

determination made that the Federal regulation did not impose an unfunded mandate.

#### List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 11, 2002.

**Tim L. Dieringer,**

*Acting Regional Director Appalachian Regional Coordinating Center.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 55

[FRL-7260-6]

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

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

**ACTION:** Proposed rule—consistency update.

**SUMMARY:** 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, 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 South Coast Air Quality Management District (South Coast AQMD) and Ventura County Air Pollution Control District (Ventura County APCD) are the designated COAs. The intended effect of approving the OCS requirements for the above Districts is to regulate emissions from OCS sources in accordance with the requirements onshore. The changes to the existing requirements discussed below are proposed to be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

**DATES:** Comments on the proposed update must be received on or before September 16, 2002.

**ADDRESSES:** Comments must be mailed (in duplicate if possible) to: EPA Air Docket (Air-4), Attn: Docket No. A-93-16 Section XXVI, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

**Docket:** Supporting information used in developing the rule and copies of the documents EPA is proposing to incorporate by reference are contained in Docket No. A-93-16 Section XXVI. This docket is available for public inspection and copying Monday-Friday during regular business hours at the following locations:

EPA Air Docket (Air-4), Attn: Docket No. A-93-16 Section XXVI, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

EPA Air Docket (LE-131), Attn: Air Docket No. A-93-16 Section XXVI, Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington D.C. 20460.

A reasonable fee may be charged for copying.

#### 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.

### I. Background Information

#### A. Why Is EPA Taking This Action?

On September 4, 1992, EPA promulgated 40 CFR part 55,<sup>1</sup> which established requirements to control air pollution from OCS sources in order 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 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 EPA to be considered for incorporation by reference in part 55. This proposed action is being taken in response to the submittal of rules by

three local air pollution control agencies. Public comments received in writing within 30 days of publication of this document will be considered by EPA before publishing a final rule.

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. EPA's Evaluation

#### A. What Criteria Were Used To Evaluate Rules Submitted To Update 40 CFR Part 55?

In updating 40 CFR part 55, EPA reviewed the rules submitted for inclusion in part 55 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 they are not arbitrary or capricious. 40 CFR 55.12 (e). In addition, EPA has excluded administrative or procedural rules,<sup>2</sup> and requirements that regulate toxics which are not related to the attainment and maintenance of federal and state ambient air quality standards.

<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 EPA has not delegated authority to implement and enforce part 55, EPA will use its own administrative and procedural requirements to implement the substantive requirements. 40 CFR 55.14 (c)(4).

<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.

**B. What Rule Revisions Were Submitted To Update 40 CFR Part 55?**

1. After review of the rules submitted by South Coast AQMD against the

criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following new rule applicable to OCS sources for which the South Coast AQMD is designated as the COA (note:

no requirements that are not related to the attainment and maintenance of federal and state ambient air quality standards will be incorporated to regulate toxics):

Rule #	Rule names	Adoption date
1137 .....	PM10 Emission Reductions from Woodworking Operations .....	02/01/02

2. After review of the rule submitted by Ventura County APCD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following rule revisions applicable to OCS sources for which the Ventura County APCD is designated as the COA:

Rule #	Rule name	Adoption date
10 .....	Permits Required .....	5/14/02
26.1 .....	New Source Review—Definitions .....	5/14/02
26.2 .....	New Source Review—Requirements .....	5/14/02
26.3 .....	New Source Review—Exemptions .....	5/14/02
26.6 .....	New Source Review—Calculations .....	5/14/02
42 .....	Permit Fees .....	5/14/02
74.6 .....	Solvent Cleaning and Degreasing .....	1/08/02
74.23 .....	Stationary Gas Turbines .....	1/08/02
74.24.1 .....	Pleasure Craft Coating & Commercial Boatyard Operations .....	1/08/02

The following new rule was submitted and will be incorporated:

Rule #	Rule name	Adoption date
26.11 .....	New Source Review—ERC Evaluation At Time of Use .....	5/14/02

The following rule was submitted but will not be incorporated because it is Administrative:

Rule #	Rule name	Adoption date
26.4 .....	New Source Review—Emissions Banking .....	5/14/02

**III. Administrative Requirements****A. Executive Order 12866**

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, Regulatory Planning and Review.

**B. Executive Order 13045**

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve

decisions intended to mitigate environmental health or safety risks.

