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 Priority Mail
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA–R10–OAR–2009–0111; FRL–9095–9]

Outer Continental Shelf Air Regulations Consistency Update for Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the update of the Outer Continental Shelf (“OCS”) Air Regulations proposed in the **Federal Register** on March 3, 2009.

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 operating off of the State of Alaska. The intended effect of approving the OCS requirements for the State of Alaska is to regulate emissions from OCS sources in a manner consistent with the requirements onshore. The change to the existing requirements discussed below is incorporated by reference into the regulations and is listed in the appendix to the OCS air regulations.

DATES: *Effective Date:* The final rule portion of this rulemaking is effective on February 22, 2010.

This incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of February 22, 2010.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2009–0111. The index to the docket is available electronically at <http://www.regulations.gov> or in hard copy at the Office of Air, Waste and Toxics, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. While all documents in the docket are listed in the index, some information may be publically available only at the hard copy location (e.g., copyrighted materials), and some may not be publicly available in either location (e.g., Confidential Business Information). 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: Natasha Greaves, Federal and Delegated

Air Programs Unit, Office of Air, Waste, and Toxics, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop: AWT-107, Seattle, WA 98101; telephone number: (206) 553-7079; e-mail address: greaves.natasha@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, the terms “we,” “us,” and “our” refer to the U.S. EPA. Organization of this document: The following outline is provided to aid in locating information in this preamble.

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- I. Background Information
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I. Background Information

On September 4, 1992, EPA promulgated 40 CFR part 55,¹ 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.

On March 3, 2009, (74 FR 1980), EPA proposed to approve requirements into the OCS Air Regulations pertaining to the State of Alaska. These requirements are being promulgated in response to the submittal of a Notice of Intent on January 9, 2009, by Shell Offshore, Inc. of Houston, Texas. 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). In addition, EPA has excluded administrative or procedural rules.

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. 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 and EPA Response

EPA's March 3, 2009, proposed action provided a 30-day public comment period which closed on April 2, 2009. On April 2, 2009, the North Slope Borough submitted a summary of comments on EPA's proposed rules and also requested an extension of the public comment period in order to prepare and submit more detailed comments. On April 29, 2009, EPA reopened the public comment period for an additional 14 days. The reopened public comment period closed on May 13, 2009. During this period, we received one comment on the proposed action. This comment was submitted by the North Slope Borough by letter dated May 13, 2009.

Comment: The North Slope Borough seeks clarification on how the rules are rationally related to attainment or maintenance of Federal or State ambient air quality standards without data to support EPA's claim.

Response: EPA is required to perform consistency updates to maintain consistency with onshore regulations. In order to be considered for inclusion in the OCS rule, State and local requirements must have been formally adopted by the regulatory agency. Before a rule can apply to an OCS source, it must be incorporated into part 55 by formal rulemaking. EPA incorporates those onshore rules that comply with the statutory requirements of section 328 of the Clean Air Act that are rationally related to the attainment

and maintenance of national or State ambient air quality standards and the prevention of significant deterioration of air quality. EPA must adopt the COA rules into part 55 as they exist onshore. This prevents EPA from making substantive changes to the rules it incorporates. In addition, rules incorporated cannot be used for the purpose of preventing exploration or development of the OCS.

For the proposed rule, EPA reviewed the ACC as amended through November 9, 2008 to identify which rules applicable to OCS sources are rationally related to the attainment or maintenance of Federal or State ambient air quality standards. These rules were incorporated into part 55. Rules that are arbitrary or capricious, administrative or procedural, regulate toxics, and/or designed to prevent exploration and development on the OCS were excluded from incorporation. Section 328 of the Act requires that the requirements for sources located within 25 miles of a State's seaward boundary, shall be the same as would be applicable if the source were located on the COA. EPA's action specifies the OCS requirements that will apply to any OCS source for which Alaska is the COA. The intended effect of approving the OCS requirements is to regulate emissions from OCS sources in accordance with the requirements onshore; to the extent those requirements are applicable to OCS sources and as modified by the requirements of section 328 and 40 CFR part 55. EPA determined that each of the Alaska rules proposed to be incorporated relate to the regulation of criteria pollutants or their precursors and therefore are related to the Federal or State air quality standards or relate to the prevention of significant deterioration. For example, this final rule includes the State of Alaska regulations regarding ambient air quality management including other provisions regarding major and minor stationary source permit, but does not include provisions unrelated to OCS sources or activities. Because EPA must adopt the COA rules into part 55 as they exist onshore, EPA does not make substantive changes to the rules it incorporates. After reviewing Alaska's rules, EPA determined 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.

