claimants and veterans service organizations, that VA had established temporary claims-handling procedures for claimants who allege that they submitted a claim-related document or evidence during the aforementioned time period that was not of record in official VA files. Furthermore, it is VA's general policy that any claimant can assert at any time that VA misplaced or inadvertently destroyed documents and that VA will take appropriate action under existing procedures. Therefore, upon further study we have determined that this rulemaking is unnecessary. VA is withdrawing the proposed rule as it is no longer required.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on June 9, 2011, for publication.

Dated: July 13, 2011.

Robert C. McFetridge,

Director, Office of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

[FR Doc. 2011–17959 Filed 7–15–11; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2005–TX–0025; FRL–9439–7]

Approval and Promulgation of Implementation Plans; Texas; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); General Definitions; Definition of Modification of Existing Facility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Proposed withdrawal of prior proposed disapproval.

SUMMARY: EPA is proposing to approve revisions to the applicable State Implementation Plan (SIP) for the State of Texas that relate to severable portions of the definition of ''modification of existing facility'' in the general definitions for the Texas NSR Program. EPA proposes to find that these changes to the Texas SIP comply with the Federal Clean Air Act (the Act or CAA) and EPA regulations, and are consistent with EPA policies. EPA is also proposing to withdraw an action proposed on September 23, 2009, regarding two provisions that have been superseded by later submitted revisions. EPA is taking this action under section 110 of the Act.

DATES: Comments must be received on or before August 17, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2005–TX–0025 by one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

(2) *E-mail:* Mr. Stanley M. Spruiell at *spruiell.stanley@epa.gov.*

(3) U.S. EPA Region 6 ''Contact Us'' Web site: *http://epa.gov/region6/r6coment.htm.* Please click on ''6PD'' (Multimedia) and select ''Air'' before submitting comments.

(4) *Fax:* Mr. Stanley M. Spruiell, Air Permits Section (6PD–R), at fax number 214–665–6762.

(5) *Mail:* Mr. Stanley M. Spruiell, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

(6) *Hand or Courier Delivery:* Mr. Stanley M. Spruiell, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2005–TX–0025. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittals, which are part of the EPA docket, are also available for public inspection at the State Air Agency during official business hours by appointment: Texas Commission on Environmental Quality (TCEQ), Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley M. Spruiell, Air Permits Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7212; fax number (214) 665–6762; e-mail address *spruiell.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever

any reference to ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. The State's Submittals

On March 13, 1996; July 22, 1998; and September 4, 2002; the State of Texas submitted revisions to the Texas State Implementation Plan (SIP) concerning the definition of ''modification of existing facility'' for minor source permitting under Title 30 of the Texas Administrative Code (30 TAC), Chapter 116—Control of Air Pollution by Permits for New Construction or Modification, Subchapter A—Definitions. The definition of ''modification of existing facility'' is located at 30 TAC 116.10(11) in the September 4, 2002 submittal. The March 13, 1996, revisions to this definition were repealed and readopted, and new versions were submitted to EPA on July 22, 1998. This definition was later recodified from 30 TAC 116.10(9) to 116.10(11) in a SIP submittal dated September 4, 2002.

Section 30 TAC 116.10—General Definitions—is currently approved as adopted by Texas on August 21, 2002, and as approved April 14, 2010 (75 FR 19468). As approved, the current SIP does not include all the definitions under Section 116.10, including the definition of ''modification of existing facility'' found in Section 116.10(11). Today, we propose to approve the portions of this definition first adopted by Texas on February 14, 1996 (submitted March 13, 1996). The next submittal reflects the Texas repeal and readoption of this definition as Section 116.10(9) on June 17, 1998 (submitted July 22, 1998). The regulatory history of the March 13, 1996 submittal was used to evaluate the later submittals. We propose to approve the definition ''modification of existing facility'' as submitted on July 22, 1998, and the redesignation of this definition to Section 116.10(11) adopted August 21, 2002 (submitted September 4, 2002). We also propose to approve Subparagraphs (C) and (D) of this definition as submitted July 22, 1998, and September 4, 2002.

Finally, please note that Texas submitted further revisions to 30 TAC 116.10 on October 5, 2010. This includes the removal of two definitions, the renumbering of other definitions, and revisions to certain definitions. In this October 2010 submittal, TCEQ renumbered the definition of ''modification of existing facility'' to Section 116.10(9) and relettered Subparagraphs (C) and (D) to Subparagraphs (B) and (C), respectively, with no other changes. We are not proposing action on the October 5, 2010, SIP submittal here. We will address the October 2010 SIP revisions in a separate action.