**C. Executive Order 13175**

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175.

Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

**D. Executive Order 13132**

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that 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.” Under Executive Order 13132, EPA may not

issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed 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, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this proposed rule.

*E. Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et. seq.*

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed rule will not have a significant impact on a substantial number of small entities because consistency updates do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the consistency update approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

#### *F. Unfunded Mandates*

Under section 202 of the Unfunded Mandates Reform Act of 1995

("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This proposed Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### *G. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

#### *H. Executive Order 13211 (Energy Effects)*

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant action under Executive Order 12866.

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

Environmental protection, Administrative practice and procedures, Air pollution control, Continental shelf, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter,

Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 5, 2002.

**Laura Yoshii,**

*Deputy Regional Administrator, Region IX.*

Title 40 of the Code of Federal Regulations, part 55, is proposed to be amended as follows:

#### **PART 55—[AMENDED]**

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 proposed to be amended by revising paragraphs (e)(3)(ii)(G) and (H) 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) \* \* \*

(G) *South Coast Air Quality Management District Requirements Applicable to OCS Sources.*

(H) *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources.*

\* \* \* \* \*

3. Appendix A to 40 CFR part 55 is proposed to be amended by revising paragraph (b)(7) and (8) under the heading "California" to read as follows:

**Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State.**

\* \* \* \* \*

#### **CALIFORNIA**

\* \* \* \* \*

(b) Local requirements.

\* \* \* \* \*

(7) *The following requirements are contained in South Coast Air Quality Management District Requirements Applicable to OCS Sources (Part I, II and III):*

Rule 102 Definition of Terms (Adopted 10/19/01)

Rule 103 Definition of Geographical Areas (Adopted 1/9/76)

Rule 104 Reporting of Source Test Data and Analyses (Adopted 1/9/76)

Rule 108 Alternative Emission Control Plans (Adopted 4/6/90)

Rule 109 Recordkeeping for Volatile Organic Compound Emissions (Adopted 8/18/00)

Rule 112 Definition of Minor Violation and Guidelines for Issuance of Notice to Comply (Adopted 11/13/98)

Rule 118 Emergencies (Adopted 12/7/95)

Rule 201 Permit to Construct (Adopted 1/5/90)

