

(d) Lessees must prepare records detailing gas flaring or venting and liquid hydrocarbon burning for each facility. The records must include, at a minimum:

- (1) Daily volumes of gas flared or vented and liquid hydrocarbons burned;
- (2) Number of hours of flaring, venting, or burning on a daily basis;
- (3) Reasons for flaring, venting, or burning; and
- (4) A list of the wells contributing to flaring, venting, or burning, along with the gas-oil ratio data.

(e) Lessees must keep these records for at least 2 years. Lessees must allow Minerals Management Service representatives to inspect the records at the lessees' field office that is nearest the Outer Continental Shelf facility, or at another location agreed to by the Regional Supervisor. If the Regional Supervisor requests to see the records, lessees must provide a copy.

[FR Doc. 96-12544 Filed 5-17-96; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 100, 110 and 117

[CGD 05-96-021]

Special Local Regulations for Marine Events; Norfolk Harborfest 1996; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, VA

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This document implements 33 CFR 100.501 for Norfolk Harborfest 1996, an annual event to be held in the Waterside area of the Elizabeth River between Norfolk and Portsmouth, Virginia. These special local regulations are needed to control vessel traffic within the immediate vicinity of Waterside due to the confined nature of the waterway and the expected vessel congestion during the event. The effect will be to restrict general navigation in the regulated area for the safety of participants and spectators.

EFFECTIVE DATES: The regulations in 33 CFR 100.501, 110.72aa and 117.1007(b) are effective for the following periods: 11 a.m. to 11 p.m., June 7, 1996; 8:30 a.m. to 11 p.m., June 8, 1996; and 9:30 a.m. to 7 p.m., June 9, 1996.

FOR FURTHER INFORMATION CONTACT: LTJG R. Christensen, marine events coordinator, Commander, Coast Guard Group Hampton Roads, 4000 Coast Guard Blvd., Portsmouth, VA 23703-2199, (804) 483-8521.

SUPPLEMENTARY INFORMATION:

Discussion of Rule

Norfolk Harborfest, Inc. will sponsor the Norfolk Harborfest 1996 on June 7, 8, and 9, 1996, in the Waterside area of the Elizabeth River. The event will consist of aerobic demonstrations, an air/sea rescue demonstration, fireworks, lighted boat parade, and numerous other water events, to include a parade of sailboats and several boat and raft races. A large number of spectator vessels are expected. Therefore, to ensure safety of both participants and spectators, 33 CFR 100.501 will be in effect for the event. Under provisions of 33 CFR 100.501, a vessel may not enter the regulated area unless it is registered as a participant with the event sponsor or it receives permission from the Coast Guard patrol commander. These restrictions will be in effect for a limited period and should not result in significant disruption of maritime traffic. The Coast Guard patrol commander will announce the specific periods during which the restrictions will be enforced.

Additionally, 33 CFR 110.72aa and 33 CFR 117.1007(b) will be in effect while 33 CFR 100.501 is in effect. Section 110.72aa establishes special anchorages which may be used by spectator craft. Section 117.1007(b) provides that the draw of the Berkley Bridge shall remain closed from one hour prior to the scheduled event until one hour after the scheduled event unless the Coast Guard patrol commander allows it to be opened for passage of commercial traffic.

Dated: May 1, 1996.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 96-12645 Filed 5-17-96; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL-5504-4]

RIN 2060-AG40 and AG39

Outer Continental Shelf Air Regulations Offset Remand

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: The EPA is revising the outer continental shelf (OCS) regulations in response to a decision by the U.S. Court of Appeals for the District of Columbia Circuit. The OCS regulations establish

air pollution control requirements for certain sources located on the OCS.

On September 4, 1992, EPA promulgated the OCS regulations, which, in part, set up special offset requirements for OCS sources located within 25 miles of the States' seaward boundaries (the 25-mile limit). The Santa Barbara County Air Pollution Control District filed a petition for review of the regulations on several issues, including the special offset provisions. Upon review, the court found that the special offset provisions departed from the Clean Air Act directive, vacated the regulation in part, and remanded it to EPA for further consideration.

By this action, EPA is revising the OCS regulations to delete the special offset provisions and to require that for sources located within the 25-mile limit, offset requirements apply as they are required in the corresponding onshore area (COA). The EPA is promulgating these revisions as an interim final regulation and is requesting comments on the revisions. The revisions will be in effect during the interim period while EPA receives, reviews and responds to any comments.

DATES: These rules shall be effective as of May 20, 1996. Written comments on this action must be received by EPA at the address below on or before June 19, 1996.

ADDRESSES: The public docket for this action is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the Air and Radiation Docket and Information Center (6101), Attention Docket A-95-06, South Conference Center, Room 4, 401 M Street, SW, Washington, DC 20460. A reasonable fee for copying may be charged.

FOR FURTHER INFORMATION CONTACT: Mr. David Stonefield, U.S. EPA, MD-15, Research Triangle Park, NC 27711, telephone (919) 541-5350.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

The Clean Air Act Amendments of 1990 (Act) (Pub. L. 101-549, 104 Stat. 2399 (1990)) added section 328 to the Act and transferred authority to regulate sources on part of the OCS from the Department of the Interior (DOI) to EPA. The DOI retained the authority to regulate OCS sources in the Gulf of Mexico west of 87.5 degrees longitude. As to the remaining portions of the OCS—the Atlantic, Pacific, and Arctic coasts and the Gulf of Mexico east of 87.5 degrees—section 328 requires EPA

to establish requirements for the control of 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 of the Act. For sources within 25 miles of the States' seaward boundaries, those requirements must be "the same as would be applicable if the source were located in the [COA]. * * *" For sources beyond the 25-mile limit, the Administrator has discretion in determining the requirements. The EPA proposed (56 FR 63774, December 5, 1991) and promulgated (57 FR 40792, September 4, 1992) regulations to implement the requirements of section 328. Among other things, EPA said that it would require OCS sources to meet the requirements of the operating permits regulations (40 CFR part 71) and the enhanced monitoring regulations when promulgated.

B. Offset Provisions

Generally, in nonattainment areas, a new source or existing source undergoing modification which results in increased emissions must secure emission reductions of an equal or greater amount from existing sources in that area to "offset" its new emissions. In promulgating the OCS regulations, EPA required that OCS sources obtain offsets based on the requirements imposed in the COA and in accordance with special offset requirements for OCS sources that EPA established in 40 CFR 55.5(d). The EPA set up three zones based upon where the offsets were obtained and applied the offset program differently in each. Offsets obtained seaward of the proposed source, zone 1, are subject to the requirements of the COA including any distance penalty or discount. Offsets obtained between the proposed source and the State's seaward boundary, zone 2, are subject to the offset ratio of the COA but not any distance discounting or penalties. Offsets obtained on the landward side of the State's seaward boundary, zone 3, are subject to the requirements of the COA including any distance penalty or discount, but the proposed source is assumed to be located at the State's seaward boundary (40 CFR 55.5(d) and 57 FR 40796).

C. Judicial Review

In November 1992, the Santa Barbara County Air Pollution Control District (APCD) filed a petition for review of the OCS rule in the Court of Appeals for the District of Columbia Circuit, claiming, among other things, that section 328 of the Act requires that the offset provision applicable to OCS sources must be *the same* as those that apply within the

COA (*Santa Barbara County Air Pollution Control District v. EPA*, 31 F.3d 1179 (D.C. Cir. 1994)). The Santa Barbara County APCD claimed EPA overstepped the statutory boundaries by limiting the application of the COA offset provision with Federal requirements. On August 12, 1994, the Court of Appeals vacated the offset portion of the OCS regulations as it applied to zones 2 and 3, finding that EPA should promulgate the same offset requirements for OCS sources as would be applicable if the OCS sources were located in the COA. The court remanded the provision to EPA for further consideration.

Another issue raised by the Santa Barbara County APCD petition involved EPA's prohibition on the delegation of the authority to implement and enforce the OCS regulations with respect to sources located beyond the 25-mile limit. Pursuant to a request for a voluntary remand, the court remanded this issue to EPA for reconsideration on February 10, 1994. Elsewhere in today's Federal Register, EPA is proposing revisions to the OCS regulations to delete that prohibition.

II. Revisions to the Regulations

By this action, EPA is addressing the court's August 12, 1994 decision by revising the offset provision that applies to OCS sources. The EPA is revising section 55.5(d) of the OCS regulations to provide:

Offset requirements. Offsets shall be obtained based on the applicable requirements of the COA, as set forth in §§ 55.13 and 55.14 of this part.

The EPA will delete the final clause of current § 55.5(d) and the text of subparagraphs (1)-(7), which placed limitations on the application of the offset requirements of the COA.

In accordance with the provisions of the Administrative Procedure Act (APA), EPA is invoking the good cause exception in taking this final action without prior notice and an opportunity for comment (5 U.S.C. 553(b)(B)); *Shell Oil Co. v. EPA*, 950 F.2d 741, 752 (DC Cir. 1991); *Mid-Tex Elec. Co-op., Inc. v. FERC*, 822 F.2d 1123, 1131-34 (DC Cir. 1987)). Because the court has vacated the existing regulations as they apply to zones 2 and 3, there is a gap in continuity of the regulation. The EPA believes good cause exists to make this action final prior to providing an opportunity for notice and comment because such a procedure is unnecessary in light of the court's holding. The court decision clearly indicates that EPA was not entitled to interpret section 328 so as to allow a

different application of offsets from what the COA's regulations provide. The court found that there is a clear statutory mandate which EPA should have followed. Since there is no judgment involved in the application of this provision, notice-and-comment rulemaking is unnecessary. Furthermore, because of the gap in continuity of the regulations, it is not practicable to cause notice and an opportunity for public hearing prior to filling the gap, and it is not in the public interest to do so since the gap could cause confusion and delay with respect to permitting.