Additional information related to these SIP submittals is contained in the Technical Support Document (TSD), which is in the docket for this action.

The table below summarizes the changes that were submitted and are affected by this action. A summary of EPA's evaluation of each section and the basis for this proposal is discussed in section III of this preamble. The TSD includes a detailed evaluation of the referenced SIP submittals.

Section	Title	Date submitted	Date adopted by the State	Comments
30 TAC 116.10(11)	Definition of modification of existing facility—Introductory paragraph.	3/13/1996	2/14/1996	Initial adoption.
		7/22/1998	6/17/1998	Repeal and readoption as Section 116.10(9).
		9/4/2002	8/21/2002	Recodification to Section 116.10(11).
30 TAC 116.10(11)(C)	Exclusion of maintenance or replacement of equipment.	3/13/1996	2/14/1996	Initial adoption.
		7/22/1998	6/17/1998	Repeal and readoption as Section 116.10(9)(C).
		9/4/2002	8/21/2002	Recodification to Section 116.10(11)(C).
30 TAC 116.10(11)(D)	Exclusion of increase in annual hours of operation.	12/15/1995	11/16/1995	Initial adoption.
		7/22/1998	6/17/1998	Repeal and readoption as Section 116.10(9)(D).
		9/4/2002	8/21/2002	Recodification to Section 116.10(11)(D).

On September 23, 2009 (74 FR 48450), EPA proposed to disapprove 30 TAC 116.10(11)(A) and (B). In a separate SIP revision submitted October 5, 2010, Texas revised 30 TAC 116.10(11)(A) and repealed 30 TAC 116.10(11)(B).

As noted in the original proposed action on Subparagraphs (A) and (B), the two Subparagraphs are not severable from each other. 74 FR 48450, at 48452. The two provisions were considered in conjunction with each other as our basis of evaluation in the original proposal. Because (B) is now repealed and the wording of (A) has been changed in a later submitted revision, the basis of evaluation in the original proposed action has changed. EPA therefore proposes to withdraw its previously proposed action so that the submitted revised Subparagraph (A) and the impact of the repeal of Subparagraph (B) upon the revised Subparagraph (A) may be addressed in a future separate action.

This course of action will promote efficiency, mitigate confusion, and facilitate new comments on the future proposed action on the October 5, 2010 submittal with a proper basis of evaluation. Given the need for comments and evaluation of the newly submitted regulatory wording changes to Subparagraph (A), EPA considers any established deadline under the *Business Coalition for Clean Air Appeal Group (BCCA)* Settlement Agreement to be inapplicable with respect to this provision.[1]

The repeal of Subparagraph (B) in the October 2010 SIP submittal also renders moot and inapplicable any obligation to act on that provision under the BCCA Settlement Agreement. Because Subparagraph (B) was repealed and is no longer before EPA for action, no further action is needed on this provision. Consequently, EPA now proposes to withdraw its previously proposed action on Subparagraph (B).

II. What action is EPA proposing to take?

We have evaluated severable portions of the SIP submissions of 30 TAC 116.10(11), which include the introductory paragraph of the definition of ''modification of existing facility,'' and Subparagraphs (C) and (D) of that definition for consistency with the CAA, NSR regulations for new and modified sources in 40 CFR Part 51, and the approved Texas SIP. We have also reviewed the rules for enforceability and legal sufficiency.

This action addresses severable portions of the definition of modification of existing facility under 30 TAC 116.10(11), including the introductory paragraph and Subparagraphs (C) and (D) of the definition submitted March 13, 1996; July 22, 1998; and September 4, 2002. A technical analysis of the submittals for this definition has found that these changes meet the CAA and 40 CFR Part 51 and are consistent with EPA policies. Therefore, EPA proposes to approve the severable portions of the definition of ''modification of existing facility'' under 30 TAC 116.10(11), including the introductory paragraph of Section 116.10(11) and Subparagraphs (C) and (D) of this definition, submitted on March 13, 1996; July 22, 1998; and September 4, 2002. As discussed earlier, in a separate SIP submittal dated October 5, 2010, 30 TAC 116.10(11) and Subparagraphs, (C), and (D) were renamed as 30 TAC 116.10(9) and Subparagraphs (B) and (C), respectively. EPA is not proposing action on the changes submitted October 2010, and will address these revisions in a separate action.

