04310-MR-P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

30 CFR Part 550

[Docket ID: BOEM–2018–0038]

RIN 1010–AE02

Air Quality Control, Reporting, and Compliance

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Final rule.

SUMMARY: On April 5, 2016, BOEM published a proposed rule that would amend the regulations related to air quality measurement, evaluation, and control for oil, gas, and sulfur operations on the Outer Continental Shelf (OCS). The rule proposed significant revisions to existing regulations. This final rule amends the air quality management regulations applicable to activities that BOEM authorizes on the OCS of the United States in the Central and Western Gulf of Mexico (GOM) west of 87.5 degrees longitude and adjacent to the North Slope Borough of the State of Alaska. The air quality regulatory program (AQRP) is a component of the review and approval of plans for the exploration, development, and production of oil, gas, and sulfur on the OCS to comport with the Secretary of the Interior's separate and distinct statutory authority governing air quality. This final rule implements the Secretary of the Interior's statutory responsibility to ensure that conventional energy activities authorized under the Outer Continental Shelf Lands Act (OCSLA) do not preclude compliance with National Ambient Air Quality Standards (NAAQS) to the extent those activities significantly affect the air quality of any State.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Peter Meffert, Bureau of Ocean Energy Management, Office of Policy, Regulation, and Analysis, at Peter.Meffert@boem.gov or by mail to 45600 Woodland Road, Sterling, VA 20166 or by calling (703) 787-1610. You may also contact Deanna Meyer-Pietruszka, Bureau of Ocean Energy Management, Chief, Office of Policy, Regulation, and Analysis, at Deanna.Meyer-Pietruszka@boem.gov or by mail to 1849 C Street NW, Mail Stop 5238, Washington D.C. 20240 or by calling (202) 208-6352.

SUPPLEMENTARY INFORMATION: Preamble Table of Contents

6. Small Business Regulatory Enforcement Fairness Act
7. Unfunded Mandates Reform Act

B. Executive Orders

1. Governmental Actions and Interference with Constitutionally Protected Property Rights (E.O. 12630)
2. Regulatory Planning and Review (E.O. 12866)
3. Civil Justice Reform (E.O. 12988)
4. Protection of Children from Environmental Health and Safety Risks (E.O. 13045)
5. Federalism (E.O. 13132)
6. Consultation with Tribes and Alaska Native Claims Settlement Act Corporations (E.O. 13175 and Related Authorities)
7. Effects on the Energy Supply (E.O. 13211)
8. Improving Regulation and Regulatory Review (E.O. 13563)
9. Enhancing Coordination of National Efforts in the Arctic (E.O. 13689)
10. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)
11. Promoting Energy Independence and Economic Growth (E.O. 13783)
12. Implementing an America-First Offshore Energy Strategy (E.O. 13795)

VI. List of Subjects

I. Preamble Acronyms and Terms

To ease the reading of this preamble and for reference purposes, the following acronyms and terms are used in the preamble:

AKOCSR	Alaska OCS Region
ANCSA	Alaska Native Claims Settlement Act
AQRP	Air Quality Regulatory Program
ASLM	Assistant Secretary for Land and Minerals Management
ASRC	Arctic Slope Regional Corporation
BACT	Best Available Control Technology
BOEM	Bureau of Ocean Energy Management
BSEE	Bureau of Safety and Environmental Enforcement
CAA	Clean Air Act
DOI	Department of the Interior
DOCD	Development Operations Coordination Document
DPP	Development and Production Plan
EA	Environmental Assessment
EET	Emission Exemption Threshold
EIS	Environmental Impact Statement
E.O.	Executive Order
EP	Exploration Plan
FR	Federal Register
GOM	Gulf of Mexico
GOMR	Gulf of Mexico Region
IC	Information Collection
IRIA	Initial Regulatory Impact Analysis
MACI	Maximum Allowable Concentration Increases
MMS	Minerals Management Service
NAAQS	National Ambient Air Quality Standards
NASEM	National Academy of Sciences, Engineering, and Medicine
NGO	Non-governmental Organization
NTL	Notice to Lessees and Operators
OCS	Outer Continental Shelf
OCSLA	Outer Continental Shelf Lands Act
OIRA	Office of Information and Regulatory Affairs (a sub agency within OMB)
OMB	Office of Management and Budget
PM	Particulate Matter
$PM_{2.5}$	Particulate Matter less than or equal to 2.5 microns diameter (i.e., fine PM)
PM_{10}	Particulate Matter less than or equal to 10 microns diameter
PRA	Paperwork Reduction Act
ROW	Right-of-Way
RUE	Right-of-Use-and-Easement
SBA	Small Business Administration
Secretary	Secretary of the Interior
S.O.	Secretary’s Order

SILs	Significant Impact Levels
SLs	Significance Levels
TSP	Total Suspended Particulates
USEPA	U.S. Environmental Protection Agency
VOC	Volatile Organic Compound

II. Background and Legal Authority

A. Background

The Outer Continental Shelf Lands Act (OCSLA) provides the Secretary of the Interior (Secretary), acting through the Bureau of Ocean Energy Management (BOEM), with the authority to "prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of resources of the Outer Continental Shelf (OCS), and the protection of correlative rights therein" and that "notwithstanding any other provisions herein, such rules and regulations shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this subchapter." 43 U.S.C. 1334(a). OCSLA is clear on the Secretary's responsibilities to ensure "compliance with the National Ambient Air Quality Standards [(NAAQS)]", however the plain language also states that his authority to regulate is limited to "activities authorized under this [Act]" that "significantly affect the air quality of any State." For instance, OCSLA itself does not require or permit the operation of vessels in support of activities under a lease.

OCSLA's provisions on air quality provide the Secretary a much narrower authority to regulate when compared with the breadth of those authorities granted to the Environmental Protection Agency (USEPA) in the Clean Air Act (CAA). Under later amendment to the CAA, the CAA Amendments of 1990, section 328 of the CAA clearly outlines the separate and distinct jurisdictional authority of the USEPA, limiting the applicability of USEPA's regulatory authority only to specific areas of the OCS in consultation with the Secretary. 42 U.S.C. 7627. Congress further curtailed the geographic extent of USEPA's jurisdiction on the OCS in the Consolidated Appropriations Act of 2012 (P.L 112-74), which transferred regulatory authority for air quality

for operations in the Arctic OCS adjacent to the North Slope Borough of the State of Alaska from the USEPA to DOI.

Unlike the USEPA, whose regulatory mandate is much broader and applicable to many types of air pollutants, DOI's regulatory authority under section 5(a) of OCSLA is focused on the six criteria air pollutants for which the USEPA has defined National Ambient Air Quality Standards (NAAQS) in accordance with the requirements of the Clean Air Act (CAA). These pollutants are Sulfur Dioxide, Nitrogen Oxide, Carbon Monoxide, Lead, Ozone, and Particulate Matter, of which there are several forms, two of which, $PM_{2.5}$, and PM_{10}, have defined NAAQS.[1] The amount of any given criteria pollutant that may affect any State is influenced by two factors, the direct emission and dispersion of the criteria pollutant and the formation of a criteria pollutant caused by the emissions of other pollutants. Those air pollutants that contribute to the formation of a criteria air pollutant are known as precursor air pollutants. Historically, the precursor air pollutant that BOEM has regulated (in addition to those precursor air pollutants that are themselves also criteria air pollutants) is Volatile Organic Compounds (VOCs).

The legislative history of section 5(a) of OCSLA provides more insight into Congressional intent. The 1978 Conference Report notes that while one version of the original legislation included "very broad authority, with few guidelines, to promulgate regulations" it was ultimately the final, adopted language known to us in the statute that "does provide statutory guidelines and requirements for certain types of regulations" in order to provide "a mechanism for coordinated bureaucratic action." S. Rep. 95-1091 at 82-83 (1978).

[1] The existing BOEM regulations refer to total suspended particulates (TSP), which was a criteria air pollutant at the time the regulations were originally published. Total suspended particulates means any form of particulate matter (i.e., solid particles or droplets) suspended in the air that has a diameter of 100 microns or less. PM_{10} and $PM_{2.5}$ are subsets of TSP because they represent forms of particulate matter having a diameter of 10 or 2.5 microns or less, respectively.

Furthermore, this same report notes that conferees intended that regulations promulgated by the Secretary would, "…not generally require that the air mass above the OCS itself be brought into compliance…" but instead would control emissions from seaward sources "… to prevent a significant effect on the air quality of an adjacent onshore area." *Id.* at 85-86. It is apparent from this Conference Report that Congress contemplated greater authorities, but instead chose statutory direction that sought to both de-conflict and define a separate and distinct regulatory regimen for the Secretary, expecting that some authorized activities on the OCS may not have significant effects due to their being located "many miles" from an adjacent onshore area. *Id*. at 86. Subsequent to the passage of this statutory direction provided by the OCSLA Amendments of 1978, the Department of the Interior (DOI) promulgated air quality regulations for the OCS in 1980, which incorporated the NAAQS, as established at that time.

