



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 55

[EPA-R09-OAR-2018-0366; FRL-9979-36-Region 9]

#### Outer Continental Shelf Air Regulations; Consistency Update for California

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to update a portion of the Outer Continental Shelf (OCS) Air Regulations. 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 section 328(a)(1) of the Clean Air Act ("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") 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. The change to the existing requirements discussed below is proposed to be incorporated by reference into the Code of Federal Regulations and listed in the appendix to the OCS air regulations.

**DATES:** Any comments must arrive by [insert date 30 days after date of publication in the Federal Register].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2018-0366 at <http://www.regulations.gov>, or via email to Christine Vineyard, at [vineyard.christine@epa.gov](mailto:vineyard.christine@epa.gov). For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online

instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Christine Vineyard, Air Division (Air-4), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947-4125, [vineyard.christine@epa.gov](mailto:vineyard.christine@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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##### **I. Background Information**

On September 4, 1992, the EPA promulgated 40 CFR part 55,<sup>1</sup> which established requirements to control air pollution from OCS sources to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the states except those located in the Gulf of Mexico west of 87.5 degrees' longitude. Section 328 of the Act requires that for such sources located within 25 miles of a state's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that the EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to §55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent under §55.4; or (3) when a state or local agency submits a rule to the EPA to be considered for incorporation by reference in part 55. This proposed action is being taken in response to the submittal of requirements by the Santa Barbara County APCD. Public comments received in writing within 30 days of publication of this document will be considered by the EPA before publishing a final rule. Section 328(a) of the Act requires that the 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, the EPA must incorporate applicable onshore rules into part 55 as they exist

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<sup>1</sup> The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

onshore. This limits the EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents the EPA from making substantive changes to the requirements it incorporates. As a result, the EPA may be incorporating rules into part 55 that do not conform to all of the 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 the EPA for inclusion in the SIP.

## II. The EPA's Evaluation and Proposed Action

### A. What rule was submitted to update 40 CFR part 55?

The Santa Barbara County APCD submitted the following requirement to update 40 CFR part 55:

<b>Rule #</b>	<b>Name</b>	<b>Revised Date</b>
360	Boilers, Water Heaters, and Process Heaters (0.075 – 2 MMBtu/hr.)	03/15/18

An earlier version of this rule is currently implemented on the OCS.

### B. What criteria were used to evaluate the rule submitted to update 40 CFR part 55?

In proposing to update 40 CFR part 55, the EPA reviewed the rule submitted for inclusion in part 55 to ensure that it is rationally related to the attainment or maintenance of federal or state ambient air quality standards or to requirements of part C of title I of the Act, that it is not designed expressly to prevent exploration and development of the OCS and that it is potentially applicable to OCS sources. *See* 40 CFR 55.1 and 55.12(d)(2). The EPA has also evaluated the rule to ensure it is not arbitrary or capricious. *See* 40 CFR 55.12(e). The EPA has

excluded administrative and procedural rules<sup>2</sup> and requirements concerning toxics, which are not related to the attainment and maintenance of federal and state ambient air quality standards.

### *C. Proposed action and public comment*

After review of the rule against the criteria set forth above and in 40 CFR part 55, the EPA is proposing to make Santa Barbara County APCD Rule 360 applicable to OCS sources. We will accept comments from the public on this proposal until [**insert date 30 days after date of publication in the Federal Register**].

### **III. Incorporation by Reference**

In this document, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Santa Barbara County APCD rule set forth below. The EPA has made, and will continue to make, these materials available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### **IV. Statutory and Executive Order Reviews**

Under the 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 pollution control requirements. To comply with this statutory mandate, the EPA must incorporate applicable onshore rules into 40 CFR part 55 as they exist onshore. *See* 42 U.S.C. 7627(a)(1); 40 CFR 55.12. Thus, in promulgating OCS consistency updates, the EPA's

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<sup>2</sup> Each COA which has been delegated the authority to implement and enforce part 55 will use its administrative and procedural rules as onshore. However, in those instances where the EPA has not delegated authority to implement and enforce part 55, the EPA will use its own administrative and procedural requirements to implement the substantive requirements. 40 CFR 55.14(c)(4).

role is to maintain consistency between OCS regulations and the regulations of onshore areas, provided that they meet the criteria of the CAA. Accordingly, this action simply updates the existing OCS requirements to make them consistent with requirements onshore, without the exercise of any policy direction by the EPA. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866;
- 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 Act; and

- Does not provide the 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 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 or 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. OMB approved EPA Information Collection Request No. 1601.08 on September 18, 2017. The current approval expires September 30, 2020. The total burden for collection of information under 40 CFR part 55 is estimated to be 27,018 hours per year, using the definition of burden provided in 5 CFR 1320.3(b). *See* 82 FR 21811, 21812 (May 10, 2017).

