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<PREAMB>

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA-R09-OAR-2004-0091; FRL-9750-6]

Outer Continental Shelf Air Regulations Consistency Update for California

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency ("EPA") is finalizing the update of the Outer Continental Shelf ("OCS") Air Regulations proposed in the Federal Register on August 30, 2012. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area ("COA"), as mandated by the Clean Air Act, as amended in 1990 ("the Act"). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the Santa Barbara County Air Pollution Control District ("Santa Barbara County APCD" or "District") is the designated COA. The intended effect of approving the OCS requirements for the Santa Barbara County APCD is to

regulate emissions from OCS sources in accordance with the requirements onshore.

DATES: This rule is effective on [Insert date 30 days from the date of publication in the Federal Register].

The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of [Insert date 30 days from the date of publication in the Federal Register].

ADDRESSES: EPA has established docket number OAR-2004-0091 for this action. The index to the docket is available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Air Division (Air-4), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947-4120, allen.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, the terms "we," "us," or "our" refer to U.S. EPA.

Organization of this document: The following outline is provided to aid in locating information in this preamble.

- I. Background
- II. Public Comment
- III. EPA Action
- IV. Statutory and Executive Order Reviews

I. Background

On August 30, 2012 (77 FR 52630), EPA proposed to incorporate various Santa Barbara County APCD air pollution control requirements into the OCS Air Regulations at 40 CFR part 55. We are incorporating these requirements in response to the submittal of these rules by the District. EPA has evaluated the proposed requirements to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or Part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to

ensure that they are not arbitrary or capricious. 40 CFR 55.12(e).

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. Public Comment

EPA's proposed action provided a 30-day public comment period. During this period, we received no comments on the proposed action.

III. EPA Action

In this document, EPA takes final action to incorporate the proposed changes into 40 CFR part 55. No changes were made to the proposed action except for minor technical corrections to the list of rules in the part 55 regulatory text to accurately reflect the action we proposed. EPA is approving the proposed action under section 328(a)(1) of the Act, 42 U.S.C. 7627. Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into Part 55 as they exist onshore.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore air control requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as

they exist onshore. 42 U.S.C. 7627(a)(1); 40 CFR 55.12.

Thus, in promulgating OCS consistency updates, EPA's role is to maintain consistency between OCS regulations and the regulations of onshore areas, provided that they meet the criteria of the Clean Air Act. Accordingly, this action simply updates the existing OCS requirements to make them consistent with requirements onshore, without the exercise of any policy discretion by EPA. 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);
- 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 (Public Law 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 it 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, nor does it impose substantial direct compliance costs on tribal governments, nor preempt tribal law.

Under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in 40 CFR part 55 and, by extension, this update to the rules, and has assigned OMB control number 2060-0249. Notice of OMB's approval of EPA Information Collection Request ("ICR") No. 1601.07 was published in the Federal Register on February 17, 2009 (74 FR 7432). The approval expires January 31, 2012. As EPA previously indicated (70 FR 65897-65898, November 1, 2005), the annual public reporting and recordkeeping burden for collection of information under 40 CFR part 55 is estimated to average 549 hours per response, using the definition of burden provided in 44 U.S.C. 3502(2).

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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication of this document in the Federal Register]. 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 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf,

Ozone, Particulate matter, Permits, Reporting and
Recordkeeping requirements, Sulfur oxides.

October 17, 2012
Dated:

/S/
Jared Blumenfeld,
Regional Administrator,
Region IX.

Title 40 of the Code of Federal Regulations, Part 55, is
amended as follows:

PART 55 - OUTER CONTINENTAL SHELF AIR REGULATIONS

1. The authority citation for part 55 continues to read as
follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C.
§7401 et seq.) as amended by Public Law 101-549.

2. Section 55.14 is amended by revising paragraph
(e)(3)(ii)(F) to read as follows:

**§ 55.14 Requirements that apply to OCS sources located
within 25 miles of states seaward boundaries, by state.**

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(e) * * *

(3) * * *

(ii) * * *

(F) Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources, October 2012.

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3. Appendix A to CFR Part 55 is amended by revising paragraph (b)(6) under the heading "California" to read as follows:

Appendix A to Part 55 - Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State.