In a separate action on September 23, 2009, 74 FR 48450, EPA proposed to disapprove severable provisions in Subparagraphs (A), (B), and (G) of the definition ''modification of existing facility.'' EPA is currently reviewing the proposal on Subparagraph (G) and will take action on this proposal in the future. In light of revisions that were submitted on October 5, 2010, revising the language of Subparagraph (A) and eliminating Subparagraph (B), EPA is proposing to withdraw its proposed actions on Subparagraphs (A) and (B). Subparagraph (A) as it appears in the October 5, 2010 submittal will be evaluated and will be addressed in a separate future action.

III. EPA's Evaluation of Severable Portions of the Definition of ''Modification of Existing Facility''

A. Section 30 TAC 116.10(11)—Introductory Paragraph of the Definition of ''Modification of Existing Facility''

1. What is the background of the introductory paragraph of 30 TAC 116.10(11)?

The TCEQ initially submitted the introductory paragraph of the general definition of ''modification of existing facility'' on March 13, 1996. On July 22, 1998, TCEQ repealed and resubmitted this definition as readopted at 30 TAC 116.10(9). On September 4, 2002, TCEQ submitted revisions that redesignated this definition to 30 TAC 116.10(11). The submitted regulatory definition of the introductory paragraph that we are addressing here provides:

> (11) Modification of existing facility—Any physical change in, or change in the method of operation of, a facility in a manner that increases the amount of air contaminants emitted by the facility into the atmosphere or which results in the emission of any air contaminant not previously emitted. * * *

2. What Is EPA's evaluation of the submitted revisions to the introductory paragraph of 30 TAC 116.10(11)?

EPA approved the definition of ''facility'' in Subchapter A: Definitions on September 6, 2006 (71 FR 52698) as part of the Texas SIP. ''Facility'' is defined as ''A discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment. A mine, quarry, well test, or road is not a facility.'' See approved SIP at 30 TAC 116.10(6). The submitted regulatory definition for ''modification of existing facility'' also is in Subchapter A, Section 116.10. Therefore, ''existing facility'' is limited by the terms of the SIP definition of ''facility.'' In our evaluation of this introductory paragraph in the submitted regulatory definition of modification of existing facility, we compared it to how ''modification'' is defined in the CAA and in our regulations.

The CAA defines modification in Section 111(a)(4) as:

> (4) The term ''modification'' means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any pollutant not previously emitted.

In 40 CFR 52.01(d), the phrases ''modification'' and ''modified source'' are defined as any physical change in, or change in the method of operation of, a stationary source which increases the emission rate of any air pollutant for which a national standard has been promulgated under part 50 of this chapter or which results in the emission of any such pollutant not previously emitted.

The introductory paragraph of 30 TAC 116.10(11) is substantially the same as the definitions in section 111(a)(4) of the Act and 40 CFR 52.01(d).

The existence of a similar definition for ''major modification,'' in Section 116.12—Nonattainment and Prevention of Significant Review Definitions—that is applicable for Major NSR[2] serves to distinguish the provisions in the introductory paragraph from the Major NSR Program and limit its application to Minor NSR.

We are proposing to approve the introductory paragraph of 30 TAC 116.10(11), as submitted March 13, 1996; July 22, 1998; and September 4, 2002.

[1] Under a Settlement Agreement for a lawsuit *Business Coalition for Clean Air Appeal Group* v. *EPA,* Case No. 3–08CV1791–G, EPA must take final action on the NSR Rules Revisions submitted March 13, 1996; July 22, 1998; and September 4, 2002 by October 31, 2011. If today's proposed action is finalized by October 31, 2011, it will satisfy this deadline. Under § 110(k)(2) of the Clean Air Act, EPA must take final action on the revisions submitted October 5, 2010, no later than April 5, 2012.

[2] Section 116.12 as currently approved in the Texas SIP applies only to the Major NSR Program for Nonattainment Review. SIP revisions submitted February 1, 2006, and March 11, 2011, revised the definition to apply to both Nonattainment Review and Prevention of Significant Deterioration. EPA is currently reviewing these revisions and plans to act upon them shortly. The definitions in Section 116.12 are effective as State rules and the TCEQ implements them as part of its Major NSR Program.

