additional emissions reductions for the nonattainment area to meet the ozone NAAQS on a timely basis, and that the LED fuel requirement would supply some of such additional reductions.

Texas submitted its demonstration of necessity for the LED fuel requirement in the State's attainment demonstration for DFW. The State's submission used the CAMx photochemical modeling to estimate the quantity of $NO_X$ emission reductions necessary to achieve the ozone NAAQS by 2007. Based on this analysis, Texas estimates that $NO_X$ reductions of 370.12 tons per day (tpd) are necessary to achieve the ozone NAAQS by 2007. Without the LED requirements for the nine counties in the DFW CMSA, implementation of the reasonable and practicable non-fuel control measures would reduce $NO_X$ emissions by only 367.64 tpd.

**What Are the Benefits From the LED Fuel Program?**

The primary benefit of LED fuel in the DFW attainment demonstration is reduction of $NO_X$ emissions. Without the proposed fuel controls, the 9-county area subject to the proposed fuel control would receive diesel fuel for nonroad use that is subject to no federal emissions-related standards or diesel fuel for on-highway use that meets the less stringent, current Federal standards.

Texas is controlling three components of diesel fuel for on-road vehicles: aromatic hydrocarbons, cetane number and sulfur. The State's sulfur standard, however, is the same as the current Federal requirement for diesel fuel used in motor vehicles. Texas estimated that the 10% cap on aromatic hydrocarbons reduces $NO_X$ from diesel combustion. The cetane number is an indication of ignition properties of the fuel. A fuel with better ignition properties will ignite at a lower heat of compression, thereby reducing the amount of $NO_X$ produced during combustion.

For nonroad engines, Texas' sulfur content standards will provide additional emissions reductions. There is no direct $NO_X$ benefit from controlling sulfur in fuel. However, the State is including the sulfur requirement for nonroad engines because lower sulfur levels prevent fouling of aftermarket $NO_X$ emission control devices that may be installed on off-road diesel equipment to comply with other State rules like the Construction Shift. The State does not need a waiver of preemption for fuel components of nonroad diesel because section 211(c)(4)(A) applies only to State controls respecting motor vehicle (i.e., on-highway) fuel characteristics or components. In addition, there are no Federal requirements promulgated under section 211(c)(1) for characteristics or components of nonroad diesel fuel.

Currently, EPA is in the process of doing a comprehensive review and analysis of data to quantify the emission reduction effects of low emission diesel fuels. The outcome of this evaluation could result in a need to reconsider the emission reduction estimates used by the State in their LED rule. We expect the evaluation process to be completed by May of 2001. If the results of EPA's evaluation indicate that Texas has overestimated the emission reductions attributable to their LED rule, then EPA will work with the State to address this shortfall.

**What Other Measures Did Texas Consider Before Selecting LED?**

The State evaluated a broad range of potential control measures and estimated the quantity of reductions that could be achieved through implementation of these measures. Over three hundred potential control strategies were initially considered by the State and DFW regional stakeholders as part of the planning process. This list is included in the Technical Support Document (TSD) for this document. The measures that were selected for the attainment demonstration are in Table 1.

TABLE 1.—STATE AND LOCAL CONTROL MEASURES[3] IN THE DFW ATTAINMENT DEMONSTRATION

| Measure | $NO_X$ reductions in tpd |
|---|---|
| Inspection and Maintenance (ASM, OBD, and remote sensing in 9 counties). | 54.45 |
| Major Point Source $NO_X$ reductions in 4 counties. | 129 |
| Low Emission Diesel in 9 counties (the subject of this rulemaking). | 3.48 |
| Heavy-duty diesel operating restriction in 4 counties. | 2.5 |
| Accelerated Purchase of Tier II/III off-highway diesel equipment in 4 counties. | 13.8 |
| Airport Ground Support Equipment electrification 4 counties. | 9.54 |
| Speed limit reductions 9 counties. | 5.42 |

[3] The attainment demonstration includes additional $NO_X$ reductions from Federal measures.