*	*	*	*	*
California				
*	*	*	*	*

(b) * * *

(6) The following requirements are contained in Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources:

Rule 102	Definitions (Adopted 06/21/12)
Rule 103	Severability (Adopted 10/23/78)
Rule 106	Notice to Comply for Minor Violations (Repealed 01/01/2001)
Rule 107	Emergencies (Adopted 04/19/01)
Rule 201	Permits Required (Adopted 06/19/08)
Rule 202	Exemptions to Rule 201 (Adopted 06/21/12)

Rule 203	Transfer (Adopted 04/17/97)
Rule 204	Applications (Adopted 04/17/97)
Rule 205	Standards for Granting Permits (Adopted 04/17/97)
Rule 206	Conditional Approval of Authority to Construct or Permit to Operate (Adopted 10/15/91)
Rule 207	Denial of Application (Adopted 10/23/78)
Rule 210	Fees (Adopted 03/17/05)
Rule 212	Emission Statements (Adopted 10/20/92)
Rule 301	Circumvention (Adopted 10/23/78)
Rule 302	Visible Emissions (Adopted 10/23/78)
Rule 304	Particulate Matter-Northern Zone (Adopted 10/23/78)
Rule 305	Particulate Matter Concentration-Southern Zone (Adopted 10/23/78)
Rule 306	Dust and Fumes-Northern Zone (Adopted 10/23/78)
Rule 307	Particulate Matter Emission Weight Rate-Southern Zone (Adopted 10/23/78)
Rule 308	Incinerator Burning (Adopted 10/23/78)
Rule 309	Specific Contaminants (Adopted 10/23/78)
Rule 310	Odorous Organic Sulfides (Adopted 10/23/78)
Rule 311	Sulfur Content of Fuels (Adopted 10/23/78)
Rule 312	Open Fires (Adopted 10/02/90)
Rule 316	Storage and Transfer of Gasoline (Adopted 01/15/09)
Rule 317	Organic Solvents (Adopted 10/23/78)
Rule 318	Vacuum Producing Devices or Systems-Southern Zone (Adopted 10/23/78)
Rule 321	Solvent Cleaning Operations (Adopted 06/21/12)
Rule 322	Metal Surface Coating Thinner and Reducer (Adopted 10/23/78)
Rule 323	Architectural Coatings (Adopted 11/15/01)
Rule 324	Disposal and Evaporation of Solvents (Adopted 10/23/78)
Rule 325	Crude Oil Production and Separation (Adopted 07/19/01)
Rule 326	Storage of Reactive Organic Compound Liquids (Adopted 01/18/01)
Rule 327	Organic Liquid Cargo Tank Vessel Loading (Adopted 12/16/85)
Rule 328	Continuous Emission Monitoring (Adopted 10/23/78)
Rule 330	Surface Coating of Metal Parts and Products (Adopted 06/21/12)

Rule 331	Fugitive Emissions Inspection and Maintenance (Adopted 12/10/91)
Rule 332	Petroleum Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds (Adopted 06/11/79)
Rule 333	Control of Emissions from Reciprocating Internal Combustion Engines (Adopted 06/19/08)
Rule 342	Control of Oxides of Nitrogen (NO _x) from Boilers, Steam Generators and Process Heaters) (Adopted 04/17/97)
Rule 343	Petroleum Storage Tank Degassing (Adopted 12/14/93)
Rule 344	Petroleum Sumps, Pits, and Well Cellars (Adopted 11/10/94)
Rule 346	Loading of Organic Liquid Cargo Vessels (Adopted 01/18/01)
Rule 349	Polyester Resin Operations (Adopted 06/21/12)
Rule 352	Natural Gas-Fired Fan-Type Central Furnaces and Residential Water Heaters (Adopted 10/20/11)
Rule 353	Adhesives and Sealants (Adopted 06/21/12)
Rule 359	Flares and Thermal Oxidizers (Adopted 06/28/94)
Rule 360	Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers (Adopted 10/17/02)
Rule 361	Small Boilers, Steam Generators, and Process Heaters (Adopted 01/17/08)
Rule 370	Potential to Emit - Limitations for Part 70 Sources (Adopted 06/15/95)
Rule 505	Breakdown Conditions Sections A., B.1, . and D. only (Adopted 10/23/78)
Rule 603	Emergency Episode Plans (Adopted 06/15/81)
Rule 702	General Conformity (Adopted 10/20/94)
Rule 801	New Source Review (Adopted 04/17/97)
Rule 802	Nonattainment Review (Adopted 04/17/97)
Rule 803	Prevention of Significant Deterioration (Adopted 04/17/97)
Rule 804	Emission Offsets (Adopted 04/17/97)
Rule 805	Air Quality Impact Analysis and Modeling (Adopted 04/17/97)
Rule 808	New Source Review for Major Sources of Hazardous Air Pollutants (Adopted 05/20/99)
Rule 1301	Part 70 Operating Permits - General Information (Adopted 06/19/03)

Rule 1302 Part 70 Operating Permits - Permit
Application (Adopted 11/09/93)
Rule 1303 Part 70 Operating Permits - Permits (Adopted
11/09/93)
Rule 1304 Part 70 Operating Permits - Issuance,
Renewal, Modification and Reopening (Adopted
11/09/93)
Rule 1305 Part 70 Operating Permits - Enforcement
(Adopted 11/09/93)

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