

EPA-APPROVED IDAHO REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
625	Visible Emissions	4/2/08	8/1/08 [Insert page number where the document begins].	
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State Statutes

Section 1 of House Bill 557, codified at Idaho Code section 39-114.	Open Burning of Crop Residue	03/07/08	8/1/08 [Insert page number where the document begins].	
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(e) * * *

EPA-APPROVED IDAHO NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES.

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Comments
Open Burning of Crop Residue State Implementation Plan Revision.	State-wide	5/28/08	8/1/08 [Insert page number where the document begins].	

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 [FR Doc. E8-16973 Filed 7-31-08; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA-R02-OAR-2007-0553; FRL-8688-3]

Outer Continental Shelf Air Regulations Update To Include New York State Requirements

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 14, 2008. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be promulgated into part 55 and 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 (CAA). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources in the State of New York. The intended effect of approving the OCS

requirements for the State of New York is to regulate emissions from OCS sources in accordance with the requirements onshore. The requirements discussed below are incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

DATES: *Effective Date:* This rule is effective on September 2, 2008.

This incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of September 2, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R02-OAR-2007-0553. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007.

FOR FURTHER INFORMATION CONTACT: Steven Riva, Air Programs Branch, U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007; telephone number: (212) 637-4074; e-mail address: riva.steven@epa.gov.

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I. Background Information

Throughout this document, the terms “we,” “us,” and “our” refer to the U.S. EPA.

On September 4, 1992, EPA promulgated 40 CFR part 55,¹ which established requirements to control air pollution from OCS sources in order to

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.

attain and maintain Federal and State ambient air quality standards (AAQS) and to comply with the provisions of part C of title I of the CAA. 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.

On March 14, 2008 (73 FR 13822), EPA proposed to approve requirements into the OCS Air Regulations pertaining to the State of New York. EPA has evaluated the proposed regulations 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 CAA 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 rules in effect for onshore sources 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 CAA. Inclusion in the OCS rule does not imply that a rule meets the requirements of the CAA 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 proposed action provided a 30-day public comment period, which closed on April 14, 2008. During this period EPA received no comments on the proposed action.

III. EPA Action

In this document, EPA takes final action to incorporate the proposed changes into 40 CFR part 55. EPA is approving the proposed actions 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 must

incorporate applicable onshore rules into part 55 as they exist onshore.

IV. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

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

B. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

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 CAA, 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 CAA, this action simply incorporates the existing rules in the COA. Therefore, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, and tribal governments in the aggregate; or to the private sector, of \$100 million or more in any one year. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be

significantly or uniquely impacted by the rule.

EPA has determined that today's final rule contains no Federal mandates 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 action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132: Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (*Federalism*) and 12875 (*Enhancing the Intergovernmental Partnership*). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a State rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of

section 6 of the Executive Order do not apply to this rule.

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 final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

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

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

This final rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

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

This final rule is not subject to Executive Order 13211, entitled "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 (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use voluntary consensus standards (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable laws or otherwise impractical.

The EPA believes that VCS are inapplicable to this section. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Congressional Review Act

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 this 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). This action will be effective September 2, 2008.

K. Petition for Judicial Review

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 September 30, 2008. 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: June 25, 2008.

Alan J. Steinberg,

Regional Administrator, Region 2.

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

PART 55—[AMENDED]

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

Authority: Section 328 of the CAA (42 U.S.C. 7401, *et seq.*) as amended by Public Law 101–549.

■ 2. Section 55.14 is amended by adding new paragraphs (d)(16) and (e)(16) to read as follows:

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

* * * * *

(d) * * *

(16) New York.

(i) 40 CFR part 52, subpart HH.

(ii) [Reserved]

* * * * *

(e) * * *

(16) New York.

(i) State Requirements.

(A) State of New York Requirements Applicable to OCS Sources, October 20, 2007

(B) [Reserved]

(ii) Local requirements.

(A) [Reserved]

■ 3. Amend Appendix A to part 55 by adding an entry for New York in alphabetical order to read as follows:

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

* * * * *

New York

(a) State requirements.

(1) The following State of New York requirements are applicable to OCS Sources, October 20, 2007. New York Environmental Conservation Law—Department of Environmental Conservation. The following sections of Title 6, Chapter III:

Part 200. General Provisions

6 NYCRR 200.1. Definitions (effective 8/9/06)

6 NYCRR 200.2. Safeguarding Information (effective 1/16/92)

6 NYCRR 200.3. False Statement (effective 6/16/72)

6 NYCRR 200.4. Severability (effective 8/9/84)

6 NYCRR 200.5. Sealing (effective 2/22/79)

6 NYCRR 200.6. Acceptable Ambient Air Quality (effective 4/6/83)

6 NYCRR 200.7. Maintenance of Equipment (effective 2/22/79)

6 NYCRR 200.8. Conflict of Interest (effective 1/12/75)

6 NYCRR 200.9. Referenced Material (effective 1/27/07)

6 NYCRR 200.10. Federal Standards and Requirements (effective 10/20/07)

Part 201. Permits and Certificates

- 6 NYCRR 201–1. General Provisions (effective 7/7/96)
 6 NYCRR 201–2. Definitions (effective 11/21/98)
 6 NYCRR 201–3. Exemptions and Trivial Activities (effective 5/7/03)
 6 NYCRR 201–4. Minor Facility Registrations (effective 7/7/96)
 6 NYCRR 201–5. State Facility Permits (effective 7/7/96)
 6 NYCRR 201–6. Title V Facility Permits (effective 1/18/02)
 6 NYCRR 201–7. Federally Enforceable Emission Caps (effective 7/7/96)
 6 NYCRR 201–8. General Permits (effective 7/7/96)

Part 202. Emissions Verification

- 6 NYCRR 202–1. Emissions Testing, Sampling and Analytical Determinations (effective 5/29/05)
 6 NYCRR 202–2. Emission Statements (effective 5/29/05)

Part 204. NO_x Budget Trading Program

- 6 NYCRR 204–1. General Provisions (effective 2/25/00)
 6 NYCRR 204–2. Authorized Account Representative for NO_x Budget Sources (effective 2/25/00)
 6 NYCRR 204–3. Permits (effective 2/25/00)
 6 NYCRR 204–4. Compliance Certification (effective 2/25/00)
 6 NYCRR 204–5. Allowance Allocations (effective 2/25/00)
 6 NYCRR 204–6. Allowance Tracking System (effective 2/25/00)
 6 NYCRR 204–7. NO_x Allowance Transfers (effective 2/25/00)
 6 NYCRR 204–8. Monitoring and Reporting (effective 2/25/00)
 6 NYCRR 204–9. Individual Unit Opt-ins (effective 2/25/00)

Part 207—Control Measures for Air Pollution Episode (Effective 2/22/79)

Part 210—Emissions and Labeling Requirements for Personal Watercraft Engines

- 6 NYCRR 210–1. Applicability and Definitions (effective 8/8/03)
 6 NYCRR 210–2. Certification and Prohibitions (effective 8/8/03)
 6 NYCRR 210–3. Family Emission Limits (effective 8/8/03)
 6 NYCRR 210–4. In-Use Testing and Recall (effective 8/8/03)
 6 NYCRR 210–5. Warranty (effective 8/8/03)
 6 NYCRR 210–6. Production-Line Testing (effective 8/8/03)
 6 NYCRR 210–7. Severability (effective 8/8/03)

Part 211—General Prohibitions (Effective 8/11/83)

Part 212—General Process Emission Sources (Effective 9/22/94)

Part 215—Open Fires (Effective 6/16/72)

Part 219—Incinerators

- 6 NYCRR 219–1. Incineration—General Provisions (effective 10/30/02)

6 NYCRR 219–2. Municipal and Private Solid Waste Incineration Facilities (effective 5/21/05)

6 NYCRR 219–3. Infectious Waste Incineration Facilities (effective 12/31/88)
 6 NYCRR 219–5. Existing Incinerators (effective 12/31/88)

6 NYCRR 219–6. Existing Incinerators—New York City, Nassau and Westchester Counties (effective 12/31/88)

6 NYCRR 219–7. Mercury Emission Limitations for Large Municipal Waste Combustors Constructed On or Before September 20, 1994 (effective 5/21/05)

6 NYCRR 219–8. Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999 (effective 10/18/02)

Part 225—Fuel Consumption and Use

- 6 NYCRR 225–1. Fuel Composition and Use—Sulfur Limitations (effective 1/29/86)
 6 NYCRR 225–2. Fuel Composition and Use—Waste Fuel (effective 11/5/84)
 6 NYCRR 225–3. Fuel Composition and Use—Gasoline (effective 11/4/01)
 6 NYCRR 225–4. Motor Vehicle Diesel Fuel (effective 5/8/05)

Part 226—Solvent Metal Cleaning Processes (Effective 5/7/03)

Part 227—Stationary Combustion Installations

- 6 NYCRR 227–1. Stationary Combustion Installations (effective 2/25/00)
 6 NYCRR 227–2. Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO_x) (effective 2/11/04)
 6 NYCRR 227–3. Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program (effective 3/15/99)

Part 228—Surface Coating Processes (Effective 7/23/03)

Part 229—Petroleum and Volatile Organic Liquid Storage and Transfer (Effective 4/4/93)

Part 231—New Source Review in Nonattainment Areas and Ozone Transport Region

- 6 NYCRR 231–1. Requirements for Emission Sources Subject to the Regulation Prior to November 15, 1992 (effective 10/15/94)
 6 NYCRR 231–2. Requirements for Emission Sources Subject to the Regulation On or After November 15, 1992 (effective 5/3/00)

Part 240—Conformity to State or Federal Implementation Plans (Effective 10/22/04)

Part 243—CAIR NO_x Ozone Season Trading Program

- 6 NYCRR 243–1. CAIR NO_x Ozone Season Trading Program General Provisions (effective 10/19/07)
 6 NYCRR 243–2. CAIR Designated Representative for CAIR NO_x Ozone Season Sources (effective 10/19/07)
 6 NYCRR 243–3. Permits (effective 10/19/07)
 6 NYCRR 243–5. CAIR NO_x Ozone Season Allowance Allocations (effective 10/19/07)
 6 NYCRR 243–6. CAIR NO_x Ozone Season Allowance Tracking System (effective 10/19/07)

6 NYCRR 243–7. CAIR NO_x Ozone Season Allowance Transfers (effective 10/19/07)
 6 NYCRR 243–8. Monitoring and Reporting (effective 10/19/07)

6 NYCRR 243–9. CAIR NO_x Ozone Season Opt-in Units (effective 10/19/07)

Part 244—CAIR NO_x Annual Trading Program

- 6 NYCRR 244–1. CAIR NO_x Annual Trading Program General Provisions (effective 10/19/07)
 6 NYCRR 244–2. CAIR Designated Representative for CAIR NO_x Sources (effective 10/19/07)
 6 NYCRR 244–3. Permits (effective 10/19/07)
 6 NYCRR 244–5. CAIR NO_x Allowance Allocations (effective 10/19/07)
 6 NYCRR 244–6. CAIR NO_x Allowance Tracking System (effective 10/19/07)
 6 NYCRR 244–7. CAIR NO_x Allowance Transfers (effective 10/19/07)
 6 NYCRR 244–8. Monitoring and Reporting (effective 10/19/07)
 6 NYCRR 244–9. CAIR NO_x Opt-in Units (effective 10/19/07)

Part 245—CAIR SO₂ Trading Program

- 6 NYCRR 245–1. CAIR SO₂ Trading Program General Provisions (effective 10/19/07)
 6 NYCRR 245–2. CAIR Designated Representative for CAIR SO₂ Sources (effective 10/19/07)
 6 NYCRR 245–3. Permits (effective 10/19/07)
 6 NYCRR 245–6. CAIR SO₂ Allowance Tracking System (effective 10/19/07)
 6 NYCRR 245–7. CAIR SO₂ Allowance Transfers (effective 10/19/07)
 6 NYCRR 245–8. Monitoring and Reporting (effective 10/19/07)
 6 NYCRR 245–9. CAIR SO₂ Opt-in Units (effective 10/19/07)

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[FR Doc. E8–17590 Filed 7–31–08; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).