



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA-R09-OAR-2018-0366; FRL-9994-98-Region 9]

Outer Continental Shelf Air Regulations; Consistency Update for California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing the approval of a local rule and the update of the Outer Continental Shelf (OCS) Air Regulations proposed in the *Federal Register* on June 21, 2018. 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" or "the District") is the designated COA. The intended effect of approving the local rule and updating 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 in this document will be incorporated by reference into the Code of Federal Regulations and listed in the appendix to the OCS air regulations.

DATES: This rule is effective on [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. The incorporation by reference of a certain

publication listed in this rule is approved by the Director of the Federal Register as of **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established docket number EPA-R09-OAR-2018-0366 for this action. All documents in the docket are listed on the <https://www.regulations.gov> web site.

Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available

through <https://www.regulations.gov>, or please contact the person identified in the FOR FURTHER INFORMATION CONTACT section for additional availability information.

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.

SUPPLEMENTARY INFORMATION:

Throughout this document, the terms “we,” “us,” or “our” refer to the EPA.

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

- I. Proposed Action
 - II. Public Comments and EPA Responses
 - III. EPA Action
 - IV. Incorporation by Reference
 - V. Statutory and Executive Order Reviews
- I. Proposed Action**

On June 21, 2018 (83 FR 28795), the EPA proposed to approve Santa Barbara County APCD Rule 360 - Boilers, Water Heaters, and Process Heaters (0.075 – 2 MMBtu/hr.) (Revised 03/15/18) into the Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources. The requirements are incorporated into the OCS Air Regulations at 40 CFR part 55. As required under 40 CFR 55.1 and 55.12(d)(2), we evaluated Rule 360 to ensure that it is 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 it is not designed expressly to prevent exploration and development of the OCS and that it is applicable to OCS sources. We also evaluated the rule to ensure that it is not arbitrary or capricious, as required under 40 CFR 55.12(e).

As explained in our proposal, 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 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 documents 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. Public Comments and EPA Responses

The 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

No comments were submitted. Therefore, as authorized in section 328(a)(1) of the Act, 42 U.S.C. 7627, the EPA is taking final action to approve Santa Barbara County APCD Rule 360 - Boilers, Water Heaters, and Process Heaters (0.075 – 2 MMBtu/hr.) (Revised 03/15/18) for inclusion in the compilation of Santa Barbara County APCD requirements applicable to OCS sources.

Also, the EPA is taking final action to update the incorporation by reference of the compilation of EPA approved OCS source provisions for the Santa Barbara County APCD. The "Santa Barbara County APCD Requirements Applicable to OCS Sources," dated April 2019, replaces the compilation previously incorporated into 40 CFR part 55 for the Santa Barbara County APCD. *See* 82 FR 43491, September 18, 2017.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the "Santa Barbara County APCD Requirements Applicable to OCS Sources," dated April 2019, as described in the amendments to 40 CFR part 55 set forth below. The EPA has made, and will continue to make, this documents available through 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).

V. 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 control requirements. To comply with this statutory mandate, the 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, the EPA's role is to maintain consistency between OCS regulations and the regulations of onshore areas, provided that they meet the criteria of the 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 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 Order 12866 (58 FR 51735, October 4, 1993);
- Is not 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 (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. 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). 82 FR 21811, 21812 (May 10, 2017).

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. The 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 THE DATE OF PUBLICATION 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.

Dated: May 29, 2019.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

40 CFR 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, April 2019.

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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

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California

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(b) * * *

(6) The following requirements are contained in Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources, April 2019:

- 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_x) 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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