TABLE 1.—STATE AND LOCAL CONTROL MEASURES[3] IN THE DFW ATTAINMENT DEMONSTRATION—Continued

| Measure | $NO_X$ reductions in tpd |
|---|---|
| Voluntary Mobile Emission Reduction 9 counties. | 3.9 average (2.40–5.40) |
| Transportation Control Measures (TCMs) in 4 counties. | 4.73 |
| Heavy equipment fleets—gasoline in 9 counties. | 1.8 |
| Gas-fired water heaters, small boilers, and process heaters statewide. | 0.5 |

**What Measures Were Considered But Not Selected?**

Measures that were quantified but not selected for the SIP are listed in Table 2. (See Appendix D of the TSD for more detailed descriptions of these measures). The State chose not to implement these measures after performing cost/benefit analysis and considering whether each was reasonable or practicable for the DFW nonattainment area. Many of the measures from the original list of over 300 are not quantifiable and so could not be shown to help achieve the NAAQS.

TABLE 2.—MEASURES QUANTIFIED BUT NOT SELECTED FOR THE SIP

| | |
|---|---|
| Extend Federal RFG to surrounding 8 counties. | 4.6 |
| Electric Automobile mandate. | 2.3 |
| Heavy-Duty Vehicle I/M. | 1.5 |
| Truck idle shut-off ..... | 1 |
| Natural gas buses ..... | 0.6 |
| Energy Efficiencies (building codes). | 0.5 |
| California LEV ..... | 0 tons per day (Federal Tier 2 vehicles are expected to get essentially equivalent $NO_X$ reductions) |
| Controls beyond 30% in Ellis county. | 0 tons per day in NA counties |
| (1 county) ..... | 9.1 tons/day at 30% reduction<br>11.1 tons/day reduced at 50% reduction |

Of the control measures identified above, for purposes of section 211(c)(4)(C), all measures but one (truck idling shut-off) in Table 2 are considered unreasonable or impracticable for the DFW area to implement in comparison to the State's LED requirement.

*Extending Federal RFG to surrounding 8 counties.* TNRCC is not required to demonstrate that expanded use of RFG, a fuel measure, is unreasonable or impracticable in order to support the necessity of the LED fuel measure.

*Electric vehicle mandate.* This rule is not reasonable or practicable because of high cost to the general public and availability concerns.

*Heavy-duty vehicle I/M.* Inspection and maintenance is neither reasonable nor practicable for heavy duty vehicles because the technology is not currently available to implement a program and determine associated $NO_X$ reductions. The 1.5 tpd $NO_X$ reduction value in Table 2 is questioned by EPA. Existing heavy-duty I/M programs consist primarily of opacity testing, which is testing for particulates.

*Natural gas buses.* This type of bus is more costly than clean diesel. The difference in cost would not justify the small additional emission reduction benefits, so to mandate natural gas buses would be unreasonable. In addition, TNRCC would have to get changes to existing statutory authority in order to regulate bus fleets. The time required to draft and seek passage of such legislation renders this an unreasonable and impracticable measure. It should be noted that both Dallas and Fort Worth have voluntarily purchased natural gas buses when their budgets allowed.

*California LEV.* This measures provides essentially no additional credit to the nonattainment areas. Federal Tier 2 vehicles will provide essentially the same or more credit. Therefore, California LEV is unreasonable.

*$NO_X$ Controls on cement kilns beyond 30% in Ellis county.* For Ellis County, Table 2 shows 2.0 tpd $NO_X$ reductions if 50 percent, rather than 30 percent, control is in place. The technology to achieve 50 percent reductions produces a high cost/benefit ratio, which makes this measure unreasonable and impracticable.

*Energy efficiencies (building codes).* Energy efficiency measures are implemented through local building codes. Each municipality would have to adopt the measures in order for them to be enforceable. This would cause extensive delay in implementation. In addition, the State is requiring significant reductions in emissions from electric generating facilities. As a result, it is unclear what additional emission reductions could be obtained from energy efficiency improvements.

*Truck idle shut-off.* Although this measure may now be considered reasonable and practicable for other nonattainment areas, the State would still need additional emission reduction credits even if it were implemented. (See discussion in TSD).

In addition to the above controls, TNRCC also considered expanding several of the control measures in Table 1 beyond the 4-county DFW nonattainment area. Five of the six measures were considered unreasonable or impracticable in the 9-county area.

*Major Point Source $NO_X$ reductions* in 4 counties. Major point source $NO_X$ reductions are mandated only for the 4 county area because $NO_X$ controls for those sources in the attainment areas are mandated by other rules. These rules are $NO_X$ reductions of 30% for grandfathered sources, 50% reductions for grandfathered Electric Generating Facilities, and 30% reductions for Cement Kilns. Therefore the extreme cost of adding additional controls does not justify the relatively small benefit that would result.

*Heavy-duty diesel operating restriction* in 4 counties. Analysis of the area and nonroad emissions inventory showed that 16% of the region's total $NO_X$ emissions come from construction equipment within the 4-county area. Implementation of this measure will be difficult. It is not considered reasonable to extend this measure to the less urban attainment counties at this time. Construction in these counties is considerably less than in the more urbanized counties. The benefit from this measure would be too small to make a significant contribution to emission reductions compared to the cost to implement.

*Accelerated Purchase of Tier II/III off-highway diesel equipment* in 4 counties. Implementation of this measure will be difficult, and little if any benefit is available. Construction in these counties is considerably less than in the more urbanized counties. The benefit from this measure would be too small to make a significant contribution to emission reductions compared to the cost to implement. It is not considered reasonable to extend this measure to the less urban attainment counties at this time.

*Airport Ground Support Equipment electrification* in 4 counties. It is not necessary (or reasonable) to impose airport GSE electrification in the attainment counties because there are no major airports in those counties.

*Transportation Control Measures (TCMs)* in 4 counties. A TCM is a project that attempts to reduce vehicle use, change traffic flow, or reduce congestion conditions. Due to the semi-rural nature of the attainment counties, reducing vehicle use is not a viable option in this lower population density area. Generally traffic flow is satisfactory and congestion is not an issue. Therefore, implementing TCMs is not reasonable or practicable in the attainment counties.

*Speed limit reductions* in 9 counties. The reduced speed limit measure is based on vehicle emission information from EPA's MOBILE5 model. There is a significant amount of vehicle miles traveled and ample fleet size in the additional 5 counties to justify expanding this measure beyond the 4-county area.

Based on the discussion above, we propose to find that reasonable or practicable non-fuel measures which would bring the DFW nonattainment area into attainment in a timely manner do not exist.

**Why Is the State Requiring LED Fuel in Attainment Counties of the DFW CMSA?**

Requiring LED in the attainment areas will reduce emissions of $NO_X$ in those areas, which, in turn, benefits the DFW nonattainment area by reducing the transport of ozone and $NO_X$ from the attainment areas to the nonattainment area.

**The LED Fuel Program Will Reduce the Transport of Ozone From the Attainment Areas to the Nonattainment Area**

Texas conducted several studies (see Appendix A of the TSD for a list of studies) to evaluate the transport of ozone and its precursors in and around the DFW nonattainment area and other urban areas. Photochemical grid modeling showed that urban ozone plumes disperse with distance and that significant impact extended to about 300 km downwind. Each plume adds to the background concentration, making it more difficult for the downwind areas to reach attainment. The Seasonal Modeling for Regional Air Quality, in which Texas participated, showed similar results: that mobile source reductions, along with point and area source reductions, in the eastern part of Texas resulted in modeled decreases in ozone in the nonattainment areas in the eastern half of Texas. This modeling supports the concept that ozone formed in attainment counties is carried into the nonattainment areas as a result of meteorologic conditions and that transport from upwind attainment areas affects background ozone concentrations in downwind urban nonattainment areas.

In addition, the Baylor Aircraft Study showed the impact of ozone plumes between the attainment and nonattainment areas. Part of this study

demonstrated the potential for significant ozone levels when high background levels of ozone are transported into the DFW area from attainment areas. Results of the analysis show area, point, and mobile sources contribute about 40 ppb to the regional background, resulting in background concentrations of approximately 79 ppb in the attainment areas. Further, the study demonstrated transport of this ozone into the nonattainment areas.

In the Coastal Oxidant Assessment for Southeast Texas (COAST) Study, researchers collected aerometric (meteorological and air quality) data to improve understanding of the causes of high ozone in Southeast Texas. This data was then used in conjunction with photochemical modeling to determine control strategy effectiveness including the sensitivity of ozone concentrations in the nonattainment areas to emission reductions in the attainment region. This sensitivity modeling indicated there was an influence of emission reductions in the attainment areas on the nonattainment areas.

**The LED Fuel Program Will Reduce the Transport of $NO_X$ From the Attainment Areas to the Nonattainment Area**

EPA policy recognizes that ozone precursors emitted in attainment areas that surround nonattainment areas may be transported into those nonattainment areas and contribute to ozone problems therein. With the December 29, 1997, Guidance for Implementing 1-Hour Ozone and Pre-Existing PM10 NAAQS, EPA recognized that both VOCs and $NO_X$ outside the nonattainment areas at 100 km and 200 km respectively could influence the nonattainment area. We allowed taking credit from sources within these areas of influence in the 9 percent Rate of Progress Plans. The fact that $NO_X$ influence has been shown to be meaningful within 200 km of a nonattainment area supports Texas' justification for controlling the components of diesel in many of the attainment areas surrounding the DFW nonattainment area. We believe it is appropriate to conclude that $NO_X$ emission reductions within this area will benefit the nonattainment area.

The Baylor Aircraft Study also demonstrated that ozone precursors were present in the ozone plumes being studied. The actual formation of ozone within plumes from point sources in the attainment areas suggests that ozone precursors are present in those plumes and are transported into nonattainment areas along with ozone. The evidence of transport of $NO_X$ from the attainment area into the nonattainment areas supports the statement that the LED fuel program will help to prevent ozone formation in the nonattainment area.

**Is the LED Fuel Program Necessary To Achieve the NAAQS?**

Without the LED program in the nine counties, implementation of all reasonable and practicable non-fuel control measures, including truck idling, would reduce $NO_X$ emissions by only 367.64 tpd. An additional 2.48 tpd of $NO_X$ emissions reductions is necessary for DFW to achieve timely attainment of the ozone NAAQS. The LED fuel program will supply additional reductions needed for the DFW area to demonstrate attainment. Therefore, we propose to find the LED fuel requirements for the nine counties necessary to achieve timely attainment of the ozone NAAQS in the DFW nonattainment area. This satisfies the requirement of necessity in section 211(c)(4)(C).

**Does the State Submittal Meet the SIP Approval Requirements Under Section 110?**

The LED fuel control program meets the requirements outlined in section 110. Texas submitted the fuel portion of the DFW attainment SIP under a Governor's letter April 25, 2000. The submittals contain the appropriate hearing actions, a preamble, and the LED fuel rules. The SIP was deemed complete by letter on June 23, 2000.[4]

**How Will the Program Be Enforced?**

The Texas Natural Resource Conservation Commission will implement the LED fuel rule. Anyone, including producers and importers, who sells, offers for sale, supplies, or offers for supply to affected counties the LED fuel are subject to provisions of this rule. Registration, recordkeeping, reporting, and certification requirements are included. This rule will be enforced in the same way as other regulations implemented by TNRCC. State law allows collection of administrative penalties up to $10,000 per day and civil penalties up to $25,000 per day for violations of air quality regulations. See Vernon's Texas Statutes & Codes, Annotated (VTCA) Water Code, sections 7.002, and 7.051. The TNRCC may also seek injunctive relief under section 7.032 of the Water Code.

Texas revised the enforcement portion of the State's LED rules on December 6, 2000, in response to our comments on the Houston Attainment Demonstration. That rule supersedes the enforcement provisions of the DFW LED rule.