B. Section 30 TAC 116.10(11)(C)—Exclusion for Maintenance and Replacement of Equipment

1. What is the background for 30 TAC 116.10(11)(C)?

On March 13, 1996, this provision was submitted as Subparagraph (C) under the definition of ''modification of existing facility.'' In the July 22, 1998, submittal, the provision was repealed and resubmitted as 30 TAC 116.10(9)(C). On September 4, 2002, TCEQ submitted revisions that redesignated this definition to 30 TAC 116.10(11)(C). As submitted, Subparagraph (C) provides that the following is not a modification to an existing facility:

(C) Maintenance or replacement of equipment components that do not increase or tend to increase the amount or change the characteristics of the air contaminants emitted into the atmosphere;

2. What is EPA's evaluation of the submitted revisions to 30 TAC 116.10(11)(C)?

The submitted Subparagraph (C) mirrors the definition in the Texas Clean Air Act (TCAA). EPA approved this statutory provision into the Texas SIP on May 31, 1972 (37 FR 10896). Under Subparagraph (C), any maintenance and repair of equipment components that increases emissions, or tends to increase emissions, will be considered a modification consistent with the introductory paragraph of 30 TAC 116.10(11). Accordingly, the limitation in Subparagraph (C) protects against increases in emissions and thereby does not interfere with attainment or reasonable further progress. The definition of ''major modification'' in Section 116.12 has a similarly protective, but different, exclusion for routine maintenance, repair, and replacement. The existence of a similar exclusion in the Section 116.12 that is applicable for Major NSR serves to distinguish the provisions in paragraph (C) from the Major NSR Program and limit its application to Minor NSR.

Accordingly, we are proposing to approve 30 TAC 116.10(11)(C), as submitted March 13, 1996; July 22, 1998; and September 4, 2002.

C. Section 30 TAC 116.10(11)(D)—Exclusion for an Increase in Annual Hours of Operation

1. What is the background of 30 TAC 116.10(11)(D)?

On March 13, 1996, this provision was submitted as Subparagraph (D) under the definition of ''modification of existing facility.'' In the July 22, 1998, submittal, the provision was repealed and resubmitted as 30 TAC 116.10(9)(D). On September 4, 2002, TCEQ submitted revisions that redesignated this definition to 30 TAC 116.10(11)(D). As submitted, Subparagraph (D) provides that the following is not a modification to an existing facility:

(D) An increase in the annual hours of operation unless the existing facility has received a preconstruction permit or has been exempted, under TCAA, § 382.057, from preconstruction permit requirements;

2. What is EPA's evaluation of the submitted revisions to 30 TAC 116.10(11)(D)?

The submitted Subparagraph (D) mirrors the definition in the Texas Clean Air Act (TCAA). EPA approved this statutory provision into the Texas SIP on May 31, 1972 (37 FR 10896). Subparagraph (D) is similar to 40 CFR 52.01(d)(2)(ii), which provides that an increase in the hours of operation shall not be considered a change in the method of operation.

The submitted Subparagraph (D) is substantially the same as 40 CFR 52.01(d)(2)(ii). Furthermore, Subparagraph (D) includes additional language that clarifies that an increase in hours of operation may be a modification for existing minor facilities having preconstruction permits or exemptions, under TCAA § 382.057 [3] for preconstruction permit requirements. This language limits the reach of the exclusion in scenarios where an existing facility is subject to limitations on hours of operation under the terms of a preconstruction permit or an exemption. This is consistent with federal requirements in 40 CFR 52.01(d)(2)(ii). Subparagraph (D) meets and improves upon the federal requirements as described above. Again, the definition of ''major modification'' in Section 116.12 has a similar, but different, exclusion for an increase in the annual hours of operation. The existence of a similar exclusion in the Section 116.12 that is applicable for Major NSR serves to distinguish the provisions in paragraph (D) from the Major NSR Program and limit its application to Minor NSR.

Accordingly, we are proposing to approve 30 TAC 116.10(11)(D), as submitted March 13, 1996; July 22, 1998; and September 4, 2002.

IV. Proposed Action

Today, EPA proposes to approve the following revisions to the Texas SIP to include severable provisions of the definition of '' modification of existing facility'' under 30 TAC 116.10(11), submitted March 13, 1996; July 22, 1998; and September 4, 2002. This includes the following:

- 30 TAC 116.10(11)—the introductory paragraph of the definition of ''modification of existing facility'';
- 30 TAC 116.10(11)(C)—Exclusion for maintenance and replacement of equipment; and
- 30 TAC 116.10(11)(D)—Exclusion for an increase in annual hours of operation.

Final action on these revisions on or before October 31, 2011, will meet EPA's obligation on the NSR Rules Revisions; 112(g) Revisions component of the May 21, 2009, Settlement Agreement between EPA and the Business Coalition for Clean Air Appeal Group, Texas Association of Business, and Texas Oil and Gas Association.

