

any comments, this action will be effective August 26, 2011.

#### IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements. 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);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- 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 CAA; 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 the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct

costs on tribal governments or preempt tribal law.

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 action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 26, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 3, 2011.

**Susan Hedman**,  
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart O—Illinois

■ 2. Section 52.720 is amended by adding paragraph (c)(188) to read as follows:

#### § 52.720 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(188) On November 8, 2010, the Illinois Environmental Protection Agency submitted a revision to its state implementation plan. The revision to the SIP allows an adjusted standard to the general rule, Use of Organic Material Rule, known as the eight pound per hour (8 lb/hr) rule, for volatile organic matter, for Royal Fiberglass Pools, Inc. manufacturing facility located in Dix, Illinois. The adjusted standard is that 35 Ill. Adm. Code 217.301 does not apply to VOM emissions from Royal's Dix, Illinois facility. The facility is subject to emission limit requirements set forth in the MACT under 40 CFR 63 subpart WWWW finalized in 68 FR 19402, April 21, 2003.

(i) *Incorporation by reference.* (A) February 18, 2010, Opinion and Order of the Illinois Pollution Control Board, AS-09-04, effective February 18, 2010.

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 55

[EPA-R10-OAR-2011-0045; FRL-9317-8]

#### Outer Continental Shelf Air Regulations Consistency Update for Alaska

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing an update to a portion of the Outer Continental Shelf ("OCS") Air Regulations proposed in the **Federal Register** on February 10, 2011. 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, as mandated by section 328(a)(1) of the Clean Air Act ("the Act"). The portion of the OCS air regulations being updated pertains to the requirements for OCS sources in 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 to be incorporated by reference into the Code of Federal Regulations and is listed in the appendix to the OCS air regulations.

**DATES:** *Effective Date:* The final rule is effective on July 27, 2011. The incorporation by reference of certain publications listed this rule are approved by the Director of the Federal Register as of July 27, 2011.

**ADDRESSES:** EPA has established a docket for this action under docket number. EPA-R10-OAR-2011-0045. 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:

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## I. Background Information

### *Why is EPA taking this action?*

On September 4, 1992, EPA promulgated 40 CFR part 55 (the OCS rule)<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 corresponding onshore area ("COA"). Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) of the Act requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to section 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent ("NOI") under section 40 CFR 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.

On February 10, 2011, (76 FR 7518), 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 December 10, 2010, by Shell Offshore, Inc. of Houston, Texas ("Shell"). 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 would apply if the

<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.

source[s] were located onshore. 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. Public Comment and EPA Response

EPA's February 10, 2011, proposed action provided a 30-day public comment period which closed on March 14, 2011. During the public comment period, EPA received one letter from the Alaska Eskimo Whaling Commission commenting on the proposed rule.

*Comment:* The Alaska Eskimo Whaling Commission stated that Shell's NOI and other relevant submissions were not included within the public notice and were not made available to the public on EPA's Web site or otherwise.

*Response:* As noted in the proposed rule, EPA established a docket for the consistency update under Docket ID No. EPA-R10-OAR-2011-0045. The docket included the NOI submitted by Shell, the state rules relevant to the proposed action and other information relied on by EPA. These documents were available for review to the public, as noted in the proposed rule, electronically via the federal docket management system or in hard copy during normal business hours at EPA. We do acknowledge that the information was not posted on EPA Region 10's OCS webpage.

*Comment:* The Alaska Eskimo Whaling Commission requested a narrative discussing how EPA made the decision to include or exclude rules. The Alaska Eskimo Whaling Commission expressed specific concern with EPA's decision to exclude administrative and procedural rules and stated that EPA did not explain the basis for excluding administrative and procedural rules.

*Response:* EPA is required to perform consistency updates to maintain

consistency with the applicable regulations in the COA. In order to be considered for inclusion in the OCS rule, these COA requirements must have been formally adopted by the state or local regulatory agency. Before a COA 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. (See also 40 CFR 55.1). 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 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 updating 40 CFR part 55, EPA reviews the current COA rules for consistency with part 55. For the proposed rule, EPA reviewed Alaska's Air Quality Control Regulations at 18 AAC 50, as amended through December 9, 2010, to identify rules that 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) and applicable to OCS sources. EPA also evaluated the rules to ensure they are not arbitrary or capricious. Rules that are arbitrary or capricious are excluded from incorporation. (See 40 CFR 55.12(e)). Additionally as noted in part 55, the OCS rules specifically provide that EPA shall not be bound by state or local administrative procedural requirements including, but not limited to, requirements pertaining to hearing boards, permit issuance, public notice procedures, and public hearings. (See 40 CFR 55.14(c)(4)). EPA uses the applicable administrative and public notice and comment procedures of 40 CFR part 55.6 and 40 CFR part 124. (See 40 CFR 55.6(a)(3) and 40 CFR 55.14(c)(4)). Finally EPA did not incorporate COA rules that regulate toxics which are not related to the attainment and maintenance of federal and state ambient air quality standards, and/or designed to prevent exploration and development on the OCS. (See also 40 CFR 55.1 and 57 FR 40792, 40803 (Final OCS rule)).