Comment: The North Slope Borough requested clarification regarding changes made to the following AAC

¹ 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.

provisions, that were proposed to be incorporated by reference into part 55: 18 AAC 50.040 Federal Standards Adopted by Reference; 18 AAC 50.055 Industrial Processes and Fuel-Burning Equipment; 18 AAC 50.070 Marine Vessel Visible Emission Standards; 18 AAC 50.260 Best Available Retrofit Technology Under Regional Haze Rule; 18 AAC 50.321 Case-by-Case Maximum Achievable Control Technology; 18 AAC 50.502 Minor Permit for Air Quality Protection; and 18 AAC 50.542 Minor Permit Review and Issuance.

Response: The Alaska Department of Environmental Conservation ("ADEC") Public Comment Draft dated November 21, 2007, is a marked-up copy detailing the changes it proposed for 18 AAC 50.040, 18 AAC 50.055, 18 AAC 50.502, and 18 AAC 50.542. This document entitled, the "Regulation Hygiene Regulations Explanation of Proposed Changes" identifies changes and rational for each change made in the rules. These changes include updating incorporations by reference; adoption clarifications to existing regulations to fix typos, incorrect references, and internal regulation conflicts; and changes to regulations to eliminate confusion with or misinterpretations of 18 AAC 50. ADEC's proposed rules "Regulation Hygiene Regulations Explanation of Proposed Changes" is included in the docket for this EPA action. The final changes made to 18 AAC 50.040, 18 AAC 50.055, 18 AAC 50.502, and 18 AAC 50.542 were the same as explained in the State proposal. The amended provisions were published in register 187 and were State effective on November 25, 2008.

ADEC's Public Comment Draft for changes made to 18 AAC 50.260 Best Available Retrofit Technology Under Regional Haze Rule, explains the changes the State made to that rule and is also part of the docket for this EPA action.

The North Slope Borough also requested clarification on changes made to 18 AAC 50.070 Marine Vessel Visible Emission Standards and 18 AAC 50.321 Case-by-Case Maximum Achievable Control Technology. EPA's review of these standards did not note any changes since the last final consistency update on February 8, 2007. 18 AAC 50.070 was last amended on June 21, 1998 and 18 AAC 50.321 was last amended on December 1, 2004.

Comment: The North Slope Borough requested an explanation of each change made to part 55, with a rational for each change.

Response: The changes to the regulations are explained above. This comment requesting that the rational for

each change be explained is beyond the scope of this part 55 consistency update. In a consistency update, EPA updates part 55 as necessary to maintain consistency with the requirements of the onshore area in order to attain and maintain Federal and State ambient air quality standards and comply with part C of title I of the Act. EPA adopts the applicable COA rules into part 55 as they exist onshore and does not make substantive changes to the rules it incorporates. EPA does not, and is not required to, evaluate or consider the State's rational for each change.

Comment: The North Slope Borough requested an explanation as to why Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations, and the potential environmental justice implications of the proposed action is not discussed.

Response: This rulemaking action implements the legal requirements set forth in section 328 of the Act and EPA is required to take the action and has no discretion to do otherwise. Moreover, even if EPA had some legal discretion, there is no reason to believe that the action would constitute a denial of fair treatment or meaningful participation to any person such as to have environmental justice implications. This final rule simply updates the existing OCS rules to make them consistent with the current COA requirements. The OCS rules already apply onshore in the COA and there is no evidence to suggest that the incorporation of the same rules into part 55 will cause any change. In those circumstances, there is no need for any additional review or analysis under Executive Order 12898.

Comment: The North Slope Borough requests clarification on why EPA's action is not significant.