- Rule 201.1 Permit Conditions in Federally Issued Permits to Construct (Adopted 1/5/90)
- Rule 202 Temporary Permit to Operate (Adopted 5/7/76)
- Rule 203 Permit to Operate (Adopted 1/5/90)
- Rule 204 Permit Conditions (Adopted 3/6/92)
- Rule 205 Expiration of Permits to Construct (Adopted 1/5/90)
- Rule 206 Posting of Permit to Operate (Adopted 1/5/90)
- Rule 207 Altering or Falsifying of Permit (Adopted 1/9/76)
- Rule 208 Permit and Burn Authorization for Open Burning (12/21/01)
- Rule 209 Transfer and Voiding of Permits (Adopted 1/5/90)
- Rule 210 Applications and Regulation II—List and Criteria Identifying Information required of Applicants Seeking a Permit to Construct from the SCAQMD (Adopted 4/10/98)
- Rule 212 Standards for Approving Permits (Adopted 12/7/95) except (c)(3) and (e)
- Rule 214 Denial of Permits (Adopted 1/5/90)
- Rule 217 Provisions for Sampling and Testing Facilities (Adopted 1/5/90)
- Rule 218 Continuous Emission Monitoring (Adopted 5/14/99)
- Rule 218.1 Continuous Emission Monitoring Performance Specifications (Adopted 5/14/99)
- Rule 218.1 Attachment A—Supplemental and Alternative CEMS Performance Requirements (Adopted 5/14/99)
- Rule 219 Equipment Not Requiring a Written Permit Pursuant to Regulation II (Adopted 11/17/00)
- Rule 220 Exemption—Net Increase in Emissions (Adopted 8/7/81)
- Rule 221 Plans (Adopted 1/4/85)
- Rule 301 Permit Fees (Adopted 5/11/01) except (e)(7) and Table IV
- Rule 304 Equipment, Materials, and Ambient Air Analyses (Adopted 5/11/01)
- Rule 304.1 Analyses Fees (Adopted 5/11/01)
- Rule 305 Fees for Acid Deposition (Adopted 10/4/91)
- Rule 306 Plan Fees (Adopted 5/11/01)
- Rule 309 Fees for Regulation XVI Plans (Adopted 5/11/01)
- Rule 401 Visible Emissions (Adopted 11/9/01)
- Rule 403 Fugitive Dust (Adopted 12/11/98)
- Rule 404 Particulate Matter—Concentration (Adopted 2/7/86)
- Rule 405 Solid Particulate Matter—Weight (Adopted 2/7/86)
- Rule 407 Liquid and Gaseous Air Contaminants (Adopted 4/2/82)
- Rule 408 Circumvention (Adopted 5/7/76)
- Rule 409 Combustion Contaminants (Adopted 8/7/81)
- Rule 429 Start-Up and Shutdown Provisions for Oxides of Nitrogen (Adopted 12/21/90)
- Rule 430 Breakdown Provisions, (a) and (e) only (Adopted 7/12/96)
- Rule 431.1 Sulfur Content of Gaseous Fuels (Adopted 6/12/98)
- Rule 431.2 Sulfur Content of Liquid Fuels (Adopted 9/15/00)
- Rule 431.3 Sulfur Content of Fossil Fuels (Adopted 5/7/76)
- Rule 441 Research Operations (Adopted 5/7/76)
- Rule 442 Usage of Solvents (Adopted 12/15/00)
- Rule 444 Open Burning (Adopted 12/21/01)
- Rule 463 Organic Liquid Storage (Adopted 3/11/94)
- Rule 465 Vacuum Producing Devices or Systems (Adopted 8/13/99)
- Rule 468 Sulfur Recovery Units (Adopted 10/8/76)
- Rule 473 Disposal of Solid and Liquid Wastes (Adopted 5/7/76)
- Rule 474 Fuel Burning Equipment—Oxides of Nitrogen (Adopted 12/4/81)
- Rule 475 Electric Power Generating Equipment (Adopted 8/7/78)
- Rule 476 Steam Generating Equipment (Adopted 10/8/76)
- Rule 480 Natural Gas Fired Control Devices (Adopted 10/7/77) Addendum to Regulation IV (Effective 1977)
- Rule 518 Variance Procedures for Title V Facilities (Adopted 8/11/95)
- Rule 518.1 Permit Appeal Procedures for Title V Facilities (Adopted 8/11/95)
- Rule 518.2 Federal Alternative Operating Conditions (Adopted 12/21/01)
- Rule 701 Air Pollution Emergency Contingency Actions (Adopted 6/13/97)
- Rule 702 Definitions (Adopted 7/11/80)
- Rule 708 Plans (Rescinded 9/8/95)
- Regulation IX—New Source Performance Standards (Adopted 5/11/01)
- Reg. X National Emission Standards for Hazardous Air Pollutants (NESHAPS) (Adopted 5/11/01)