The intended effect of approving the OCS requirements is to regulate emissions from OCS sources consistent 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 which ones 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 and, that they are not designed expressly to prevent exploration and development of the OCS and are applicable to OCS sources.

*Comment:* The Alaska Eskimo Whaling Commission submitted several comments requesting clarification on EPA's decision to exclude several of the COA rules regarding public participation. Specifically, the Alaska Eskimo Whaling Commission expressed concern about excluding the public from participating in the permit process by excluding permit issuance under 40 CFR 52.21 and excluding rules that allow request for adjudicatory hearing as it applies to 55.166(q)(2) public participation process of PSD permits. Specifically, the Alaska Eskimo Whaling Commission asked EPA to clarify the rational for excluding 18 AAC 50.040(h)(2); 18 AAC 50.225(c) through (g); 18 AAC 50.306(c) and (e); 18 AAC 50.311(c); 18 AAC 50.316(c); 18 AAC 50.326 (j)(5) through (j)(6), (k)(1), (k)(3), (k)(5), and (k)(6); 18 AAC 50.400(j)(13); 18 AAC 50.420; 18 AAC 50.430; 18 AAC 50.542(a) through (d); and 18 AAC 50.546.

*Response:* Part 55.6(a)(3) requires EPA to follow the applicable procedures of 40 CFR part 124 in processing applications under part 55. Specifically, EPA is required to use the procedures in part 124 used to issue Prevention of Significant Deterioration ("PSD") permits until 40 CFR part 124 has been modified to reference permits issued under part 55. As explained in the regulation itself, part 124 contains the procedures for issuing, modifying, revoking and reissuing, or terminating the permits. (40 CFR 124.(1)(a)). Part

124 set forth the applicable procedures that EPA will use to process OCS permits, thus incorporating additional state procedural rules is not necessary. Also, part 124 specifically provides the opportunity for full meaningful public participation in the permit process. (See e.g. 40 CFR 124.10, 124.11 and 124.12). Additionally, part 124 includes procedures to challenge the permits. See 40 CFR 124.19. Accordingly, EPA excluded all COA regulations, including those referenced in the comment, pertaining to procedures for issuing, modifying, revoking and reissuing, or terminating permits.

*Comment:* The Alaska Eskimo Whaling Commission asked EPA to clarify the exclusion of Table 1 Air Quality Classifications.

*Response:* EPA included 18 AAC 50 Table 1 Air Quality Classifications into the proposed rulemaking. The table can be found under Article 1—Ambient Air Quality Management in the proposed rule.

*Comment:* The Alaska Eskimo Whaling Commission asked EPA to clarify the exclusion of 18 AAC 50.250.

*Response:* EPA did not incorporate 18 AAC 50.250 because the rule sets out the procedure and criteria for revising air quality classifications. This rule was not incorporated because it is administrative or procedural. More specifically, the rule outlines the process the State of Alaska uses to reclassify an air quality classification for a geographic area.

*Comment:* The Alaska Eskimo Whaling Commission asked EPA to clarify exclusion of 18 AAC 326(h) and (i)(3) and 18 AAC 50.400 (a)(2), (a)(5), (j)(2) through (j)(5), and (j)(8)

*Response:* EPA did not incorporate 18 AAC 326(h) and (i)(3) and 18 AAC 50.400 (a)(2), (a)(5), (j)(2) through (j)(5), and (j)(8) because the rules do not apply to the OCS. More specifically, 18 AAC 50.326(h) and (i)(3) relates to a portion of the state regulations regarding Title V permits pertaining to ponds and lagoons and coffee roasters and agricultural activities as insignificant emission units. The provisions at 18 AAC 50.400 relate to the permit state administrative fees. Specifically, 18 AAC 50.400(a)(2) related to fees for a small power plant permit renewal and (a)(5), (j)(2) through (j)(5) and (j)(8) are procedural or do not relate to OCS sources and need not be incorporated.

*Comment:* AEWC requests an explanation and an opportunity for input on EPA's rationale prior to finalizing the update.

*Response:* EPA appreciated the comments submitted by the Alaska Eskimo Whaling Commission. As part of

this rulemaking, EPA provided the public notice and the opportunity to comment on the proposed consistency update. EPA carefully considered the comments received and its response to the comments are contained in this action.