On April 5, 2016, BOEM published a proposed rule (81 FR 19718, April 5, 2016) to update the current air quality regulations that were promulgated by the Secretary of the Interior (Secretary) over 39 years ago (45 FR 15128, March 7, 1980). While the existing regulatory process is adequate, the regulations copied USEPA's significance levels (SLs) and Maximum Allowable Concentration Increases (MACIs) at the time of promulgation (1980). The corresponding values in the USEPA regulations have been updated since DOI's regulations were adopted.

On May 23, 2016, BOEM provided a 14-day comment period extension to the original 60-day public comment period, thus extending the public comment period to June 20, 2016. On March 28, 2017, President Trump issued Executive Order (E.O.) 13783, "Promoting Energy Independence and Economic Growth." In section 2 of that Executive Order, the President directed that: "The heads of agencies shall review all existing regulations, orders, guidance

documents, policies, and any other similar agency actions (collectively, agency actions) that potentially burden the development or use of domestically produced energy resources…" and directed the head of each agency to finalize a report detailing the aforementioned agency actions that potentially burden domestic energy development. On October 24, 2017, the DOI finalized and published in the Federal Register the "Review of the Department of the Interior Actions that Potentially Burden Domestic Energy." 82 FR 5052, Nov. 1, 2017. This report identified BOEM's review of the proposed air quality rule.

Separately, on April 28, 2017, President Trump issued E.O. 13795, "Implementing an America-First Offshore Energy Strategy." In section 8 of that Executive Order, the President directed that: "The Secretary of the Interior shall take all steps necessary to review BOEM's Proposed Rule entitled 'Air Quality Control, Reporting, and Compliance,' 81 *Fed. Reg.* 19718 (April 5, 2016), along with any related rules and guidance, and, if appropriate, shall, as soon as practicable and consistent with law, consider whether the proposed rule, and any related rules and guidance, should be revised or withdrawn." Notably, both Executive Orders only directed the review of agency actions and did not direct specific outcomes for rulemakings, leaving decisions to the discretion of the Secretary, consistent with applicable laws.

BOEM has carefully reviewed the available alternatives to ensure compliance with all relevant subsequent Executive and Secretary's Orders, including those related to energy independence and regulatory reform. Moreover, BOEM reviewed all comments received during the public comment period for the proposed rule, in accordance with the Administrative Procedure Act (APA). Reexamination of the public comments from the 2016 proposed rule was necessary since it is questionable whether all provisions of the 2016 proposed rule would survive judicial review.

This final rule revises the regulations so that they adequately reflect current SLs while ensuring that the regulatory administration of the Secretary's distinct statutory authorities does not go beyond the authorities granted to the Secretary in OCSLA.

B. Key Provisions of the Final Rule

BOEM is adopting the following key provisions from the proposed rule in this final rule:

- ***Compliance with the NAAQS.*** The values for primary and secondary NAAQS are currently set forth in USEPA regulations at 40 CFR part 50.[2] Consistent with the proposed rule, this final rule defines the term "NAAQS," deletes the outdated lists of specific criteria air pollutants, and retains the existing regulation that requires compliance with the NAAQS. Currently, § 550.303(g)(2)(i)(B) states: "No concentration of an air pollutant shall exceed the concentration permitted under the national secondary ambient air quality standard or the concentration permitted under the national primary air quality standard, whichever concentration is lowest for the air pollutant for the period of exposure." BOEM and its predecessor agencies[3] have required compliance with both primary and secondary standards because OCSLA's mandate makes no distinction between them. This final rule also clarifies that DOI's reporting and compliance requirements apply to the emissions of all pollutants on the OCS for which a national ambient air quality standard has been defined.[4]

- ***Updating the Significance Levels (SLs) Table.*** The term "Significance Level" is defined to reference the values in the table at § 550.303(e), which are based on the values currently set forth in USEPA regulations at 40 CFR 51.165(b)(2). These updated values and

---

[2] Primary NAAQS standards provide for public health protection, including that of sensitive populations such as asthmatics, children, and the elderly. Secondary NAAQS standards provide for public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings.

[3] BOEM's predecessor agencies are the U.S. Geological Survey, Bureau of Land Management, Minerals Management Service (MMS), and Bureau of Ocean Energy Management, Regulation, and Enforcement.

[4] See 43 U.S.C. 1334(a)(8), which requires "compliance with the national ambient air quality standards.

their updated criteria air pollutants replace the outdated table of SLs in the existing §§ 550.303(e) and 550.304(c), dating from 1980. BOEM may update these SLs as warranted through future rulemaking. In contrast to the proposed rule's approach of merely cross-referencing to the USEPA's regulations, the final rule provides a table of SLs for lessees and operators as a quick reference. Instead of searching for relevant SLs in another agency's regulations, and given that USEPA's regulations are different from DOI's, the numbers are appropriately placed and readily accessible here.

- ***Clarifying the Emission Exemption Threshold (EET) Terminology***. The existing regulations use several different terms interchangeably, as they relate to the "Emissions Exemption Amount." These include "exemption amount" and "exempt emissions." BOEM is adding a definition of the term "emissions exemption threshold," which replaces the term "exemption amount" used in the existing regulations. The existing references to the term "exempt emissions" are also being clarified by reference to the new defined term. These changes merely clarify terminology.

- ***Replacing the Term Total Suspended Particulates (TSP).*** This final rule replaces the former criteria air pollutant "total suspended particulates"[5] with the new criteria pollutants "particulate matter 10" (PM_{10}) and "particulate matter 2.5" ($PM_{2.5)}$ in the list of air pollutants in the tables at §§ 550.303(e) and 550.304(c). BOEM is aware that the USEPA has determined that PM_{10} and $PM_{2.5}$ are more relevant indicators of particle pollution impact on human health and public welfare than TSP. Nevertheless, for the time being, TSP has been retained in the EET formulas at §§ 550.303(d) and 550.304(b). Although the USEPA replaced TSP as a NAAQS

[5] TSP represents PM having a diameter of 100 microns or less; in contrast, PM_{10} represents PM have a diameter of 10 microns or less. $PM_{2.5}$ represents PM having a diameter of two and one-half microns or less. Thus, $PM_{2.5}$ is a subset of PM_{10} and PM_{10} is a subset of TSP.

pollutant in 1987 and has discontinued the use of TSP in most of its air quality regulations, BOEM does not believe that the bureau has an adequate scientific basis for replacing the EET formula for TSP at this time. Hence, BOEM is continuing the use of TSP in the EET formulas. BOEM's recent GOM and Alaska air quality studies provide insights into the EET formulas, informing potential future regulatory changes. At the same time, BOEM believes that it is important for operators to evaluate the impacts of criteria air pollutants PM_{10} and $PM_{2.5}$. For this reason, this rulemaking replaces the TSP significance level values with those of PM_{10} and $PM_{2.5}$ in the table of Significance Levels - Air Pollution Concentrations at §§ 550.303(e) and 550.304(c). Going forward, the SLs table will no longer contain any values for TSP. Because the SLs for PM_{10} and $PM_{2.5}$ are a more appropriate basis for evaluating PM pollution, this final rule will require operators, whose emissions exceed the EET for TSP[6], to use modeling to determine whether their facility would cause an exceedance of the SLs for PM_{10} and $PM_{2.5}$, not TSP.[7]

- ***Application to Development Operations Coordination Document (DOCDs).*** This final rule clarifies that the EET formulas in current §§ 550.303 and 550.304 apply to Development and Production Plans (DPPs) and DOCDs. This clarification will not lead to a change in practice because BOEM has always applied the existing air quality regulations to DPPs and DOCDs. The proposed rule included this clarification. Conforming changes are made in other provisions of the final rule as described in the Section-by-Section analysis.

- ***Criteria Air Pollutants.*** The final rule replaces the term "air pollutant" with the

[6] Because TSP is no longer a criteria pollutant, the USEPA has deleted SLs for TSP from its SLs table; similarly, this rule's new SLs table no longer contains an SL value for TSP.