- Rule 1106 Marine Coatings Operations (Adopted 1/13/95)
- Rule 1107 Coating of Metal Parts and Products (Adopted 11/9/01)
- Rule 1109 Emissions of Oxides of Nitrogen for Boilers and Process Heaters in Petroleum Refineries (Adopted 8/5/88)
- Rule 1110 Emissions from Stationary Internal Combustion Engines (Demonstration) (Adopted 11/14/97)
- Rule 1110.1 Emissions from Stationary Internal Combustion Engines (Adopted 10/4/85)
- Rule 1110.2 Emissions from Gaseous- and Liquid Fueled Internal Combustion Engines (Adopted 11/14/97)
- Rule 1113 Architectural Coatings (Adopted 7/20/01)
- Rule 1116.1 Lightering Vessel Operations—Sulfur Content of Bunker Fuel (Adopted 10/20/78)
- Rule 1121 Control of Nitrogen Oxides from Residential-Type Natural Gas-Fired Water Heaters (Adopted 12/10/99)
- Rule 1122 Solvent Degreasers (Adopted 9/21/01)
- Rule 1123 Refinery Process Turnarounds (Adopted 12/7/90)
- Rule 1125 Metal Containers, Closure, and Coil Coating Operations (adopted 1/13/95)
- Rule 1132 Further Control of VOC Emissions from High-Emitting Spray Booth Facilities (Adopted 1/19/01)
- Rule 1134 Emissions of Oxides of Nitrogen from Stationary Gas Turbines (Adopted 8/8/97)
- Rule 1136 Wood Products Coatings (Adopted 6/14/96)
- Rule 1137 PM10 Emission Reductions from Woodworking Operations (Adopted 2/01/02)
- Rule 1140 Abrasive Blasting (Adopted 8/2/85)
- Rule 1142 Marine Tank Vessel Operations (Adopted 7/19/91)
- Rule 1146 Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 11/17/00)
- Rule 1146.1 Emission of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, steam Generators, and Process Heaters (Adopted 5/13/94)
- Rule 1146.2 Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers (Adopted 1/9/98)
- Rule 1148 Thermally Enhanced Oil Recovery Wells (Adopted 11/5/82)
- Rule 1149 Storage Tank Degassing (Adopted 7/14/95)
- Rule 1168 Adhesive and Sealant Applications (Adopted 9/15/00)
- Rule 1171 Solvent Cleaning Operations (Adopted 10/8/99)
- Rule 1173 Fugitive Emissions of Volatile Organic Compounds (Adopted 5/13/94)
- Rule 1176 VOC Emissions from Wastewater Systems (Adopted 9/13/96)
- Rule 1178 Further Reductions of VOC Emissions from Storage Tanks at Petroleum Facilities (Adopted 12/21/01)
- Rule 1301 General (Adopted 12/7/95)
- Rule 1302 Definitions (Adopted 10/20/00)
- Rule 1303 Requirements (Adopted 4/20/01)
- Rule 1304 Exemptions (Adopted 6/14/96)
- Rule 1306 Emission Calculations (Adopted 10/20/00)
- Rule 1313 Permits to Operate (Adopted 12/7/95)
- Rule 1403 Asbestos Emissions from Demolition/Renovation Activities (Adopted 4/8/94)
- Rule 1605 Credits for the Voluntary Repair of On-Road Vehicles Identified Through Remote Sensing Devices (Adopted 10/11/96)
- Rule 1610 Old-Vehicle Scrapping (Adopted 2/12/99)
- Rule 1612 Credits for Clean On-Road Vehicles (Adopted 7/10/98)
- Rule 1612.1 Mobile Source Credit Generation Pilot Program (Adopted 3/16/01)
- Rule 1620 Credits for Clean Off-Road Mobile Equipment (Adopted 7/10/98)
- Rule 1701 General (Adopted 8/13/99)
- Rule 1702 Definitions (Adopted 8/13/99)
- Rule 1703 PSD Analysis (Adopted 10/7/88)
- Rule 1704 Exemptions (Adopted 8/13/99)
- Rule 1706 Emission Calculations (Adopted 8/13/99)
- Rule 1713 Source Obligation (Adopted 10/7/88)
- Regulation XVII—Appendix (effective 1977)
- Rule 1901 General Conformity (Adopted 9/9/94)
- Rule 2000 General (Adopted 5/11/01)
- Rule 2001 Applicability (Adopted 2/14/97)
- Rule 2002 Allocations for Oxides of Nitrogen (NO<sub>x</sub>) and Oxides of Sulfur (SO<sub>x</sub>) Emissions (Adopted 5/11/01)
- Rule 2004 Requirements (Adopted 5/11/01) except (I)
- Rule 2005 New Source Review for RECLAIM (Adopted 4/20/01) except (i)