Response: The consistency update simply updates the existing requirements for controlling air pollution from OCS sources to make them consistent with rules in the COA as specifically required by section 328 of the Act. This action does not involve the exercise of policy discretion on the part of EPA. Therefore, as explained in more detail in Section IV below, this action is not likely to have the type of effect or impact or involve the requisite issues to be a significant regulatory action within the meaning of Executive Order 12866, Regulatory Planning and Review.

Additionally, since the consistency update is not a significant regulatory action under Executive Order 12866, it is not a significant energy action under Executive Order 13211, Actions Concerning Regulations that

Significantly Affect Energy Supply, Distribution, or Use. Even if the consistency update were a significant regulatory action under Executive Order 12866, EPA has no reason to believe that updating the existing requirements for controlling air pollution from OCS to make them consistent with rules already applied to sources in the COA would be "likely to have a significant adverse effect on the supply, distribution, or use of energy: Within the meaning of section 4(b)(1)(ii) of Executive Order 13211." Therefore, even if the consistency update were a significant regulatory action under Executive Order 12866, which it is not, it would not be a significant energy action under Executive Order 13211.

Comment: The North Slope Borough wants to know how EPA will comply with the National Environmental Policy Act ("NEPA").

Response: Congress expressly exempted EPA actions under the Act from NEPA requirements when it passed the Energy Supply and Environmental Coordination Act of 1974 ("ESECA"). The exemption provides: "No action taken under the Act shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of National Environmental Policy Act * * *" (15 U.S.C. 793(c)(1)). Since section 328 of the Act requires EPA to establish requirements to control air pollution from OCS sources, and the ESECA exempts action taken under the Act from being deemed a major Federal action, NEPA requirements do not apply to this action.

Comment: The North Slope Borough would like to know how local laws and regulations, such as the North Slope Borough's Title 19 are considered in the consistency update.

Response: The North Slope Borough's Title 19 includes rules for the creation of the Department of Planning and Community Service (Chapter 19.05), General Provision (Chapter 19.10), and Definitions (Chapter 19.20). The Department of Planning and Community Service is responsible for administering the North Slope Borough's planning and zoning ordinances, the Coastal Zone Management Plan, and the Barrow Zoning Ordinance; ensuring compliance with local, State, and Federal law regarding land use; providing review and comment on development issues; providing for a geographical database covering the entire North Slope Borough including mapping and graphic services; gathering information and developing a comprehensive capital improvement program plans for the North Slope Borough; providing

teleconferencing facilities; gathering and preserving data regarding Inupiat history, language, and culture; and supporting the Simeon Paneak Museum in Anaktuvuk Pass.

As stated in title 19, the purpose of the General Provisions is to: (1) Achieve the goals and objectives, and implement the policies of, the North Slope Borough Comprehensive Plan, including its Coastal Management Program; (2) ensure that the future growth and development of the Borough is in accordance with the values of its residents; (3) identify and secure, for present and future residents, the beneficial impacts of development; (4) identify and avoid, mitigate, or prohibit the negative impacts of development; and (5) ensure that future development is of the proper type, design and location, and is served by a proper range of public services and facilities. (Chapter 19.10.010)

After receiving the comment, EPA reviewed the North Slope Borough's Title 19 and determined that these rules are not related to the attainment or maintenance of the Federal or State ambient air quality standards or necessary to assure compliance with the provisions of Part C of subchapter I of the Act. Therefore, EPA determined that these rules are not appropriate for inclusion into part 55.

Comment: The North Slope Borough would like EPA to identify how part 55 will provide for the consideration of greenhouse gases.

Response: The comment goes beyond the scope of this rulemaking. As explained above, this rulemaking simply updates Part 55 by incorporating into those regulations the existing COA requirements related to the attainment or maintenance of the Federal or State ambient air quality standards and the standards necessary to assure compliance with the provisions of Part C of subchapter I of the Act. We take this action pursuant to section 328 of the Act. We believe we will, through this action, have incorporated all of the relevant requirements of the COA.

Comment: The North Slope Borough requested that EPA clarify what version of the State rules is being adopted into 40 CFR part 55 Appendix A.