[7] Although the final rule requires operators, whose emissions exceed the EET for TSP, to use modeling to determine whether their facility would cause an exceedance of the SLs for PM_{10} and $PM_{2.5}$, not TSP, where modeling indicates an exceedance of the SL for either PM_{10} or $PM_{2.5}$, TSP evaluation in relation to the values in the table listing the Maximum Allowable Concentration Increases (MACI) might be necessary.

term "criteria air pollutant." Criteria air pollutants include Sulfur Dioxide, Nitrogen Oxide, Carbon Monoxide, Lead, Ozone, Particulate Matter, for which two forms, $PM_{2.5}$, and PM_{10}, have been defined. Under OCSLA, the Secretary's authority is to ensure compliance with the NAAQS to the extent that authorized activities significantly affect the air quality of any State. As noted above, USEPA has defined NAAQS for six common air pollutants, known as "criteria air pollutants." In addition to the criteria air pollutants, DOI regulates VOCs, which can affect the formation of criteria pollutants. Many other "air pollutants" are not within the scope of OCSLA's statutory mandate, as they are not covered under the NAAQS.[8] As discussed in the proposed rule, BOEM has clarified throughout the final rule what was meant by the use of the term "air pollutant" in the existing regulations. Before this change, BOEM used the term "air pollutant" with differing meanings.[9]

- ***Dispersion Modeling.*** As noted previously, this final rule does not incorporate any of the provisions from the proposed rule regarding the use of photochemical models to evaluate the formation of ozone or fine PM. Because the existing regulations cross-reference the recently updated USEPA modeling guidelines, which include guidelines on photochemical modeling, this final rule clarifies that those cross-references are applicable only to the portions of USEPA's modeling guidelines that deal with dispersion modeling. BOEM will not require photochemical modeling under any circumstances at this time. Once the ongoing air quality studies are completed and evaluated, BOEM may reevaluate this position if it determines that OCS sources significantly contribute to the formation of ozone or fine PM.

- ***Air Quality Spreadsheets.*** Along with this rulemaking, BOEM is updating the

[8] For example, hazardous air pollutants and greenhouse gases have no NAAQS and therefore fall outside the scope of BOEM's AQRP.

[9] The section by section discussion of 30 CFR 550.105 provides details on where each of these uses of "air pollutant" are found in the existing regulations.

Office of Management and Budget (OMB)-approved air quality spreadsheets BOEM-0138 and BOEM-0139, which are applicable to Exploration Plans (EPs), DOCDs, and DPPs, respectively.[10] These are forms (not part of the regulations themselves) that operators use to report the information on air emissions required in the regulations, primarily the emissions associated with their proposed plans. These spreadsheets require the operator to identify the relevant types of equipment that will be used in connection with its OCS operations. The air quality spreadsheets provide emissions factors that correspond to each of the equipment types and that BOEM uses to determine the amount of emissions generated for every relevant criteria air pollutant, TSP, or Volatile Organic Compound (VOC) under the plan. The spreadsheets enable the operator to quantify the total emissions by type of air pollutant for all equipment included in the EP, DPP, or DOCD, and then determine whether such emissions would or would not exceed the relevant EETs.

In particular, BOEM is updating the spreadsheets with emissions factors for new types of equipment that are not currently listed (particularly those relevant to operations on the Alaska OCS). BOEM is also modifying the spreadsheet data requirements consistent with the regulations as amended. A detailed description of the spreadsheet changes is included in the section of this preamble under the heading "Paperwork Reduction Act."

As part of this rulemaking, the air quality spreadsheets are being updated with newer, more up-to-date emissions factors to more accurately assess the emissions being emitted by equipment used by OCS lessees and operators and to evaluate the emissions for lead, $PM_{2.5}$, PM_{10}, TSP, and ammonia.

[10] Available at: https://www.boem.gov/Air-Quality-Reporting/ or at *https://www.boem.gov/BOEM-OCS-Operation-Forms/*.

C. BOEM's Air Quality Modeling Studies

This final rule updates outdated standards and benchmarks, but defers consideration for further regulatory changes until the BOEM studies discussed below can all be completed and evaluated.

In 2013 and 2014, BOEM initiated two air quality modeling studies to evaluate the impact of OCS operations on the air quality of the neighboring States. The first of these studies was focused on air quality adjacent to the North Slope Borough of Alaska; the second addressed Gulf of Mexico (GOM) air quality.

In 2018, BOEM completed its Alaska study, the "Arctic Air Quality Impact Assessment Modeling Study," conducted by the Eastern Research Group, Inc. (ERG), Ramboll Group A/S, and the University of Alaska Fairbanks.[11] This study assessed BOEM's current EETs, and proposed neither new EETs nor changes to the existing EETs. BOEM has proposed a follow-up study entitled "Updating the Emissions Exemption Thresholds (EETs) Using Classification and Regression Tree (CART) Analysis Study" for BOEM's Studies Development Plan.[12] This follow-on study also would evaluate the consistency in the EETs between the Alaska and GOM regions, develop separate EETs for Alaska if appropriate, and address any comments on the methods used to formulate new EETs that are received from the National Academies of Science, Engineering, and Medicine (NASEM).

The second referenced air quality modeling study is entitled, "Air Quality Modeling in the Gulf of Mexico" (GM-14-01), conducted by the ERG, Ramboll Group A/S, and Alpine

---

[11] Paula Fields Simma, Bebhinn Do, Bart Brashers, Till Stoeckius & Ralph Morris, Arctic Air Quality Impact Assessment Modeling Study: Final Project Report (2018) (report prepared by Eastern Research Group, Inc., and Ramboll under BOEM contract M12PC00014), *available at* https://www.boem.gov/BOEM-2018-020/.

[12] Bureau of Ocean Energy Management, Studies Development Plan 2020-2022 (2019), *available at* https://www.boem.gov/FY-2020-2022-SDP/.

Geophysics. The study was completed in September 2019, has undergone an independent peer review, and is posted on BOEM's website at https://espis.boem.gov/final%20reports/BOEM_2019-057.PDF. BOEM is currently reviewing the results of the NASEM peer review and intends to evaluate the NASEM recommendations in the near future.

D. Summary of Key Changes Since the Proposed Rule

This final rule amends regulations implementing section 5(a)(8) of OCSLA (43 U.S.C. 1334(a)(8)), which requires the Secretary to promulgate regulations "for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*), to the extent that activities authorized under [OCSLA] significantly affect the air quality of any State." BOEM administers these existing regulations, which have been fundamentally the same since their publication in 1980. This final rule adopts some provisions of the proposed rule.

Over the past 40 years, the existing regulations have required lessees and operators to:[13]

1. Submit information on air emissions from their OCS oil, gas, and sulfur activities projected to occur under any proposed EP, DPP, or DOCD (collectively referred to in this final rule as "plans").[14]

---

[13] You can find an explanation of the process that BOEM and its predecessor agency, the MMS, used to develop these requirements in the preamble to the proposed rule (44 FR 27449 (May 10, 1979)) and the final existing air quality rule (45 FR 15128 (March 7, 1980)). Although BOEM presently manages the air quality regulatory program (AQRP), the U.S. Geological Survey largely wrote the original air quality regulations, which the Secretary approved. Since that time, MMS and then the Bureau of Ocean Energy Management, Regulation and Enforcement administered this program, before BOEM took responsibility for the AQRP in October 2011.

[14] In its evaluation of emissions through the use of the air quality spreadsheets, BOEM has historically and continues to require operators to report emissions based on the maximum rated capacity or maximum emissions estimate for their proposed type of equipment. Because any piece of equipment may emit more or less of any given air pollutant at any given time, depending on factors such as the type of fuel used, the length of time a piece of equipment is operated, the capacity utilization of the equipment, the workloads applied, the level of maintenance, etc., BOEM's spreadsheets calculate the highest level of emissions for each type of air pollutant that any piece of equipment is capable of emitting over any given period of time. The existing air quality spreadsheets calculate the highest annual and peak hour emissions for each type of equipment and those numbers are the ones used to evaluate whether the emissions exemption threshold has or has not been exceeded.

2. Determine whether projected emissions of certain air pollutants exceed the applicable EET.

3. Model the potential impacts of certain air pollutants when projected emissions exceed an applicable EET that could potentially cause significant air quality impacts to a State. As part of this review, BOEM first analyzes whether the modeled emissions would cause an increase in the ambient concentration of any criteria air pollutant in any State to exceed an SL. If no SL is exceeded, no further analysis is required. In the event that an SL is exceeded, if that exceedance occurs in an attainment area (i.e., an area where the NAAQS are not exceeded), a further analysis is required to determine if the increase would exceed the Maximum Allowable Concentration Increase (MACI) for that air pollutant. If not, no further analysis is required and the plan would be approved. If the MACI is exceeded, appropriate mitigations or controls would be required.

4. Control any emissions source proposed for or on any facility that modeling indicates could cause or contribute to an exceedance of the NAAQS.

The proposed rule would have significantly revised the existing regulations and would have more closely aligned DOI's regulations with those of the USEPA. The proposed rule sought to require operators to include in their regulated emissions, the emissions from activities that are not expressly authorized under OCSLA. However, the Secretary's statutory requirements differ substantially from those of the USEPA and so, based on BOEM's reassessment of the proposed rule in light of the public comments, such alignment is not appropriate. For example, compared to the time periods for plan review under OCSLA, the CAA and USEPA regulations provide for a very different process and timeframes for evaluating air quality permits. Congress, in providing the Secretary with this distinct statutory authority,

specifically noted in the Conference Report that it did not intend the "… application of section 5(a)(8) regulations [to] interfere with the time periods provided in the conference report for review and approval of exploration plans, and development and production plans." S. Rept. 95-1091, p. 86. Based largely on the extensive public comments received to the proposed rule, BOEM has determined that such an extensive alignment could: (1) unduly burden the industry; (2) potentially complicate and duplicate other Federal agency requirements; (3) possibly raise legal questions regarding DOI's authority to adopt some of the proposed changes; and (4) potentially prevent BOEM from complying with the statutorily mandated timeframes for completing exploration and development plan reviews. For these reasons, BOEM has determined that the extensive revisions in the proposed rule are unnecessary.

This final rule incorporates a limited number of the changes in the proposed rule and retains the fundamental structure of the existing regulations. Because of this, it would not be practical to cite in this preamble every provision in the proposed rule that BOEM is not adopting in this final rule. However, several of the more significant proposed revisions that BOEM has not included in this final rule are discussed in the parts of the preamble responding to general comments and the Section-by-Section analysis. Among those proposed changes that BOEM is not adopting in the final rule are those that would have:

- Required the consideration of emissions from transiting support vessels, vehicles, or aircraft in the EET analysis.[15]

[15] BOEM is not reducing the reporting requirements, themselves, as the emissions of all support vessels will still be reported in accordance in with the requirements of subpart B. In addition, support vessels that are temporarily connected either to the seabed or to a facility (such as well reworking vessels) will continue to be treated as facility emissions, in accordance with existing requirements for facilities, and will continue to be considered as part of the EET analysis. For a more detailed summary, see Part IV. Section-by-Section Analysis of Final Rule, Subpart B. Plans and Information (§ 550.218 - What Air Emissions Information Must Accompany the EP?).

- Required BOEM's evaluation of air quality impacts arising from all right-of-use and easement grants (RUEs) and right-of-way grants (ROWs).[16]

- Required re-certification of existing facilities for compliance with existing air quality standards on a periodic basis.

- Changed the location at which BOEM evaluates air quality impacts from the coastal point nearest the offshore facility's most significant impact on a State's air quality based on prevailing winds to such a point on the seaward boundary of a State's submerged lands.[17]

- Specified how emissions should be determined and evaluated by equipment type and various usage rates (i.e., emissions factors).[18]

- Added new criteria for aggregating emissions from multiple facilities to evaluate air quality impacts.[19]

- Added a detailed methodology for implementing emission reduction credits in lieu of emission reductions from controls applied to facilities, expanding on treatment of the matter in the existing regulations.

- Extended to Indian tribes the same opportunity afforded to States to comment on BOEM's consideration of a plan.[20] When the CAA was amended in 1990 to change the status of the Tribes with respect to air quality, Congress made no mention of extending analogous

---

[16] For a more detailed summary, see Part IV. Section-by-Section Analysis of Final Rule, Subpart C. Pollution Prevention and Control.
[17] For a more detailed summary, see Part IV. Section-by-Section Analysis of Final Rule, Subpart C. Pollution Prevention and Control (Paragraph 550.303(e)(1) - Significance Level).
[18] For a more detailed summary, see Part II. Background and Legal Authority, Subpart D. Key Provisions of the Final Rule (Air Quality Spreadsheets).
[19] For a more detailed summary, see Part IV. Section-by-Section Analysis, Subpart C. Pollution Prevention and Control (Paragraph 550. 303(j) - Review of Facilities with Emissions Below the Exemption Amount).
[20] For a more detailed summary, see Part V. Key Statutes and Executive Orders, Subpart B. Executive Orders, section 5. Consultation with Tribes and Alaska Native Claims Settlement Act Corporations (EO 13175 and Other Authorities).

authority more broadly to other agencies. OCSLA was not mentioned in the discussion of these CAA amendments and no efforts were made on the part of Congress to extend this authority more broadly.

- Set criteria for adopting future EET changes without additional rulemaking.[21]
- Established new single source photochemical modeling requirements for ozone and $PM_{2.5}$[22] that may be formed in the atmosphere from OCS facilities' emissions.[23]
- Replaced the table of MACI in 30 CFR 550.303(g)(2)(i)(A)[24] with a cross-reference to the codified USEPA Ambient Air Increments.[25]
- Established new requirements for how and when lessees and operators should measure and report emissions on an ongoing basis.
- Added various provisions intended to make the AQRP similar to that of USEPA's.
- Used the term "significant impact level" (SIL) in lieu of the term "significance level" (SL).[26]
- Adopted a cross-reference to the regulations of the USEPA; instead, a table of

---

[21] For more detailed summaries, see Part II. Background and Legal Authority, Subpart C. BOEM's Air Quality Modeling Studies and Subpart D. Key Provisions of the Final Rule (Replacing the Term TSP). Also see Part IV. Section-by-Section Analysis of Final Rule, Subpart B. Plans and Information (§ 550.218 - What Air Emissions Information Must Accompany the EP?).

[22] $PM_{2.5}$, or fine PM, is an airborne contaminant composed of particles having a diameter less than or equal to 2.5 micrometers.

[23] BOEM is using the USEPA's latest modeling guidance in Appendix W in a prudent manner consistent with BOEM's authorities and is working with the USEPA through the Interagency Workgroup on Air Quality Modeling (IWAQM). For more detailed summaries of the modeling processes, see Part II. Background and Legal Authority, Subpart D. Key Provisions of the Final Rule (Dispersion Modeling), and Part IV. Section-by-Section Analysis of Final Rule, Subpart B. Plans and Information (§ 550.218 - What Air Emissions Information Must Accompany the EP?).

[24] To improve readability and avoid any confusion, all further regulatory section references in the main body of this notice are to 30 CFR part 550 unless otherwise specified. Footnotes will contain the complete citation.

[25] For a more detailed summary, see Part IV. Section-by-Section Analysis of the Final Rule, Subpart C. Pollution Prevention and Control.

[26] For more details, see Part IV. Section-by-Section Analysis of the Final Rule, Subpart C. Pollution Prevention and Control.

updated relevant and applicable SLs applied by BOEM is included in this final rule, as described above.

- In addition, the proposed rule raised the issue of whether the SLs used by states should be incorporated into the table of SLs.[27] Upon further review of the comments received, BOEM has determined to continue to use the values reflected in USEPA regulations[28] in implementing the NAAQS. The existing regulation at § 550.303(g)(2)(i)(B) specifies, "No concentration of an air pollutant shall exceed the concentration permitted under the national secondary ambient air quality standard or the concentration permitted under the national primary air quality standard, whichever concentration is lowest for the air pollutant for the period of exposure." This section from the existing regulations will continue to be applied to ensure that no plan for an OCS facility will be approved if it would cause an exceedance of the NAAQS in any State.

III. Summary of Public Comments

A. Overview of Comments

BOEM received 81 written comments, consisting of several thousand pages of text, to the proposed rule. Only three comments were submitted by individuals. The remaining comments were submitted on behalf of organizations. Many comments were submitted on behalf of multiple parties; therefore, the number of organizations that submitted comments is significantly larger than the number of comments BOEM received.

The following industry and trade groups submitted comments: Alaska Oil and Gas Association (AOGA); American Petroleum Institute (API); Offshore Operators Committee

[27] While BOEM discussed this proposal in the preamble to the proposed rule and solicited comment on it, BOEM did not include this proposal in the proposed regulatory text.

[28] For a more detailed summary, see Part IV. Section-by-Section Analysis of the Final Rule, Subpart C. Pollution Prevention and Control.

(OOC); National Ocean Industries Association (NOIA); Independent Petroleum Association of America (IPAA); International Association of Drilling Contractors (IADC); Offshore Marine Services Association (OMSA); Jackson Offshore Operators; International Marine Contractors Association (IMCA); Truck and Engine Manufacturers Association (TEMA); and Louisiana Mid-Continent Oil and Gas Association.

Additionally, the following companies submitted individual comments: Arena Offshore; Anadarko Petroleum; ASRC Exploration; Barry Graham Oil Service LLC; British Petroleum; BR Petrobras; Chevron Corporation; Diamond Offshore; Edison Chouest Offshore; Fieldwood Energy; Gulfmark Americas Inc.; Hornbeck Offshore Services; Murphy Oil; LLOG Exploration; Odyssea Marine; Otto Candies LLC; Rowan Companies; Seacor Marine LLC; Sea Support Ventures LLC; Shell Oil; Tidewater Marine; Transocean; Walter Oil; and W&T Offshore.

The following non-governmental organizations (NGOs) submitted comments: Alaska Inter-Tribal Council; Alaska Wilderness League; Center for American Progress; Center for Biological Diversity; Clean Air Task Force; Earthjustice; Friends of the Earth; Greenpeace USA; and the Gulf Restoration Network.

Various Federal, State, local, quasi-governmental, and tribal organizations also provided comments, including the following: Arctic Slope Regional Corporation; Arctic Inupiat Offshore; North Slope Borough; the State of Alaska; the State of Louisiana; the State of Texas; USEPA; the National Park Service; the U.S. Forest Service; the Fish and Wildlife Service; and the U.S. Coast Guard. In addition, BOEM held meetings with a number of tribal groups, as discussed more fully in Part V. Key Statutes, Subpart B. Executive Orders, section 5. Consultation with Tribes and Alaska Native Claims Settlement Act Corporations (E.O. 13175 and Related Authorities).

In general, industry and industry trade groups took the position that the emissions generated from OCS sources do not represent a significant source of air pollution to the States and that the existing regulatory approach is adequate. They also raised the concern that some of the proposed changes would force them to incur high costs that would negatively impact exploration and development. Environmental NGOs generally took the opposite view, arguing that the regulations are outdated and inadequate to ensure that OCS facilities do not adversely impact the air quality of the States. The following includes more detailed description of certain comments received on the proposed rulemaking. BOEM addresses comments relevant to specific regulatory provisions in the Section-by-Section Analysis of the Final Rule in Part IV. of the preamble, to the extent that those comments are relevant to the changes BOEM is making in this final rule. In most cases BOEM is not specifically addressing comments related to the proposed regulatory provisions that BOEM is not adopting from the proposed rule; however, some such comments have been addressed when necessary to clarify BOEM's action on specific rule sections.

B. Why Does BOEM Need to Update the Air Quality Regulations?

Comment: Some comments stated that in various environmental analyses BOEM concluded that the OCS facilities it regulates do not significantly impact State air quality. Those commenters questioned why BOEM proposed extensive revisions to its air quality regulations despite the fact that the existing AQRP seems to be doing an adequate job of protecting State air quality. Some commenters also asserted that BOEM's 2012-2017 GOM lease sale environmental impact statement (EIS)[29] as well as various other BOEM documents specifically

[29] Gulf of Mexico OCS Region, Bureau of Ocean Energy Mgmt., Gulf of Mexico OCS Oil and Gas Lease Sales: 2012-2017, Western Planning Area Lease Sales 229, 233, 238, 246, and 248, Central Planning Area Lease Sales 227, 231, 235, 241, and 247, Final Environmental Impact Statement (2012) (OCS EIS/EA BOEM 2012-019)

stated that the existing regulations have prevented adverse onshore air quality impacts. Those commenters argued, for that reason, that no changes are necessary for the air quality regulations.

Response: This final rule maintains the BOEM air quality existing regulations with only a few changes and retains the regulatory framework that has been in place since March 1980. This final rule is intended primarily to update obsolete or irrelevant provisions in the regulations that no longer reflect NAAQS standards and benchmarks. For example, USEPA's current list of criteria air pollutants no longer includes TSP, but does include PM_{10} and $PM_{2.5}$. This final rule adds SLs for PM_{10} and $PM_{2.5}$ and updates criteria air pollutants and SLs that the USEPA has revised since 1980.

C. Why Issue a Rule Before the Regional Air Quality Studies Are Complete?

Comment: Some comments questioned proceeding with a final air quality rule while a study of air quality in the GOM region (GOMR) is ongoing.

*Response***:** Partly based on these comments, the final rule does not adopt the provisions to which the commenters were objecting. Although the GOM region study is complete, it is being peer reviewed and BOEM plans to consider and respond to that peer review once completed.

This final rule adopts the values that the USEPA currently lists in 40 CFR 51.165(b)(2) as SLs to be used by BOEM. The final rule also replaces outdated SLs for the former criteria air pollutant TSP in §§ 550.303(e) and 550.304(c) with PM_{10} and $PM_{2.5}$ SLs. The GOMR study is not relevant to these revisions.

BOEM intends to use the information from its GOMR and Alaska studies to inform future policy determinations and National Environmental Policy Act (NEPA) reviews. The studies also will provide information on the cumulative effects of activities that BOEM

authorizes. BOEM is evaluating the results of a peer-review process of the GOM study which BOEM conducted in accordance with the OMB's "Final Information Quality Bulletin for Peer Review," under which agencies must undertake a peer review of influential scientific information by specialists in the field who were not involved in producing the draft, before they disseminate the information to the public. This Bulletin also imposes minimum requirements for the peer review of highly influential scientific assessments. BOEM has determined that the GOMR study is a highly influential assessment and is complying with OMB peer review requirements as outlined in the OMB Bulletin for Peer Review.

D. Responses to Other Comments Made About the Proposed Rule.

Comment: Some comments suggested that BOEM simplify the explanation of the term NAAQS found in existing § 550.303(g)(2)(i)(B) by referring to the list of NAAQS in 40 CFR part 50.

Response: BOEM finds it unnecessary to reference 40 CFR Part 50 and believes that the existing reference to NAAQS in the referenced paragraph is sufficient. However, this final rule provides definitions for "NAAQS" and "criteria air pollutant" (which refers to the NAAQS) in §§ 550.105 and 550.302. The final rule makes corresponding changes to add "criteria air pollutant" where "NAAQS" are discussed. The APA specifically states that "a sanction may not be imposed or a substantive rule or order issued except within jurisdiction delegated to the agency and as authorized by law." 5 U.S.C. 558 Incorporating by reference a separate and distinct regulatory agency's regulations could lead to a future scenario in which an agency may promulgate a rulemaking, as defined in the APA as a "statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy," that may have a significant impact on states, localities, or a regulated community over which that

agency has no statutory jurisdiction or expertise. In such cases, the agency with jurisdiction may have little recourse to provide meaningful input aside from those provided in the formal rulemaking process unless a complete exemption is granted. Given the separate and distinct legal authorities of the USEPA and BOEM, BOEM believes that updating the NAAQS through the rulemaking process best affords "interested persons an opportunity to participate" through notice and comment while also adhering to the principles outlined in section 1 of EO 13771 "Regulatory Planning and Review," which include: designing regulations "in the most cost-effective manner to achieve the regulatory objective;" tailoring regulations "to impose the least burden on society...;" and drafting regulations to be "simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty."

Comment: Some comments suggested that BOEM should utilize two sets of SLs, one for attainment areas and one for non-attainment areas. These commenters argued that the proposed SLs were too stringent for attainment areas. Other comments suggested that the regulations should include interim SILs, recommended in USEPA guidance. Some comments suggested that DOI establish its own SL valuations for each criteria air pollutant -- perhaps with a "default" level at 5 percent of the NAAQS -- independent of the USEPA SIL valuations."

Response: BOEM is updating the SL values to those the USEPA has established and applying these values to both attainment and non-attainment areas. BOEM has not established separate SLs for attainment and non-attainment areas in the final rule. The USEPA values set forth at 40 CFR 51.165(b)(2) apply in both areas; States also generally have one set of SLs for both areas in their permitting programs.

Comment: Various comments requested that BOEM interpret what it means by the phrase "significantly affect the air quality of any State." 43 U.S.C. 1334(a)(8). Several

commenters suggested that BOEM define this phrase in terms of causing an exceedance of the NAAQS; others, in terms of contributing to an exceedance. One commenter asserted that an exceedance of a SL and the corresponding NAAQS should both be required to qualify as significantly affecting the air quality of a State.

Response: The existing § 550.303(f)(1) defines that phrase to mean: "The projected emissions of any air pollutant other than VOC from any facility which result in an onshore ambient air concentration above the SL determined under paragraph (e) of this section [which lists the USEPA's SLs for criteria pollutants from 1980] for that air pollutant, shall be deemed to significantly affect the air quality of the onshore area for that air pollutant." Additionally, the existing § 550.303(f)(2) defines "significantly affect" with respect to VOC emissions: "The projected emissions of VOC from any facility which is not exempt under paragraph (d) of this section [which lists the exemption threshold equations] for that air pollutant [i.e., referring to an EET for VOC] shall be deemed to significantly affect the air quality of the onshore area for VOC." This final rule continues using SLs as the indicator of whether emissions significantly affect the air quality of any State and updates the SL values to conform with the NAAQS as updated by the USEPA.

In the regulation as amended by this final rule, there are two exceptions to the use of the SLs to determine whether emissions significantly affect the air quality of any State. First, with respect to VOCs, BOEM has retained the existing policy whereby an exceedance of the EET for VOCs is the criteria for determining whether emissions of VOCs significantly affect the air quality of any State. Second, BOEM recognizes that an air pollutant concentration could exceed the relevant NAAQS in rare circumstances when OCS emissions of criteria air pollutants from a facility that has an impact below the SLs are considered with the background concentrations of a

relevant onshore area. In either of these two situations, BOEM would treat the plan in the same manner as it would handle a situation where the SLs had been exceeded.

Comment: Some comments questioned the proposed rule's definitions of "attainment area" and "non-attainment area" because none closely align with USEPA's usages. In particular, some commenters noted that BOEM's use of "non-attainment area" is narrower than that of the USEPA's because BOEM does not consider whether an area that is itself in attainment with the NAAQS may nevertheless be considered non-attainment, as USEPA may do, because it may cause a nearby area to fall into non-attainment.

Response: The existing regulations use the terms "attainment area" and "non-attainment area" differently than the USEPA. The USEPA's regulations provide for multiple categories of areas beyond these two categories (e.g., attainment areas, maintenance areas, unclassifiable areas) whereas DOI's regulations treat all areas outside "non-attainment" as attainment areas. The existing regulations deliberately use this simplified nomenclature to streamline the regulations, because the USEPA's categories are not relevant to implementing the Secretary's statutory authority. BOEM also left the definition more limited because OCSLA's statutory mandate is more limited than USEPA's under the CAA; considering the impact of OCS emissions on an area whose non-OCS emissions might impact a third area is outside the scope of OCSLA's statutory mandate. BOEM is not making any substantive change to the definition of either attainment or non-attainment areas.

Comment: Generally, industry commenters objected to the proposal to add photochemical modeling requirements when the EETs for PM or ozone precursors are exceeded. These commenters argued that BOEM has not determined that OCS operations are responsible for any State exceedance of PM or ozone NAAQS. They asserted that the contrary has always

been true: OCS operations have never significantly affected any State with respect to PM or ozone. Next, these commenters pointed out that BOEM has not approved a photochemical model for secondary formation of PM or ozone. They state that the USEPA had not established any photochemical modeling guidelines. Finally, they pointed out that the proposed rule did not contain criteria for determining when to model ozone formation and argued that including such criteria in the final rule would likely be arbitrary.

Response: BOEM does not intend to require photochemical modeling under this final rule. The regulations do not currently require photochemical modeling. The existing §§ 550.218 and 550.249, however, require lessees and operators to follow the modeling guidelines in USEPA's regulations at 40 CFR part 51 appendix W. This cross-reference introduces ambiguity because the USEPA updated appendix W after the proposed rule was published and established guidelines for evaluating ozone and secondary PM formation, which may in some cases result in photochemical modeling for these pollutants. BOEM has determined that incorporating photochemical modeling into this final rule is inappropriate for several reasons. First, the existing regulations do not contain EETs addressing secondary criteria air pollutant formation except for the VOC EET and regulations do not provide a SL for ozone. Without these, BOEM lacks a basis for determining when ozone modeling should be required and what the results should be measured against. In the case of PM, the SL for $PM_{2.5}$ was based on dispersion modeling and was not intended to identify when photochemical modeling should be employed. Second, BOEM has not determined that an appropriate single-source photochemical model relevant to OCS operations exists; thus, there is no BOEM-approved photochemical model. Third, BOEM must wait until its air quality studies are completed and fully evaluated before it can determine whether OCS operations cause sufficient emissions of precursors to $PM_{2.5}$ and

ozone to significantly affect the air quality of any State.

In order to avoid confusion, the final rule clarifies that the cross-reference to the USEPA's appendix W applies only to dispersion modeling.

Comment: Some commenters stated that the proposed rule would have impaired BOEM's ability to timely process applications for plan approvals.

Response: BOEM agrees that many of the proposed provisions would have added substantial burdens to both BOEM staff in reviewing plans and to operators' ability to fully conform to the proposed rule's provisions. OCSLA mandates particular timeframes for approval of EPs and DPPs (43 U.S.C. 1334(c)(1) and1351(h)(1)) and the regulations similarly provide a timeframe for review of DOCDs (30 C.F.R. 550.267). The proposed rule would have made meeting these deadlines difficult. Congress specifically noted in the 1978 Conference Report that the regulations under section 5(a)(8) should not "interfere with the time periods provided … for review and approval" of plans. Moreover, BOEM is aware that the procedure and the associated timeframes for making and appealing permitting decisions under the CAA are very different from those under its authorities. Congress too was aware of these differences when they passed legislation to transfer authority to regulate air quality on the Arctic OCS in 2011. Consolidated Appropriations Act, 2012, Pub. L. 112-74, section 432, December 23, 2011; see also, The American Energy Initiative, Part 4: H.R. -----, The Jobs and Energy Permitting Act of 2011: Hearing Before the Subcommittee on Energy and Power of the Committee on Energy and Commerce, 112th Cong. 37 (2011). In any case, BOEM is not finalizing the proposed provisions that gave rise to these comments.

Comment: Some commenters voiced opposition to the proposed provision on "Mobile Support Craft." Others complained that the proposed requirement was unclear as to whether

sources on support vessels would be subject to control requirements. Other commenters urged that BOEM must regulate such sources directly.

Response: BOEM is not adopting these proposed provisions. As explained in more detail later, the proposed provisions were legally questionable and raised numerous practical problems.

Comment: Some commenters expressed support for BOEM regulating pollutants for which there is no NAAQS, including greenhouse gasses.

Response: BOEM requested comment on this issue but did not propose any particular regulatory provisions. BOEM's ability to regulate air quality is limited to the authority provided to the Secretary in section 5(a)(8). The authority granted in section 5(a)(8) is limited to ensure compliance with the NAAQS, and therefore that provision does not grant authority to regulate emissions that have no relation to attaining a NAAQS.

Comment: BOEM received comments opposed to the proposed provisions requiring that in certain circumstances emissions from multiple facilities be combined. Commenters expressed concerns about the practical difficulties in complying with these provisions and pointed out that BOEM failed to provide sufficient reasons why such provisions were necessary.

Response: BOEM is not adopting the proposed provisions. BOEM agrees that the proposed provisions were unnecessary, and BOEM believes that these proposed provisions were unduly burdensome.

Comment: Some commenters raised both legal and practical problems with the proposal to evaluate impacts at the State's seaward boundary. The commenters assert that there is a lack of reliable information about the background concentrations at the state seaward boundary because of a lack of offshore monitors. Moreover, they pointed out that different states have

different seaward boundaries under the Submerged Lands Act. These commenters noted that it is appropriate to consider NAAQS compliance and associated onshore impacts at the shoreline and inland where public exposure and protection is the primary focus. Other commenters expressed support for this aspect of the proposal.

Response: As discussed in more detail below, BOEM is not adopting this aspect of the proposal. BOEM generally agrees with the practical difficulties over which commenters expressed concerns. The clearly expressed intent of Congress in the 1978 Conference Report was that the regulations under section 5(a)(8) regulate the onshore impacts to State air quality.

Comment: Proposed § 550.310(c) would have required lessees to re-submit previously approved plans at least every 10 years to verify compliance with the existing air quality regulations, including those provisions relating to new information gathering and reporting requirements.

Some commenters suggested that the proposed requirement to re-submit plans every 10 years could be inconsistent with section 25(h)(3) of OCSLA, which indicates that BOEM should review existing plans "based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan." Current § 550.303(j) authorizes the Regional Supervisor to require submittal of additional information when he or she judges an individual facility alone or in combination with others may significantly affect the air quality of an onshore area. These same commenters have asserted that this existing regulatory provision should be sufficient for BOEM to address any isolated situation where one or more facilities may be causing harm to any State(s). For these reasons, commenters assert that BOEM should not require the routine resubmission and additional approval of existing plans.

Response: BOEM has decided not to adopt these proposed provisions. Based on its review of the public comments received, BOEM has determined that requiring a periodic re-review of all plans would be inappropriate. BOEM believes that reconsideration of previous approvals should not be undertaken lightly and is not warranted based on the mere passage of time. Operators depend on BOEM's approval of their plans, and BOEM should not upset these expectations without good cause. For these reasons, the proposal to periodically re-review and re-approve existing plans is not being adopted with this final rule.

BOEM's responses to other stakeholder commenters are available in Part III. Summary of Public Comments, Subpart E. Comments on the Regulatory Impact and Information Collection Analyses, and Part IV. Section-by-Section Analysis of the Final Rule of this preamble below.

E. Comments on the Regulatory Impact and Information Collection Analyses

Comments: Ten comments addressed both BOEM's initial regulatory impact analysis (IRIA) and information collection (IC) analysis; an additional 12 comments focused solely on the IRIA. Overall, the commenters addressed the benefits of the rule (in terms of emissions reductions) compared to the burdens (i.e., costs), necessity, practical utility, burden reduction, and accuracy of the proposed collections. The comments raised a number of questions regarding the calculations and estimates provided by BOEM with the proposed rule.