- Rule 2006 Permits (Adopted 5/11/01)  
 Rule 2007 Trading Requirements (Adopted 5/11/01)  
 Rule 2008 Mobile Source Credits (Adopted 10/15/93)  
 Rule 2010 Administrative Remedies and Sanctions (Adopted 5/11/01)  
 Rule 2011 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SO<sub>x</sub>) Emissions (Adopted 5/11/01)  
 Appendix A Volume IV—(Protocol for oxides of sulfur) (Adopted 3/10/95)  
 Rule 2012 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NO<sub>x</sub>) Emissions (Adopted 5/11/01)  
 Appendix A Volume V—(Protocol for oxides of nitrogen) (Adopted 3/10/95)  
 Rule 2015 Backstop Provisions (Adopted 5/11/01) except (b)(1)(G) and (b)(3)(B)  
 Rule 2020 RECLAIM Reserve (Adopted 5/11/01)  
 Rule 2100 Registration of Portable Equipment (Adopted 7/11/97)  
 Rule 2506 Area Source Credits for NO<sub>x</sub> and SO<sub>x</sub> (Adopted 12/10/99)  
 XXX Title V Permits  
 Rule 3000 General (Adopted 11/14/97)  
 Rule 3001 Applicability (Adopted 11/14/97)  
 Rule 3002 Requirements (Adopted 11/14/97)  
 Rule 3003 Applications (Adopted 3/16/01)  
 Rule 3004 Permit Types and Content (Adopted 12/12/97)  
 Rule 3005 Permit Revisions (Adopted 3/16/01)  
 Rule 3006 Public Participation (Adopted 11/14/97)  
 Rule 3007 Effect of Permit (Adopted 10/8/93)  
 Rule 3008 Potential To Emit Limitations (3/16/01)  
 XXXI Acid Rain Permit Program (Adopted 2/10/95)  
 (8) The following requirements are contained in *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources*:  
 Rule 2 Definitions (Adopted 11/10/98)  
 Rule 5 Effective Date (Adopted 5/23/72)  
 Rule 6 Severability (Adopted 11/21/78)  
 Rule 7 Zone Boundaries (Adopted 6/14/77)  
 Rule 10 Permits Required (Adopted 5/14/02)  
 Rule 11 Definition for Regulation II (Adopted 6/13/95)  
 Rule 12 Application for Permits (Adopted 6/13/95)  
 Rule 13 Action on Applications for an Authority to Construct (Adopted 6/13/95)  
 Rule 14 Action on Applications for a Permit to Operate (Adopted 6/13/95)  
 Rule 15.1 Sampling and Testing Facilities (Adopted 10/12/93)  
 Rule 16 BACT Certification (Adopted 6/13/95)  
 Rule 19 Posting of Permits (Adopted 5/23/72)  
 Rule 20 Transfer of Permit (Adopted 5/23/72)  
 Rule 23 Exemptions from Permits (Adopted 7/9/96)  
 Rule 24 Source Recordkeeping, Reporting, and Emission Statements (Adopted 9/15/92)  
 Rule 26 New Source Review (Adopted 10/22/91)  
 Rule 26.1 New Source Review—Definitions (Adopted 5/14/02)  
 Rule 26.2 New Source Review—Requirements (Adopted 5/14/02)  
 Rule 26.3 New Source Review—Exemptions (Adopted 5/14/02)  
 Rule 26.6 New Source Review—Calculations (Adopted 5/14/02)  
 Rule 26.8 New Source Review—Permit To Operate (Adopted 10/22/91)  
 Rule 26.10 New Source Review—PSD (Adopted 1/13/98)  
 Rule 26.11 New Source Review—ERC Evaluation At Time of Use (Adopted 5/14/02)  
 Rule 28 Revocation of Permits (Adopted 7/18/72)  
 Rule 29 Conditions on Permits (Adopted 10/22/91)  
 Rule 30 Permit Renewal (Adopted 5/30/89)  
 Rule 32 Breakdown Conditions: Emergency Variances, A., B.1., and D. only. (Adopted 2/20/79)  
 Rule 33 Part 70 Permits—General (Adopted 10/12/93)  
 Rule 33.1 Part 70 Permits—Definitions (Adopted 4/10/01)  
 Rule 33.2 Part 70 Permits—Application Contents (Adopted 4/10/01)  
 Rule 33.3 Part 70 Permits—Permit Content (Adopted 4/10/01)  
 Rule 33.4 Part 70 Permits—Operational Flexibility (Adopted 4/10/01)  
 Rule 33.5 Part 70 Permits—Time frames for Applications, Review and Issuance (Adopted 10/12/93)  
 Rule 33.6 Part 70 Permits—Permit Term and Permit Reissuance (Adopted 10/12/93)  
 Rule 33.7 Part 70 Permits—Notification (Adopted 4/10/01)  