Finally, for the same reasons articulated above, EPA is invoking the good cause exception to make this action effective immediately upon publication (APA, 5 U.S.C. 553(d)(3)).

Although EPA is invoking the good cause exception to make this action final without prior notice and opportunity for comment, EPA is providing the public with the opportunity to comment on this interim final action. Therefore, the final action is "interim" because EPA will reevaluate its decision in light of any comments received during the comment period and take a subsequent final action.

Appendix A to 40 CFR 55 identifies the State and local requirements incorporated into EPA's OCS regulations. Section 55.12 requires EPA to update appendix A to maintain consistency with onshore regulations. During the next consistency review for each area, EPA will incorporate any additional offset requirements necessary to comply with the requirements of these revisions.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, the Agency must determine whether the regulatory action is significant and therefore subject to review by the Office of Management and Budget (OMB) 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, productivity, competition, jobs, the environment, public health or safety of 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.

It is estimated that the upper bound for the economic impact of these revisions to the OCS rules is between \$520,000 and \$1,120,000 per year. However, pursuant to the terms of Executive Order 12866, OMB has determined that the revisions to the OCS rules are "significant" because the OCS sources would be regulated by two Federal agencies, EPA and DOI. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the public record.

B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Act of 1995 requires that EPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any 1 year. Section 203 requires EPA to establish a plan for obtaining input from, informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, EPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The EPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule, unless EPA explains why a particular alternative is not selected or the selection of a particular alternative is inconsistent with law.

Because this interim final rule does not impose any new mandates on State, local, or tribal governments, and the rule is estimated to result in the expenditures by State, local, and tribal governments or the private sector of less than \$100 million in any 1 year, EPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, EPA is not required to develop a plan with regard to small governments. However, EPA will work with State and local air pollution control agencies that have received

delegation of authority to implement and enforce the OCS regulations.

C. Paperwork Reduction Act

These rule revisions do not contain any information collection requirements subject to review by the OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.*

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 requires Federal agencies to identify potentially adverse impacts of Federal rules upon small entities. Small entities include small businesses, organizations, and governmental jurisdictions. In instances where significant economic impacts are possible on a substantial number of these entities, agencies are required to perform a regulatory flexibility analysis. Furthermore, *EPA Guidelines for Implementing the Regulatory Flexibility Act*, issued on April 9, 1992, require the Agency to determine whether regulations will have any economic impacts on small entities. As explained in the September 4, 1992 final rule (57 FR 40792), the OCS regulations do not apply to any small entities. Therefore, these revisions to the OCS regulations neither impose any requirements on small entities, nor require or exclude small entities from meeting the requirements of the OCS regulations. As a result, EPA has determined that these revisions will not have a significant impact on a substantial number of small entities.

Therefore, as required under section 605 of the RFA, 5 U.S.C. 605, I certify that these revisions do not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Continental shelf, Intergovernmental relations, Nitrogen oxides, Ozone, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: May 13, 1996.
Carol M. Browner,
Administrator.

For reasons set out in the preamble, 40 CFR part 55 is revised and amended as set forth below.

PART 55—OUTER CONTINENTAL SHELF AIR REGULATIONS

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

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401, *et seq.*) as amended by Public Law 101-549.4

2. Section 55.5 is amended by revising paragraph (d) to read as follows:

§ 55.5 Corresponding onshore area designation.

* * * * *

(d) *Offset requirements.* Offsets shall be obtained based on the applicable requirements of the COA, as set forth in §§ 55.13 and 55.14 of this part.

* * * * *

[FR Doc. 96-12626 Filed 5-17-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 167

[OECA; FRL-5507-1]

Pesticide Reports for Pesticide-Producing Establishments (EPA Form 3540-16); 1995 Annual Solicitation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Time extension for submission of reports.

SUMMARY: The EPA announced in the Federal Register (61 Vol. 8221, March 4, 1996), that because of delays in completing and distributing reporting packages, that it would extend the due date for submission of annual pesticide production reports (EPA Form 3540-16) for calendar year 1995 until May 1, 1996. In another Federal Register document (61 Vol. 14497, April 2, 1996), EPA corrected the original document of March 4, 1996, by stating "Annual pesticide production reports for calendar year 1995 will not be due until two (2) months after the reporting packages are mailed out."

This notice announces that the 1995 Pesticide Reports for Pesticide-Producing Establishments forms (EPA Form 3540-16) will be mailed out by May 24, 1996, and are due to be submitted back to the Agency by July 24, 1996. If you have not received your reporting packages within two weeks from the date of this document, please contact your local EPA Regional office.

DATES: Annual pesticide production reports for calendar year 1995 will be due July 24, 1996.

FOR FURTHER INFORMATION CONTACT: Carol L. Buckingham, (202) 564-5008, fax (202) 564-0085, Environmental Protection Agency, Mail Code 2225A, 401 M Street, SW., Washington, D.C. 20460.

Dated: May 13, 1996.

Steven A. Herman,
Assistant Administrator, Office of Enforcement and Compliance Assurance.
[FR Doc. 96-12484 Filed 5-17-96; 8:45 am]

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