### III. EPA Action

In this document, EPA takes final action to incorporate the changes proposed on February 10, 2011 into 40 CFR part 55 related to the consistency update for the OCS air regulations for Alaska. 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 or consistent with onshore requirements. To comply with this statutory mandate, EPA incorporates applicable Alaska onshore rules into part 55 as they exist onshore.

### IV. Statutory and Executive Order Reviews

#### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget ("OMB") review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This action is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB Review. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act,

without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have created an adverse material effect. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA.

#### B. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in 40 CFR part 55, and by extension this update to the rules, under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060-0249. The OMB Notice of Action is dated January 15, 2009. The approval expires January 31, 2012.

OMB's Notice of Action dated January 15, 2009 indicated that the annual public reporting and recordkeeping burden for collection of information under 40 CFR part 55 is estimated to average 112 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA") generally requires an agency to conduct a regulatory flexibility analysis of any rule 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 rule will not have a significant economic impact on a substantial number of small entities. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have had a significant economic impact on a substantial number of small entities. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

#### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA"), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant

Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector that may result in expenditures of \$100 million or more for State, local, or tribal governments, in the aggregate, or to the private sector in any one year. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have created an adverse material effect. As required by section 328 of the Clean Air Act, this action simply updates the existing OCS requirements to make them consistent with rules in the COA.

#### *E. Executive Order 13132: Federalism*

Executive Orders 13132, entitled "Federalism" (64 FR 43255 (August 10, 1999)), 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."

This final rule does not have federalism implications. It 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. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. This rule does not amend the existing provisions within 40 CFR part 55 enabling delegation of OCS regulations to a COA, and this rule does not require the COA to implement the OCS rules. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comments on this final rule from State and local officials.

#### *F. Executive Order 13175: Coordination With Indian Tribal Governments*

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249 (November 9, 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." This rule 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 and thus does not have "tribal implications," within the meaning of Executive Order 13175. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. In addition, this rule does not impose substantial direct compliance costs on tribal governments, nor preempt tribal law. Consultation with Indian tribes is therefore not required under Executive Order 13175. Nonetheless, in the spirit of Executive Order 13175 and consistent with EPA policy to promote communications between EPA and tribes, EPA specifically solicits comments on this final rule from tribal officials.

#### *G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

Executive Order 13045: "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 final rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866. In addition, the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportional risk to children.

#### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This final 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 regulatory action under Executive Order 12866.

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

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable laws or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decided not to use available and applicable voluntary consensus standards.

As discussed above, this rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the Clean Air Act, without the exercise of any policy discretion by EPA. As required by section 328 of the Clean Air Act, this rule simply updates the existing OCS rules to make them consistent with current COA requirements. In the absence of a prior existing requirement for the state to use voluntary consensus standards and in light of the fact that EPA is required to make the OCS rules consistent with current COA requirements, it would be inconsistent with applicable law for EPA to use voluntary consensus standards in this action. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the final rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to

explain why such standards should be used in this regulation.

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 August 26, 2011. 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: May 27, 2011.

**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, December 9, 2010.

\* \* \* \* \*

■ 3. Appendix A to 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, December 9, 2010, 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 04/01/2010)

18 AAC 50.015. Air Quality Designations, Classification, and Control Regions (effective 12/09/2010) except (b)(1), (b)(3) and (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 10/29/2010)

18 AAC 50.035. Documents, Procedures, and Methods Adopted by Reference (effective 04/01/2010)

18 AAC 50.040. Federal Standards Adopted by Reference (effective 12/09/2010) except (h)(2)

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 12/09/2010) except (a)(3) through (a)(9), (b)(2)(A), (b)(3) 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 05/06/2009)

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) except (b)

18 AAC 50.215. Ambient Air Quality Analysis Methods (effective 10/29/2010)

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 12/09/2010) except (c) through (g)

18 AAC 50.230. Preapproved Emission Limits (effective 07/01/2010) 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

#### 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 12/09/2010)

18 AAC 50.306. Prevention of Significant Deterioration (PSD) Permits (effective 12/09/2010) except (c) 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 12/01/04)

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 12/09/2010)

Table 7. Standard Operating Permit Condition

#### Article 4. User Fees

18 AAC 50.400. Permit Administration Fees (effective 07/01/2010) except (a)(2), (a)(5), (j)(2) through (j)(5), (j)(8), and (j)(13)