 Rule 33.8 Part 70 Permits—Reopening of Permits (Adopted 10/12/93)  
 Rule 33.9 Part 70 Permits—Compliance Provisions (Adopted 4/10/01)  
 Rule 33.10 Part 70 Permits—General Part 70 Permits (Adopted 10/12/93)  
 Rule 34 Acid Deposition Control (Adopted 3/14/95)  
 Rule 35 Elective Emission Limits (Adopted 11/12/96)  
 Rule 36 New Source Review—Hazardous Air Pollutants (Adopted 10/6/98)  
 Rule 42 Permit Fees (Adopted 5/14/02)  
 Rule 44 Exemption Evaluation Fee (Adopted 9/10/96)  
 Rule 45 Plan Fees (Adopted 6/19/90)  
 Rule 47 Source Test, Emission Monitor, and Call-Back Fees (Adopted 6/22/99)  
 Rule 45.2 Asbestos Removal Fees (Adopted 8/4/92)  
 Rule 50 Opacity (Adopted 2/20/79)  
 Rule 52 Particulate Matter-Concentration (Adopted 5/23/72)  
 Rule 53 Particulate Matter-Process Weight (Adopted 7/18/72)  
 Rule 54 Sulfur Compounds (Adopted 6/14/94)  
 Rule 56 Open Fires (Adopted 3/29/94)  
 Rule 57 Combustion Contaminants-Specific (Adopted 6/14/77)  
 Rule 60 New Non-Mobile Equipment-Sulfur Dioxide, Nitrogen Oxides, and Particulate Matter (Adopted 7/8/72)  
 Rule 62.7 Asbestos—Demolition and Renovation (Adopted 6/16/92)  
 Rule 63 Separation and Combination of Emissions (Adopted 11/21/78)  
 Rule 64 Sulfur Content of Fuels (Adopted 4/13/99)  
 Rule 67 Vacuum Producing Devices (Adopted 7/5/83)  
 Rule 68 Carbon Monoxide (Adopted 6/14/77)  
 Rule 71 Crude Oil and Reactive Organic Compound Liquids (Adopted 12/13/94)  
 Rule 71.1 Crude Oil Production and Separation (Adopted 6/16/92)  
 Rule 71.2 Storage of Reactive Organic Compound Liquids (Adopted 9/26/89)  
 Rule 71.3 Transfer of Reactive Organic Compound Liquids (Adopted 6/16/92)  
 Rule 71.4 Petroleum Sumps, Pits, Ponds, and Well Cellars (Adopted 6/8/93)  
 Rule 71.5 Glycol Dehydrators (Adopted 12/13/94)  
 Rule 72 New Source Performance Standards (NSPS) (Adopted 4/10/01)  
 Rule 73 National Emission Standards for Hazardous Air Pollutants (NESHAPS) (Adopted 04/10/01)  
 Rule 74 Specific Source Standards (Adopted 7/6/76)  
 Rule 74.1 Abrasive Blasting (Adopted 11/12/91)  
 Rule 74.2 Architectural Coatings (Adopted 11/13/01)  
 Rule 74.6 Surface Cleaning and Degreasing (Adopted 1/08/02)  
 Rule 74.6.1 Cold Cleaning Operations (Adopted 7/9/96)  
 Rule 74.6.2 Batch Loaded Vapor Degreasing Operations (Adopted 7/9/96)  
 Rule 74.7 Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants (Adopted 10/10/95)  
 Rule 74.8 Refinery Vacuum Producing Systems, Waste-water Separators and Process Turnarounds (Adopted 7/5/83)  
 Rule 74.9 Stationary Internal Combustion Engines (Adopted 12/21/93)  
 Rule 74.10 Components at Crude Oil Production Facilities and Natural Gas Production and Processing Facilities (Adopted 3/10/95)  
 Rule 74.11 Natural Gas-Fired Residential Water Heaters-Control of NO<sub>x</sub> (Adopted 4/9/85)  
 Rule 74.11.1 Large Water Heaters and Small Boilers (Adopted 9/14/99)  
 Rule 74.12 Surface Coating of Metal Parts and Products (Adopted 9/10/96)  
 Rule 74.15 Boilers, Steam Generators and Process Heaters (Adopted 11/8/94)  
 Rule 74.15.1 Boilers, Steam Generators and Process Heaters (Adopted 6/13/00)  
 Rule 74.16 Oil Field Drilling Operations (Adopted 1/8/91)  
 Rule 74.20 Adhesives and Sealants (Adopted 1/14/97)  
 Rule 74.23 Stationary Gas Turbines (Adopted 1/08/02)  
 Rule 74.24 Marine Coating Operations (Adopted 9/10/96)  
 Rule 74.24.1 Pleasure Craft Coating and Commercial Boatyard Operations (Adopted 1/08/02)  
 Rule 74.26 Crude Oil Storage Tank Degassing Operations (Adopted 11/8/94)  
 Rule 74.27 Gasoline and ROC Liquid Storage Tank Degassing Operations (Adopted 11/8/94)