**List of Subjects in 40 CFR Part 55**

Environmental protection, Administrative practice and procedure, 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.

Dated: May 31, 2018.

Deborah Jordan,  
Acting Regional Administrator,  
Region IX.



For the reasons set out in the preamble, title 40 of the Code of Federal Regulations, part 55, is proposed to be 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.**

\* \* \* \* \*

(e) \* \* \*

(3) \* \* \*

(ii) \* \* \*

(F) *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources, May 2018.*

\* \* \* \* \*

3. Appendix A to 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, May 2018*:

Rule 102           Definitions (Revised 08/25/16)

Rule 103           Severability (Adopted 10/23/78)

Rule 105           Applicability (Revised 08/25/16)

Rule 107	Emergencies (Adopted 04/19/01)
Rule 201	Permits Required (Revised 06/19/08)
Rule 202	Exemptions to Rule 201 (Revised 08/25/16)
Rule 203	Transfer (Revised 04/17/97)
Rule 204	Applications (Revised 08/25/16)
Rule 205	Standards for Granting Permits (Revised 04/17/97)
Rule 206	Conditional Approval of Authority to Construct or Permit to Operate (Revised 10/15/91)
Rule 207	Denial of Application (Adopted 10/23/78)
Rule 210	Fees (Revised 03/17/05)
Rule 212	Emission Statements (Adopted 10/20/92)
Rule 301	Circumvention (Adopted 10/23/78)
Rule 302	Visible Emissions (Revised 6/1981)
Rule 303	Nuisance (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 (Revised 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 (Revised 06/21/12)
- Rule 322 Metal Surface Coating Thinner and Reducer (Adopted 10/23/78)
- Rule 323 Architectural Coatings (Revised 11/15/01)
- Rule 323.1 Architectural Coatings (Adopted 06/19/14, Effective 01/01/15)
- Rule 324 Disposal and Evaporation of Solvents (Adopted 10/23/78)
- Rule 325 Crude Oil Production and Separation (Revised 07/19/01)
- Rule 326 Storage of Reactive Organic Compound Liquids (Revised 01/18/01)
- Rule 327 Organic Liquid Cargo Tank Vessel Loading (Revised 12/16/85)
- Rule 328 Continuous Emission Monitoring (Adopted 10/23/78)
- Rule 330 Surface Coating of Metal Parts and Products (Revised 06/21/12)
- Rule 331 Fugitive Emissions Inspection and Maintenance (Revised 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<sub>x</sub>) from Boilers, Steam Generators and Process Heaters) (Revised 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 (Revised 01/18/01)

- Rule 349 Polyester Resin Operations (Revised 06/21/12)
- Rule 352 Natural Gas-Fired Fan-Type Central Furnaces and Residential Water Heaters  
(Revised 10/20/11)
- Rule 353 Adhesives and Sealants (Revised 06/21/12)
- Rule 359 Flares and Thermal Oxidizers (Adopted 06/28/94)
- Rule 360 Boilers, Water Heaters, and Process Heaters (0.075 – 2 MMBtu/hr.)  
(Revised 03/15/18)
- Rule 361 Small Boilers, Steam Generators, and Process Heaters (Adopted 01/17/08)
- Rule 370 Potential to Emit - Limitations for Part 70 Sources (Revised 01/20/11)
- 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 – Definitions and General Requirements  
(Revised 08/25/16)
- Rule 802 New Source Review (Revised 08/25/16)
- Rule 804 Emission Offsets (Revised 08/25/16)
- Rule 805 Air Quality Impact Analysis, Modeling, Monitoring, and Air Quality  
Increment Consumption (Revised 08/25/16)
- Rule 806 Emission Reduction Credits (Revised 08/25/16)
- Rule 808 New Source Review for Major Sources of Hazardous Air Pollutants  
(Adopted 05/20/99)
- Rule 809 Federal Minor Source New Source Review (Revised 08/25/16)
- Rule 810 Federal Prevention of Significant Deterioration (PSD) (Revised 06/20/13)

- Rule 1301 Part 70 Operating Permits - General Information (Revised 08/25/16)
- Rule 1302 Part 70 Operating Permits - Permit Application (Adopted 11/09/93)
- Rule 1303 Part 70 Operating Permits - Permits (Revised 01/18/01)
- Rule 1304 Part 70 Operating Permits - Issuance, Renewal, Modification and Reopening  
(Revised 01/18/01)
- Rule 1305 Part 70 Operating Permits - Enforcement (Adopted 11/09/93)

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