

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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[FR Doc. 2010-1110 Filed 1-20-10; 8:45 am]

BILLING CODE 6560-50-P

## 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](mailto: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

whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

EPA has established a docket for the direct final action under Docket ID No. EPA-R10-OAR-2009-0799. 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](mailto: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

**Table of Contents**

- I. Background Information
- II. EPA Action
- III. Administrative Requirements

**I. Background Information**

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.

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.

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 were promulgated in response to the submittal of a Notice of Intent on January 9, 2009, by Shell Offshore, Inc.

<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.

of Houston, Texas. 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. This direct final action relates only to the air emission user fee provision in 18 AAC 50.410.

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.

Today EPA is taking direct final action to incorporate 18 AAC 50.410 as amended through June 18, 2009. This direct final rule will be effective March 22, 2010, without further notices, 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 incorporating 18 AAC 50.410 as amended through June 18, 2009 in the **Federal Register** informing the public that the rule will not take effect.

**II. EPA Action**

In this document, EPA takes direct final action to incorporate 18 AAC 50.410, as amended through June 18, 2009, 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.

**III. 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 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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 Pub. L. 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, June 18, 2009.

\* \* \* \* \*

■ 3. Appendix A to CFR part 55 is amended under "Alaska" by revising paragraph (a)(1) introductory text and by revising the entry for "18 AAC 50.410" under article 4 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, June 18, 2009, Alaska Administrative Code—Department of Environmental Conservation. The following sections of Title 18, Chapter 50:

\* \* \* \* \*

#### Article 4. User Fees

\* \* \* \* \*

18 AAC 50.410. Emission Fees (effective 06/18/2009).

\* \* \* \* \*

[FR Doc. 2010-1120 Filed 1-20-10; 8:45 am]

**BILLING CODE 6560-50-P**