- Rule 74.28 Asphalt Roofing Operations  
(Adopted 5/10/94)
- Rule 74.30 Wood Products Coatings  
(Adopted 9/10/96)
- Rule 75 Circumvention (Adopted 11/27/78)
- Rule 100 Analytical Methods (Adopted 7/18/72)
- Rule 101 Sampling and Testing Facilities  
(Adopted 5/23/72)
- Rule 102 Source Tests (Adopted 11/21/78)
- Rule 103 Continuous Monitoring Systems  
(Adopted 2/9/99)
- Rule 154 Stage 1 Episode Actions (Adopted 9/17/91)
- Rule 155 Stage 2 Episode Actions (Adopted 9/17/91)
- Rule 156 Stage 3 Episode Actions (Adopted 9/17/91)
- Rule 158 Source Abatement Plans (Adopted 9/17/91)
- Rule 159 Traffic Abatement Procedures  
(Adopted 9/17/91)
- Rule 220 General Conformity (Adopted 5/9/95)
- Rule 230 Notice to Comply (Adopted 11/9/99)

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[FR Doc. 02-20867 Filed 8-15-02; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 25

[IB Docket 01-96; FCC 02-123]

#### Policies and Service Rules for the Non-Geostationary Satellite Orbit, Fixed Satellite Service in the KU-Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Communications Commission has adopted licensing and service rules for entities to provide Non-Geostationary Satellite Orbit, Fixed Satellite Service (NGSO FSS) in the Ku-Band frequencies, specifically the 10.7-11.7 GHz, 11.7-12.2 GHz, 12.2-12.7 GHz, 12.75-13.25 GHz, 13.75-14.0 GHz, and 14.0-14.5 GHz frequency bands. The Commission proposes adopting a methodology by which NGSO FSS applicants will demonstrate that they meet limits on their interference into geostationary-satellite orbit systems operating in shared frequencies. The Commission seeks comment on the means and timing for implementing that methodology. The Commission also request comment on a refinement of the definition of an in-line interference event adopted in the Report and Order for the NGSO FSS.

**DATES:** Comments are due on or before September 30, 2002 and reply comments are due on or before October 15, 2002.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. For filing instructions, see **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** For more information regarding the proposed rule, contact J. Mark Young, Attorney Advisor, Satellite Division, International Bureau, telephone (202) 418-0762 or via the Internet at [jmyoung@fcc.gov](mailto:jmyoung@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Further Notice of Proposed Rulemaking* in IB Docket No. 01-96, FCC 02-123, adopted April 18, 2002 and released April 26, 2002. The complete text of this *Further Notice of Proposed Rulemaking* is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898 or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). It is also available on the Commission's Web site at <http://www.fcc.gov>.

#### Summary of the Further Notice of Proposed Rulemaking

1. The rules proposed in the *Further Notice of Proposed Rulemaking* will not slow system development or deployment. The Commission's consideration of these additional issues will not excuse licensees' noncompliance with Commission milestones or otherwise justify any extension of time to meet those milestones.

2. The Commission's review of the record in this docket suggests that the Commission could optimize spectrum efficiency in this service by refining the angular separation definition of an in-line interference event. The *Further Notice of Proposed Rulemaking* requests comment on whether the definition should be changed for this reason. The record developed in the docket also informs the Commission of a significant amount of progress in International Telecommunications Union Radiocommunication (ITU-R) studies on the power flux density criteria that sets the bounds of NGSO and geostationary satellite orbit sharing in these Ku-Band frequencies. The Commission has consistently stated that all NGSO FSS licensees will be required to demonstrate that they collectively meet a limit on aggregate power flux

density, although the means for making that demonstration had not yet been developed. In the *Further Notice of Proposed Rulemaking*, the Commission proposes to adopt the newly developed ITU-R methodology for NGSO FSS licensees, and seek comment on issues related to this new methodology.

#### Comment Filing Instructions

3. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before September 30, 2002 and reply comments on or before October 15, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), <http://www.fcc.gov/e-file/ecfs.html>, or by filing paper copies. See Electronic Filing of Documents in Rule Making Proceedings, 63 FR 24,121 (1998).

4. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rule making numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rule making number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an E-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should including the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

5. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rule making number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rule making number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners.