

these rules contain information collection requirements as defined in 5 CFR part 1320. These information requirements are assigned OMB Control Number 0596-0172.

#### **§ 218.15 Applicability and effective date.**

The provisions of this subpart are effective as of January 9, 2004 and apply to all proposed authorized hazardous fuel reduction projects conducted under the provisions of the HFRA for which scoping begins on or after January 9, 2004.

#### **Subpart B—[Reserved]**

Dated: January 5, 2004.

**David P. Tenny,**

*Deputy Under Secretary, Natural Resources and Environment.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[IA 200-1200; FRL-7608-3]

#### **Approval and Promulgation of Implementation Plans; State of Iowa; Correction**

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

**ACTION:** Correcting amendments.

**SUMMARY:** On October 8, 2003, EPA published a direct final action approving revisions to the Iowa State Implementation Plan (SIP). In the October 8, 2003, rule, EPA inadvertently deleted a clarifying statement in the Comments column for Polk County Board of Health Rules and Regulations Air Pollution Chapter V. We are making a correction in this document.

**DATES:** This action is effective January 9, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Heather Hamilton (913) 551-7039, or e-mail her at [hamilton.heather@epa.gov](mailto:hamilton.heather@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA published a SIP revision for Iowa for Polk County Board of Health Rules and Regulations Air Pollution Chapter V, on June 13, 1995 (60 FR 31084). Section 52.820(c), Polk County, included a statement that Article VIII and Article XIII of the Polk County rules are not a part of the SIP. This clarification was inadvertently omitted in the prior rule. Therefore, in this correction notice we are reinserting this information into the table.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B),

provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is such good cause for making today's rule final without prior proposal and opportunity for comment because we are merely reinserting an explanation which was included in a previous action. Thus, notice and public procedure are unnecessary.

#### **Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely corrects a table consistent with a prior EPA action, and imposes no additional requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely reinserts clarifying language included in a previous action, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), for the reasons stated above, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act (CAA). This 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, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus

standards (VCS), we have no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have 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 rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (CRA), 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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. As stated previously, we made such a good cause finding, including the reasons therefore and established an effective date of January 9, 2004. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to the Iowa SIP table is not a "major rule" as defined by 5 U.S.C. 804 *et seq.* (2).

Dated: December 22, 2003.

**James B. Gulliford,**

*Regional Administrator, Region 7.*

■ 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 Q—Iowa**

■ 2. In § 52.820 the table in paragraph (c) is amended by revising the entry in the Comments column for “Chapter V” under “Polk County” to read as follows:

**EPA—APPROVED IOWA REGULATIONS**

**§ 52.820 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

Iowa citation	Title	State effective date	EPA approval date	Comments
<b>Iowa Department of Natural Resources, Environmental Protection Commission [567]</b>				
<b>Polk County</b>				
Chapter V .....	Polk County Board of Health Rules and Regulations Air Pollution Chapter V.	4/15/1998 10/4/2000	1/09/04 FR page and cite	Article I, Board of Section 5–2, definition of “variance”; Article VI, Sections 5–16(n), (o) and (p); Article VIII, Article IX, Sections 5–27(3) and (4), Article XIII, and Article XVI, Section 5–75(b) are not a part of the SIP.

\* \* \* \* \*  
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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 030908224–3325–02; I.D. 080403B]

RIN 0648–AM23

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 10**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement the approved measures of Amendment 10 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (Amendment 10), as prepared and submitted by the Gulf of Mexico Fishery Management Council (Council). This final rule requires, with limited exceptions, the use of NMFS-certified bycatch reduction devices (BRDs) in shrimp trawls in the Gulf of Mexico exclusive economic zone (Gulf EEZ) east of 85°30' W. long. (approximately Cape San Blas, FL). In addition, this final rule identifies the certified BRDs currently authorized for use in the Gulf EEZ east

of 85°30' W. long. and modifies the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual* to reflect the specific bycatch reduction criterion applicable for certification of BRDs used in this area of the Gulf EEZ. The intended effect of this final rule is to reduce bycatch in the Gulf of Mexico shrimp fishery to the extent practicable.

**DATES:** This final rule is effective February 9, 2004.

**ADDRESSES:** The final regulatory flexibility analysis (FRFA) is available from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

**FOR FURTHER INFORMATION CONTACT:** Dr. Steve Branstetter, telephone: 727–570–5305, fax: 727–570–5583, e-mail: [Steve.Branstetter@noaa.gov](mailto:Steve.Branstetter@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The fishery for shrimp in the Gulf EEZ is managed under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP). The FMP was prepared by the Council, approved by NMFS, and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On August 14, 2003, NMFS announced the availability of Amendment 10 and requested comments on it (68 FR 48592). NMFS published the proposed rule to implement Amendment 10 and requested comments on the proposed rule through November 14, 2003 (68 FR 56252, September 30, 2003). NMFS partially approved Amendment 10 on November 2, 2003; the bycatch reporting methodology was disapproved based on

inconsistency with national standard 2. The rationale for the measures in Amendment 10 is provided in Amendment 10 and in the preamble to the proposed rule and is not repeated here.

**Comments and Responses**

NMFS received five comment letters during the public comment periods on the amendment and the proposed rule. The comments and NMFS' responses follow.

*Comment 1:* National standard 9 (NS9) of the Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act requires that fishery management plans include conservation and management measures that shall, to the extent practicable, minimize bycatch and to the extent bycatch cannot be avoided, minimize the mortality of such bycatch. Implementing bycatch reduction device (BRD) requirements for the eastern Gulf of Mexico would contribute to meeting that requirement.

*Response:* In partially approving the Council's Generic Sustainable Fisheries Act Amendment in 1999, NMFS concluded that bycatch was not reduced to the extent practicable for the entire Gulf of Mexico shrimp fishery because no bycatch reduction methods had been proposed for the eastern Gulf of Mexico. NMFS urged the Council to develop management actions to reduce bycatch in the shrimp fishery in the eastern Gulf of Mexico to be in compliance with NS9. NMFS partially approved Amendment 10 on November 2, 2003, including approval of the proposed action to require BRDs in the eastern