**What Is Proposed?**

We are proposing to approve rules establishing a LED fuel requirement for all diesel fuel sold in nine counties in the DFW CMSA. We are also proposing to find, under section 211(c)(4)(C), that the State has demonstrated the fuel measure is necessary for attainment of the NAAQS and that no other measures exist which would bring about timely attainment or if such measures exist, they are not reasonable or practicable.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future 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**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed rule also does 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), nor will it 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,

[4] As noted above, the regulations as submitted in the DFW SIP have since been revised. Today's action proposes approval of the current State LED regulations only insofar as they apply to the nine counties and only with respect to the standards to be implemented May 1, 2002.

August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This proposed 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.*).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: April 9, 2001.

**Lynda F. Carroll,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 01–9973 Filed 4–20–01; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 300

**[Docket No. 010111010–1010–01–01; I.D. 113000B]**

**RIN 0648–AO42**

## International Fisheries Regulations; Pacific Tuna Fisheries; Correction

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

**ACTION:** Correction to proposed rule; implementation of Inter-American Tropical Tuna Commission (IATTC) recommendations to reduce bycatch in the purse seine fishery and to establish a regional vessel register.

**SUMMARY:** This document corrects the classification section of the preamble to the proposed rule which was published on March 30, 2001. This rule proposes fishery conservation and management measures for the purse seine fishery in the eastern Pacific Ocean (EPO) to reduce bycatch of juvenile tuna, non-target fish species, and non-fish species. The measures were recommended by the IATTC and approved by the Department of State (DOS), in accordance with the Tuna Conventions Act of 1950. In addition, the proposed rule would establish reporting requirements for U.S. vessels fishing for tuna in the EPO so that NMFS can provide information to the IATTC for a regional vessel register.

**FOR FURTHER INFORMATION CONTACT:** Svein Fougner, 562–980–4030.

**SUPPLEMENTARY INFORMATION:**

### Background

The proposed rule that was published in the **Federal Register** on March 30, 2001 (66 FR 17387), that proposes conservation and management measures for the purse seine fishery in the EPO to reduce bycatch of juvenile tuna, non-target fish species, and non-fish species, contained a number of errors that require correction.

### Correction

In the classification section of the proposed rule FR Doc. 01–7942, in the issue of Friday, March 30, 2001 (66 FR 17387), make the following correction:

On page 17388, in the second column, delete the last paragraph and replace it with the following paragraphs:

''Two alternatives were considered. A no action alternative and an additional action alternative.

Under the no action alternative, U.S. regulations would be deferred until it is clear that other nations have placed restrictions on their vessels equal to those imposed by the U.S. Deferring implementation of these regulations at this time would not immediately have any impacts on fish stocks because the U.S. share of total fishing in the EPO is quite small and U.S. fishers generally try to avoid small fish already due to their low value. Also, U.S. vessels already take care to minimize harm to sea turtles. However, this approach could result in serious long term impacts if other nations viewed failure of the U.S. to implement regulations in a timely manner as a sign of disagreement with the measures recommended by the IATTC. The U.S. has obligations under the convention to implement such recommendations as are approved by the DOS, and not fulfilling those obligations would probably result in many other nations failing to abide by the IATTC recommendations. This would almost certainly result in overfishing of the stocks, excessive bycatch, and long term losses to U.S. industries and vessel owners.

Under the additional action alternative, the U.S. would go beyond the recommendations of the IATTC or take an alternative approach to the vessel register information collection. For example, NMFS might act to require vessels to abort sets if the first brailing of fish on board demonstrates that there is a certain percentage of fish below a given size. NMFS also could propose to prohibit log sets (fish aggregating device sets)(FADs) to ensure that bycatch will be reduced. U.S. vessels have become more dependent on log sets (especially FAD sets) in recent years, and the IATTC already has recommended (and NMFS has implemented regulations) to close the log set fishery from September 15 through December 15 (at least for 2000), which will by itself contribute to reduced bycatch. NMFS might also establish a separate EPO licensing program with applications to include all the specific items of information specified in the IATTC recommendation.

Such actions would have greater impact on U.S. fleets than the proposed action. It is likely that more sets would be aborted than is now the case, which could cause inefficiency in the fishing operation and put the U.S. vessels at a disadvantage compared to foreign fleets. It is not clear that the benefits of further reductions would offset the loss of economic value associated with log set fishing; log sets constitute a very cost-effective fishing technique, and other