Response: EPA reviewed the applicable dates in Appendix A and noted that some of the proposed rules contained out-of-date State effective dates. These have been corrected and all the rules listed in the Appendix now reflect current effective dates. A marked up copy of the changes are available in the docket.

Comment: The North Slope Borough requests that EPA clearly explain how the agency will ensure that the

increments established to prevent significant deterioration ("PSD") of air quality will be protected within 25 miles of Alaska's seaward boundary. The North Slope Borough specifically asks EPA to clarify the applicable baseline areas and baseline dates for OCS sources nearest Alaska and to clearly explain the requirements for new and modified OCS sources with respect to PSD increment analyses.

Response: The comment raises questions that go beyond the scope of this rulemaking. As previously explained, the purpose of this rulemaking is to update the OCS rules applicable to OCS sources located within 25 miles of Alaska's seaward boundary so that they remain consistent with the onshore rules. Section 328 of the Act requires EPA to establish 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 (the provisions regarding prevention of significant deterioration). For OCS sources located within 25 miles of a State's seaward boundaries, these requirements are to be the same as would be applicable if the source were located in the COA.

EPA has met this requirement by incorporating the COA rules into the Federal rules for OCS sources, specifically into 40 CFR 55.14. In the case of the Alaska OCS, these rules include, among other things, the State's PSD permitting rule (18 AAC 50.306), the State rule that documents the PSD baseline areas and baseline dates for the COA (18 AAC 50.020) and the requirement for a PSD source to demonstrate that the allowable emissions from the new source or modification would not cause or contribute to a violation of an applicable PSD increment (see 40 CFR 52.21(k)(2)), incorporated by reference into ADEC's rules at 18 AAC 50.040(h). This update incorporates the current onshore rules regarding increment to make them consistent with the existing requirements in the COA.

Comment: The North Slope Borough also incorporated into its comments a letter it had previously sent to the Minerals Management Service ("MMS") regarding the MMS' air quality analysis for the Beaufort Sea and the Chukchi Sea Planning Areas Oil and Gas lease sales 209, 212, 217 and 221 Draft Environmental Impact Statement OCS EIS/EA MMS 2008-0055.

Response: The comments contained in the letter to the MMS relate to the analysis the MMS conducted on the air impacts that could occur as a result of

the actions authorized under the Draft Environmental Impact Statement. These comments do not relate to the proposed EPA action which is simply to incorporate the applicable onshore regulations into part 55. These comments are therefore beyond the scope of this rulemaking.

III. EPA Action

In this document, EPA takes final action to incorporate the changes proposed on March 3, 2009 except for 18 AAC 50.410 into 40 CFR part 55. Subsequent to EPA's March 3, 2009 proposed changes to 40 CFR part 55, the State of Alaska adopted regulation changes in Title 18, Chapter 50 of the Alaska Administrative Code ("ACC"). More specifically, as amended through June 18, 2009, Alaska revised the Air Emission User Fee provision in 18 AAC 50.410 to extend the date through which the current emission fee rates apply to stationary sources permitted under AS 46.14 from to June 30, 2009 to June 30, 2010 and clarified that the fee applies annually. EPA is taking direct final action, under Docket ID No. EPA-R10-OAR-2009-0799, to incorporate 18 AAC 50.410 as amended through June 18, 2009 rather than the version referenced on March 3, 2009 proposal, into 40 CFR part 55.

As described above, EPA is approving the 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 incorporates applicable onshore rules into part 55 as they exist onshore.

IV. Administrative Requirements

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 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 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because 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 *st 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 rule 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 March 22, 2010. Filing a petition for reconsideration by the Administrator of this final action 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: December 14, 2009.

Michelle L. Pirzadeh,
Acting Regional Administrator, Region 10.

■ Title 40, chapter I of the Code of Federal Regulations, is amended as follows:

PART 55—[AMENDED]

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

Authority: Section 328 of the 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)(2)(i)(A) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States’ seaward boundaries, by State.

* * * * *

(e) * * *

(2) * * *

(i) * * *

(A) State of Alaska Requirements Applicable to OCS Sources, November 9, 2009.

* * * * *

■ 3. Appendix A to CFR part 55 is amended by revising paragraph (a)(1) under the heading “Alaska” to read as follows:

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

* * * * *

Alaska

(a) * * *

(1) The following State of Alaska requirements are applicable to OCS Sources, November 9, 2009, Alaska Administrative Code—Department of Environmental Conservation. The following sections of Title 18, Chapter 50:

Article 1. Ambient Air Quality Management

18 AAC 50.005. Purpose and Applicability of Chapter (effective 10/01/2004)

18 AAC 50.010. Ambient Air Quality Standards (effective 10/01/2004)

18 AAC 50.015. Air Quality Designations, Classification, and Control Regions (effective 10/10/2004) except (d)(2)

Table 1. Air Quality Classifications

18 AAC 50.020. Baseline Dates and Maximum Allowable Increases (effective 07/25/2008)

Table 2. Baseline Dates

Table 3. Maximum Allowable Increases

18 AAC 50.025. Visibility and Other Special Protection Areas (effective 06/21/1998)

18 AAC 50.030. State Air Quality Control Plan (effective 11/09/2008)

18 AAC 50.035. Documents, Procedures, and Methods Adopted by Reference (effective 11/09/2008)

18 AAC 50.040. Federal Standards Adopted by Reference (effective 07/25/2008) except (a)(H), (a)(I), (a)(N) through (a)(P), (a)(R) through (a)(U), (a)(W), (a)(Y), (a)(AA), (a)(CC) through (a)(EE), (a)(II), (a)(KK), (c)(4), (c)(5), (c)(12), (c)(14) through (c)(16), (c)(18), (c)(20), (c)(25), (c)(26) through (c)(29), (c)(30), (c)(31) and (g)

18 AAC 50.045. Prohibitions (effective 10/01/2004)

18 AAC 50.050. Incinerator Emissions Standards (effective 07/25/2008)

Table 4. Particulate Matter Standards for Incinerators

- 18 AAC 50.055. Industrial Processes and Fuel-Burning Equipment (effective 07/25/2008) except (a)(3) through (a)(9), (b)(2)(A), (b)(4) through (b)(6), (e) and (f)
- 18 AAC 50.065. Open Burning (effective 01/18/1997)
- 18 AAC 50.070. Marine Vessel Visible Emission Standards (effective 06/21/1998)
- 18 AAC 50.075. Wood-Fired Heating Device Visible Emission Standards (effective 01/18/1997)
- 18 AAC 50.080. Ice Fog Standards (effective 01/18/1997)
- 18 AAC 50.085. Volatile Liquid Storage Tank Emission Standards (effective 01/18/1997)
- 18 AAC 50.090. Volatile Liquid Loading Racks and Delivery Tank Emission Standards (effective 07/25/2008)
- 18 AAC 50.100. Nonroad Engines (effective 10/01/2004)
- 18 AAC 50.110. Air Pollution Prohibited (effective 05/26/1972)

Article 2. Program Administration

- 18 AAC 50.200. Information Requests (effective 10/01/2004)
- 18 AAC 50.201. Ambient Air Quality Investigation (effective 10/01/2004)
- 18 AAC 50.205. Certification (effective 10/01/2004)
- 18 AAC 50.215. Ambient Air Quality Analysis Methods (effective 07/25/2008)

Table 5. Significant Impact Levels (SILs)

- 18 AAC 50.220. Enforceable Test Methods (effective 10/01/2004)
- 18 AAC 50.225. Owner-Requested Limits (effective 07/25/2008) except (c) through (g)
- 18 AAC 50.230. Preapproved Emission Limits (effective 01/29/2005) except (d)
- 18 AAC 50.235. Unavoidable Emergencies and Malfunctions (effective 10/01/2004)
- 18 AAC 50.240. Excess Emissions (effective 10/01/2004)
- 18 AAC 50.245. Air Episodes and Advisories (effective 10/01/2004)

Table 6. Concentrations Triggering an Air Episode

- 18 AAC 50.260. Guidance for Best Available Retrofit Technology under the Regional Haze Rule (effective 12/30/2007)