- 18 AAC 50.403. Negotiated Service Agreements (effective 07/01/2010)  
 18 AAC 50.410. Emission Fees (effective 07/10/2010)  
 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 12/09/2010) except (b)(1) through (b)(3), (b)(5), (d)(1)(A) and (d)(2)(A)  
 18 AAC 50.508. Minor Permits Requested by the Owner or Operator (effective 12/07/2010)  
 18 AAC 50.510. Minor Permit—Title V Permit Interface (effective 12/09/2010)  
 18 AAC 50.540. Minor Permit: Application (effective 12/09/2010)  
 18 AAC 50.542. Minor Permit: Review and Issuance (effective 12/09/2010) except (a), (b), (c), and (d)  
 18 AAC 50.544. Minor Permits: Content (effective 12/09/2010)  
 18 AAC 50.560. General Minor Permits (effective 10/01/2004) except (b)

#### Article 9. General Provisions

- 18 AAC 50.990. Definitions (effective 12/09/2010)

\* \* \* \* \*

[FR Doc. 2011-15852 Filed 6-24-11; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

#### 46 CFR Part 221

#### Approval Process for Transfers to Foreign Registry of U.S. Documented Vessels Over 1,000 Gross Tons

**AGENCY:** Maritime Administration (MARAD), DOT.

**ACTION:** Clarification.

**SUMMARY:** This document clarifies the Maritime Administration's (MARAD's) approval process in 46 CFR part 221, for requests relating to proposed transfers to foreign registry of U.S. documented vessels over 1,000 gross tons.

**DATES:** The applicability date of this clarification is February 14, 2011. Comments may be submitted on or before July 27, 2011.

**ADDRESSES:** Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or submit electronically at <http://www.regulations.gov> or fax comments to (202) 493-2251. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9

a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays. Those desiring notification or receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Page 19477-78), or you may visit <http://dms.dot.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Michaela Noble, Office of Chief Counsel, Maritime Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202-366-5184; or e-mail [Michaela.Noble@dot.gov](mailto:Michaela.Noble@dot.gov). Copies of this notice may also be obtained from that office. An electronic copy of this document may be downloaded from the **Federal Register's** home page at: <http://www.archives.gov> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

**SUPPLEMENTARY INFORMATION:** The Maritime Administration (MARAD) is clarifying its approval process in 46 CFR Part 221 for requests relating to proposed transfers to foreign registry of U.S. documented vessels over 1000 gross tons. The approval process will require vessel owners to self-certify that the vessel(s) does not contain polychlorinated biphenyls (PCBs) in regulated quantities, and to provide notice to the Environmental Protection Agency (EPA) of the transfer request. This process shall apply to all transfer requests filed on or after February 14, 2011, except as otherwise provided herein. In addition, the requirement for vessel owner self-certification will apply to all future approvals under the provisions for granting advance foreign transfer approvals pursuant to 46 U.S.C. 56101(b), regardless of when the application is filed. Vessel owners that receive advance approval under 46 U.S.C. 56101(b) will be required to submit a self-certification conforming to the language provided below, or as may be amended by MARAD, prior to transfer of the vessel to foreign registry, otherwise the prior approval is void. Vessels built in the United States after 1985 shall be exempted from these requirements.

Self-certification must be performed by a person with legal authority to act on behalf of the company. Self-certification means a written statement containing the following language: "Under civil and criminal penalties of law for the making or submission of false or fraudulent statements or representations (18 U.S.C. 1001 and 15

U.S.C. 2615), to the best of my knowledge and belief, I hereby certify that after the exercise of reasonable due diligence, the vessel(s) do(es) not contain polychlorinated biphenyls (PCBs) in amounts greater than or equal to 50 ppm as regulated by the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*)." The Maritime Administration will provide the EPA with up to 30 days notice prior to approving any transfer request. Applicants are advised to account for this processing time when submitting transfer requests.

Dated: June 20, 2011.

By Order of the Maritime Administrator.

**Murray A. Bloom,**

*Acting Secretary, Maritime Administration.*

[FR Doc. 2011-15889 Filed 6-24-11; 8:45 am]

BILLING CODE 4910-81-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket No. 02-60; FCC 11-101]

#### Rural Health Care Support Mechanism

**AGENCY:** Federal Communications Commission.

**ACTION:** Interim rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) adopts an interim rule permitting health care providers that are located in a "rural area" under the definition used by the Commission prior to July 1, 2005, and that have received a funding commitment from the rural health care program prior to July 1, 2005, to continue to be treated as if they are located in "rural" areas for purposes of determining eligibility for all universal service rural health care programs. The Commission takes these actions to ensure that health care providers located in rural areas can continue to benefit from connecting with grandfathered providers, and thereby provide health care to patients in rural areas.

**DATES:** Effective June 27, 2011.

**FOR FURTHER INFORMATION CONTACT:** Chin Yoo, Attorney Advisor, at 202-418-0295, Telecommunications Access Policy Division, Wireline Competition Bureau.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order (Order) in WC Docket No. 02-60, FCC 11-101, adopted on June 20, 2011 and released on June 21, 2011. This Order was also released with a companion Notice of Proposed Rulemaking