Response: Commenters questioned the estimated IC costs under the proposed rule. Partly in response to those comments, the final rule does not appreciably impact the annual burden hours or non-hour costs currently authorized under OMB control numbers 1010-0114 (30 CFR part 550, subpart A, "General"), 1010-0151 (30 CFR part 550, subpart B, "Plans and Information"), and 1010-0057 (30 CFR part 550, subpart C, "Pollution Prevention and Control").

Therefore, BOEM is not seeking OMB approval for any new annual burden hours or non-hour cost burdens.

Because the final rule does not change overall IC burdens, BOEM only will seek OMB approval for revising the air quality spreadsheets, BOEM-0138 and BOEM-0139.

IV. Section-by-Section Analysis of the Final Rule

This part of the preamble provides a section-by-section analysis of the regulations promulgated in this final rule.

Part 550 - OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

Subpart A – General

§ 550.105 Definitions.

The existing regulations define "air pollutant" as "any combination of agents' for which the USEPA has established primary or secondary NAAQS. 30 CFR 550.302. Under the CAA, such combinations of agents are defined as "criteria air pollutants."

However, the regulations use the term "air pollutant" inconsistently and, in some instances, contrary to its definition. For example, § 550.303(e) discusses "air pollutants other than VOCs," suggesting that VOCs meet the definition of an air pollutant; and § 550.303(d) implies that VOCs meet the definition of "air pollutant" because the referenced exemption formulas for "emissions from the facility for each air pollutant" include a formula for VOCs. However, VOCs fall outside the stated definition of "air pollutant" because NAAQS have not been established for them.

The proposed rule would have added a definition for "criteria air pollutant," would have redefined "air pollutant," and would have used those terms consistent with their definitions throughout the regulations. The proposed definition of "air pollutant" was very broad and included categories of emissions (i.e., hazardous air pollutants) that fell outside the Secretary's statutory authority to regulate because NAAQS have not been established for them.

The final rule completely eliminates a regulatory definition for "air pollutant"[30] and adds a definition for "criteria air pollutant." The final rule replaces the term "air pollutant" with "criteria air pollutant" in §§ 550.105 and 550.302 and in the definitions of "attainment area" and "nonattainment area," §§ 550.303(f)(1), and 550.303(g)(2)(i)(B). The final rule replaces the term "air pollutant" with "criteria air pollutant and VOC" in §§ 550.105 and 550.302 definitions of "best available control technology (BACT)." The final rule replaces the term "air pollutant" with "criteria air pollutant or VOC" in § 550.303(h). The final rule replaces the term "air pollutant" with "criteria air pollutant, VOC, or TSP" in §§ 550.249(a)(2) and 550.283(a)(4). The final rule replaces the term "air pollutant" with "criteria air pollutant, VOC, and TSP" in §§ 550.303(d) and 550.304(b). The final rule replaces the term "air pollutant other than VOC" with "criteria air pollutant" in §§ 550.303(g)(1), 550.303(g)(2), and 550.304(d)(1). Finally, the final rule deletes the phrase "for that air pollutant" in § 550.303(f)(2) because the existing provision only relates to VOCs. These changes clarify the existing regulations to address perceived inconsistency.

> The existing definition of air pollutant in § 550.105 is as follows:
>
> "*Air pollutant* means any airborne agent or combination of agents for which the Environmental Protection Agency (EPA) has established, under section 109 of the Clean Air Act, national primary or secondary ambient air quality standards."
>
> The final rule defines "criteria air pollutant" in § 505.105 as follows:
>
> "*Criteria air pollutant* means any air pollutant for which the Environmental Protection Agency (EPA) has established a primary or secondary national ambient air quality standard pursuant to section 109 of the Clean Air Act."[31]

This definition is essentially the same as that in the proposed rule. However, the proposed rule

---

[30] Instead of a specialized regulatory definition, BOEM will rely on the plain dictionary meaning of the term "air pollutant" in this part.

[31] These pollutants are Sulfur Dioxide, Nitrogen Oxide, Carbon Monoxide, Lead, Ozone, and Particulate Matter, of which there are several forms, two of which, PM2.5, and PM10, have defined NAAQS.

also included a reference to 40 CFR part 50, which BOEM has not adopted for the reasons previously described. This aspect of the final rule (i.e., eliminating the "air pollutant" definition, but adding a similar one for "criteria air pollutant") is not substantively different from the existing regulations and will have no effect on the administration of the AQRP.

Consistent with a similar change made in other places throughout this final rule, BOEM is updating the definition of the terms "attainment area" and "non-attainment area" by replacing the term "air pollutant" with "criteria air pollutant" in the definition of each of these terms. Thus, the updated definition of "attainment area" in § 550.105 would change from:

> "Attainment area means, for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator of EPA to be reliable) not to exceed any primary or secondary ambient air quality standards established by EPA."

to read as follows:

> "Attainment area means, for any criteria air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator of EPA to be reliable) not to exceed any primary or secondary ambient air quality standards established by EPA."

BOEM is making this change for clarification purposes only. The final rule definition of "attainment area" excludes part of the proposed definition that would have referred to USEPA regulations explicitly and instead continues BOEM's practice of referring to attainment areas by stating that these consist of all areas not designated as non-attainment.[32]

By the same token, the definition of "non-attainment area" in § 550.105 would change from:

> "Non-attainment area means, for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator of EPA to be reliable) to exceed any primary or secondary ambient air

[32] The USEPA has multiple designations for areas that BOEM refers to as "attainment areas," and BOEM regulations do not mirror the USEPA regulations, in part because of this. Given OCSLA's more limited air quality mandate, there is no reason for BOEM to classify onshore areas into more categories.

quality standard established by EPA."

to read as follows:

> "Non-attainment area means, for any criteria air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator of EPA to be reliable) to exceed any primary or secondary ambient air quality standard established by EPA."

The meaning of the definition of the term "non-attainment area" remains the same as in both the existing and proposed regulation. Although the existing regulations refer to air pollutant, and not criteria air pollutant, the definition of air pollutant in the existing regulations was limited to criteria pollutants. This use of the term air pollutant is misleading because it typically has a broader meaning. For example, hazardous pollutants would not be covered. Secondly, the existing regulations referred to air pollutants as both including and excluding precursors, specifically VOCs. In this final rule, we define only the term "criteria air pollutant" and, in each relevant provision, specifically mention any non-criteria pollutant we are referencing (e.g., TSP and VOCs).

BOEM left the definition more limited because OCSLA's statutory mandate is more limited than that imposed under the CAA considering the impact of OCS emissions on an area whose non-OCS emissions might impact a third area is outside the scope of OCSLA's statutory mandate."

For the same reason, the definition of BACT was also revised in §§ 550.105 and 550.203. That definition was changed from:

> "*Best available control technology (BACT)* means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation, taking into account energy, environmental and economic impacts, and other costs. The Regional Director will verify the BACT on a case-by-case basis, and it may include reductions achieved through the application of processes, systems, and techniques for the control of each air pollutant."

to

> *"Best available control technology (BACT)* means an emission limitation based on the maximum degree of reduction for each criteria air pollutant and VOC subject to regulation,[33] taking into account energy, environmental and economic impacts, and other costs. The Regional Director will verify the BACT on a case-by-case basis, and it may include reductions achieved through the application of processes, systems, and techniques for the control of each criteria air pollutant and VOC."

In this instance the term "air pollutant" referred both to criteria air pollutants and VOCs and the definition of BACT was changed accordingly.

The existing regulations define "emissions offsets" in § 550.105 as follows:

> "*Emission offsets* mean emission reductions obtained from facilities, either onshore or offshore, other than the facility or facilities covered by the proposed Exploration Plan (EP) or Development and Production Plan (DPP)."

Consistent with a similar change made in other places throughout this final rule, BOEM is updating the definition so that it also applies to DOCDs. Thus, the updated definition of "emission offsets" in § 550.105 is as follows:

> "*Emission offsets* mean emission reductions obtained from facilities, either onshore or offshore, other than the facility or facilities covered by the proposed Exploration Plan, Development and Production Plan, or Development Operations Coordination Document."

The existing regulations define "existing facility" in § 550.105 as follows:

> "*Existing facility*, as used in § 550.303, means an OCS facility described in an Exploration Plan or a Development and Production Plan approved before June 2, 1980."

Consistent with a similar change made in other places throughout this final rule, BOEM is updating the definition so that it also applies to DOCDs. Thus, the updated definition of

---

[33] The definition of air pollutant in BOEM's existing regulations did not clearly make a distinction between criteria air pollutants and those pollutants that are not criteria air pollutants (i.e., VOCs) but contribute to the formation of criteria air pollutants. This rule intends to correct that error.