Article 3. Major Stationary Source Permits

- 18 AAC 50.301. Permit Continuity (effective 10/01/2004) except (b)
- 18 AAC 50.302. Construction Permits (effective 10/01/2004)
- 18 AAC 50.306. Prevention of Significant Deterioration (PSD) Permits (effective 07/25/2008) except (c)(2) and (e)
- 18 AAC 50.311. Nonattainment Area Major Stationary Source Permits (effective 10/01/2004) except (c)
- 18 AAC 50.316. Preconstruction Review for Construction or Reconstruction of a Major Source of Hazardous Air Pollutants (effective 12/01/2004) except (c)
- 18 AAC 50.321. Case-By-Case Maximum Achievable Control Technology (effective 12/01/2004)

- 18 AAC 50.326. Title V Operating Permits (effective 12/01/2004) except (c)(1), (h), (i)(3), (j)(5), (j)(6), (k)(1)(k)(3), (k)(5), and (k)(6)
- 18 AAC 50.345. Construction, Minor and Operating Permits: Standard Permit Conditions (effective 11/09/2008)
- 18 AAC 50.346. Construction and Operating Permits: Other Permit Conditions (effective 11/09/2008)

*Table 7. Standard Operating Permit Condition***Article 4. User Fees**

- 18 AAC 50.400. Permit Administration Fees (effective 07/25/2008) except (c)(1) through (c)(3), (c)(6), (k)(3) and (m)(3)
- 18 AAC 50.403. Negotiated Service Agreements (effective 12/03/2005)
- 18 AAC 50.405. Transition Process for Permit Fees (effective 01/29/2005)
- 18 AAC 50.499. Definition for User Fee Requirements (effective 01/29/2005)

Article 5. Minor Permits

- 18 AAC 50.502. Minor Permits for Air Quality Protection (effective 07/25/2008) except (b)(1) through (b)(3), (b)(5), (d)(1) and (d)(2)
- 18 AAC 50.508. Minor Permits Requested by the Owner or Operator (effective 07/25/2008)
- 18 AAC 50.509. Construction of a Pollution Control Project Without a Permit (effective 07/25/2008)
- 18 AAC 50.540. Minor Permit: Application (effective 07/25/2008)
- 18 AAC 50.542. Minor Permit: Review and Issuance (effective 07/25/2008) except (a), (b)(1), (b)(2), (b)(4), (b)(5), and (d)
- 18 AAC 50.544. Minor Permits: Content (effective 11/09/2008)
- 18 AAC 50.546. Minor Permits: Revisions (effective 07/25/2008)
- 18 AAC 50.560. General Minor Permits (effective 10/01/2004) except (b)

Article 9. General Provisions

- 18 AAC 50.990. Definitions (effective 07/25/2008)

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 55**

[EPA-R10-OAR-2009-0799; FRL-9095-8]

Outer Continental Shelf Air Regulations Consistency Update for Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to include in the regulations the revised applicability dates in the emissions user fees provision in 18 AAC 50.410. Requirements applying to Outer

Continental Shelf ("OCS") sources located within 25 miles of States' seaward boundaries must be updated periodically to remain consistent with the emission user fee 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 operating off of the State of Alaska. The intended effect of approving the OCS requirements for the State of Alaska is to regulate emissions from OCS sources in a manner consistent with the requirements onshore. The change to the existing requirements discussed below is incorporated by reference into the regulations and is listed in the appendix to the OCS air regulations.

DATES: *Effective Date:* This direct final rule will be effective March 22, 2010, without further notice, unless EPA receives adverse comment by February 22, 2010. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

This incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of March 22, 2010.

ADDRESSES: Submit your comments on the direct final portion of this action, identified by Docket ID No. EPA-R10-OAR-2009-0799, by any of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

- *E-mail:* greaves.natasha@epa.gov.

- *Mail:* Natasha Greaves, EPA Region 10, Office of Air, Waste and Toxics, Mail Stop AWT-107, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101.

- *Hand Delivery/Courier:* EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101. Attention: Natasha Greaves, Office of Air, Waste and Toxics, AWT-107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R10-OAR-2009-0799. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information