EPA is proposing to withdraw its prior proposed disapprovals regarding the following provisions:

- 30 TAC 116.10(11)(A). EPA proposed to disapprove Subparagraph (A) in a separate action on September 23, 2009, 74 FR 48450. EPA is currently reviewing October 5, 2010 submitted revisions to Subparagraph (A) that have been subsequently submitted, and therefore proposes to withdraw its former proposal and act on Subparagraph (A) under the later submitted revisions in a separate action.
- 30 TAC 116.10(11)(B). EPA proposed to disapprove Subparagraph (B) in a separate action on September 23, 2009, 74 FR 48450. EPA takes notice of the repeal of Subparagraph (B) in the October 5, 2010 submittal and therefore proposes to withdraw its former proposal as moot. The provision no longer is before EPA for action.

EPA is not taking any action on the following severable provisions of 30 TAC 116.10(11):

- 30 TAC 116.10(11)(E). EPA disapproved Subparagraph (E) in a separate action on April 14, 2010, 75 FR 19468. EPA will address any subsequent revisions to Subparagraph (E) in a separate action.
- 30 TAC 116.10(11)(F). EPA disapproved Subparagraph (F) in a separate action on July 15, 2010, 75 FR 41312. EPA will address any subsequent revisions to Subparagraph (F) in a separate action.

EPA is not reopening the public comment period for the following severable provision of 30 TAC 116.10(11):

- 30 TAC 116.10(11)(G). EPA proposed to disapprove this provision on September 23, 2009. EPA is currently

[3] The term ''exemptions'' is a misnomer. Exemptions in Texas now are called Permits by Rule. An ''exemption'' since 1972 in Texas and in the Texas SIP, is an authorization to construct and/or modify if certain conditions are met.

reviewing the proposal and will act on Subparagraph (G) at a future time.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. See 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 Clean Air Act. Accordingly, this notice merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011);
- 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 Clean Air Act; 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations.

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

Dated: July 4, 2011.

Al Armendariz,

Regional Administrator, Region 6.

[FR Doc. 2011–17873 Filed 7–15–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 229 and 665

[Docket No. 110131070–1084–01]

RIN 0648–BA30

Taking of Marine Mammals Incidental to Commercial Fishing Operations; False Killer Whale Take Reduction Plan

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

ACTION: Proposed rule; notice of availability of draft take reduction plan; request for comments.

SUMMARY: NMFS announces the availability of a Draft False Killer Whale Take Reduction Plan developed by the False Killer Whale Take Reduction Team. This proposed rule would implement the proposed False Killer Whale Take Reduction Plan (FKWTRP), which is based on consensus recommendations included in the Draft False Killer Whale Take Reduction Plan. The proposed FKWTRP includes some changes and modifications proposed by NMFS. This action is necessary because current mortality and serious injury of the Hawaii Pelagic stock of false killer whales incidental to the Hawaii-based pelagic longline fisheries are above the stock's potential biological removal (PBR), and are therefore inconsistent with the short and long-term goals of the Marine Mammal Protection Act (MMPA). The FKWTRP is intended to meet the requirements of the MMPA through both regulatory and non-regulatory measures. Proposed regulatory measures include gear requirements, longline prohibited areas, training and certification in marine mammal handling and release, captains' supervision of marine mammal handling and release, and posting of NMFS-approved placards on longline vessels. NMFS is also proposing non-regulatory measures, including research and data collection recommendations.

DATES: Written comments on the proposed rule must be received no later October 17, 2011.

ADDRESSES: Comments on the proposed rule, identified by 0648–BA30, may be sent to either of the following addresses:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal: *http://www.regulations.gov; or.*
- *Mail:* Mail written comments to Regulatory Branch Chief, Protected Resources Division, National Marine Fisheries Service, Pacific Islands Regional Office (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814, Attn: Proposed False Killer Whale Take Reduction Plan.

Instructions: Comments must be submitted to one of these two addresses to ensure that the comments are received, documented, and considered by NMFS. Comments sent to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted to *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

This proposed rule (the proposed False Killer Whale Take Reduction Plan), the recommendations submitted by the False Killer Whale Take Reduction Team (FKWTRT) (the Draft False Killer Whale Take Reduction Plan), references, and other background documents are available at *www.regulations.gov,* or the Take Reduction Team Web site: *www.nmfs.noaa.gov/pr/interactions/trt/falsekillerwhale.htm,* or by submitting a request to the Regulatory Branch Chief [see **ADDRESSES**].

FOR FURTHER INFORMATION CONTACT: Nancy Young, NMFS PIR, *Nancy.Young@noaa.gov,* 808–944–2282; Lance Smith, NMFS PIR,