When the VOC EET is exceeded then, under 550.303(f)(2), the projected emissions are deemed to significantly affect a state. This treatment of VOCs is different from the treatment of the other pollutants in the regulations, for which the determination whether emissions will significantly affect a state is based on their modeled impacts within the onshore area of a state. This distinction is part of the reason that BOEM consistently refers to criteria pollutants and VOCs separately.

"existing facility" in § 550.105 is as follows:

> "*Existing facility,* as used in § 550.303, means an OCS facility described in an Exploration Plan, a Development and Production Plan, or a Development Operations Coordination Document" approved before June 2, 1980.*"*

The effect of this change is to include the DOCD among the list of plans referenced in the definition. The final rule does not make any of the other proposed changes to this definition.

BOEM is moving the definition of "volatile organic compound" from § 550.302 to § 550.105, where alphabetical order dictates. That term is used in subpart B, but is not defined in the existing regulations until subpart C. Because the definitions in subpart C technically apply only to subpart C, BOEM is adding this term to the general definition section in subpart A.

Subpart B – Plans and Information

§ 550. 218 – What air emissions information must accompany the EP?

Paragraph 550.205(e) in the proposed rule stated the following:

> "For every facility described in your plan, you must identify the maximum projected emissions for each criteria and major precursor air pollutant by calculating the annual rate (for each calendar year), the maximum 12-month rolling sum, and the maximum peak hourly rate for your facility emissions under (c)(2) and your attributed emissions under (d)(6)."

This would have required lessees and operators to provide emissions data on an annual, 12-month rolling sum, and maximum and peak hourly basis for criteria air pollutants, VOCs, and ammonia.

The final rule does not implement the proposed rule requirement for lessees and operators to provide and analyze 12-month rolling sum emissions. This final rule also does not implement the proposed rule requirement that operators report emissions data for ammonia.

As was the case with the proposed rule, § 550.218(a) requires lessees and operators to include in their EPs a table showing both projected emissions of all criteria air pollutants for

which there is a NAAQS and projected emissions of VOCs. The requirement is the same as § 550.218(a) in the existing regulations, but the list of pollutants is replaced with reference to "criteria air pollutants," as defined by the USEPA. The lessee or operator must submit the information required by this section with the EP and BOEM will use the submitted information in evaluating the EP. BOEM made appropriate changes to implement this provision in both §§ 550.218(a) and 550.218(e).

Because of the change to the regulatory text, which replaced the enumeration of specific criteria pollutants with a reference to criteria pollutants generally, additional criteria pollutants were added to paragraph 550.218(a). Of these, three criteria air pollutants (lead, $PM_{2.5}$, and PM_{10}) will have reporting requirements without an EET corresponding to those air pollutants. As stated in the proposed rule, BOEM lacks sufficient data to update the EETs at this time.

Subpart B of the existing regulations specifies what data and information must be included in a plan. Subpart C specifies how that data should be analyzed and what the operator must do, depending on the results of the analysis. Although BOEM modified Subpart B of the existing regulations several years ago to require operators to report PM_{10} and $PM_{2.5}$ emissions, that change was not accompanied by a corresponding change to Subpart C. As a result, although BOEM requires operators to report PM_{10} and $PM_{2.5}$ data, the EET formula for PM in §§ 550.303(d) and 550.304(b) requires an analysis of data for TSP. Unfortunately, the existing regulations did not explain how to resolve the discrepancy between Subpart B's data reporting requirements and Subpart C's data utilization requirements.

Because BOEM has determined that it does not yet have a proper scientific basis to consider revising the formulas in §§ 550.303(d) and 550.304(b), BOEM has decided to instead update §§ 550.218(a) and 550.249(a), applicable to exploration and development plans

respectively, to specify that operators should also report data for TSP. As noted previously, because the SL for TSP has been replaced by new SLs for PM_{10} and $PM_{2.5,}$ if an operator uses the EET formula for TSP and determines that its emissions exceed the EET, it would be required to model emissions of PM_{10} and $PM_{2.5}$, not TSP, and to compare the results with the significance levels for PM_{10} and $PM_{2.5}$. In the event that the significance levels for PM_{10} and $PM_{2.5}$ are exceeded, additional modeling of TSP may be required to determine whether the emissions exceed the MACIs, as defined in 30 CFR 550.303(g)(2)(i)(A).

In order to determine if the projected emissions associated with its plan exceed the relevant SLs, the operator would be required to use a BOEM-approved model, in accordance with the existing requirements of § 550.218(e) and (f), in the case of an EP, or § 550.249 (e) and (f), in the case of a DOCD or DPP. Any dispersion modeling would also have to be conducted using a methodology consistent with USEPA modeling requirements outlined in Appendix W of 40 CFR part 51, in accordance with the existing requirements of § 550.218(e), in the case of an EP, or § 550.249(e), in the case of a DPP.

This final rule amends §§ 550.218(e) and 550.249(e) to make clear that the reference to Appendix W is applicable only insofar as it is relevant to dispersion models. On January 17, 2017, subsequent to the publication of the air quality proposed rule, the USEPA published a final rule entitled, "Revisions to the Guideline on Air Quality Models: Enhancements to the AERMOD Dispersion Modeling System and Incorporation of Approaches To Address Ozone and Fine Particulate Matter" (82 FR 10 p. 5182 [EPA–HQ–OAR–2015–0310; FRL–9956–23–OAR] RIN 2060–AS54). This final rule updated the list of approved air quality models and the modeling guidelines associated with the remaining USEPA-approved air quality models. Notably, the USEPA rule newly allowed the use of single-source chemical transport models,

which typically involve photochemical modeling, to evaluate the impacts of new and modified emissions sources with respect to the formation of ozone and the secondary formation of $PM_{2.5}$ when more general analyses for an area are not sufficient. But, this amendment to Appendix W did not require the use of such models either. Still because Appendix W is cross-referenced in BOEM's existing regulations, the update made by the USEPA could have been interpreted to imply that BOEM would also support the potential use of photochemical modeling for ozone and secondary formation of PM2.5. This final rule makes clear that this is not the case.

Based in part on the public comments received, BOEM understands that single source photochemical modeling is only starting to be used, that its use and application is complex, and that the costs of doing such modeling can be high. Also, the timeframes for review of CAA permits that involve photochemical modeling under Appendix W are much longer than the timeframes required by the OCSLA for BOEM to review plans. Furthermore, BOEM's studies will provide relevant information as to whether or not OCS sources may impact State air quality with respect to ozone or PM. Accordingly, it would be unwarranted to require the complex photochemical modeling to evaluate ozone or PM formation. As stated previously, this final rule does not adopt any requirements for photochemical modeling. To resolve any potential confusion regarding the cross-reference to Appendix W in the existing regulations, BOEM is modifying the relevant language in §§ 550.218(e) and 550.249(e) to clarify that the regulations as amended by this final rule do not, under any circumstances, require that an operator apply photochemical modeling to its analysis of its air pollutant emissions. The existing language said "When BOEM requires air quality modeling, you must use the guidelines in appendix W of 40 CFR part 51 with a model approved by the Director." The revised language reads "When BOEM requires air quality dispersion modeling, you must use the guidelines in Appendix W of

40 CFR part 51 for dispersion modeling with a model approved by the Director."

The USEPA's current list of criteria air pollutants includes ozone and the USEPA has defined a NAAQS for ozone. OCS operations do not result in the emission of ozone directly. To address this, however, BOEM does evaluate emissions of VOCs, which is an ozone precursor, under the existing regulations.

The proposed rule would have eliminated § 550.218 entitled, "What air emissions information must accompany the EP?" from the existing regulations because all BOEM air quality requirements in Subpart B of part 550 of the existing regulations were proposed to be consolidated in a new § 550.205.

BOEM received a number of comments to the effect that it would be simpler to make changes to the relevant sections, rather than consolidate them into a new section. Given the more limited nature of this final rule compared with the proposed rule, BOEM has decided to leave the existing regulatory organization intact and instead make the limited amendments directly to the relevant sections.

The proposed rule would have required that lessees and operators identify the emissions of facilities and support vessels separately and report both in terms of an "annual rate (for each calendar year), the maximum 12-month rolling sum, and the maximum peak hourly rate." This final rule retains the existing regulation's language requiring reporting of annual emissions and peak hourly emissions, as defined in § 550.218(a)(1), but does not adopt the proposed reporting requirements for a 12-month rolling sum. The regional air quality studies will evaluate the cumulative effects of OCS emissions on the States and whether any additional emissions tests or evaluations may be necessary.

The proposed provision to add a maximum 12-month rolling sum provision was intended

to address situations where a proposed plan would involve drilling beginning in one calendar year and ending in a subsequent calendar year, thereby splitting the emissions across calendar years and potentially undercounting the actual annual emissions. Commenters noted that there are many ways to calculate rolling averages and that there are also multiple ways to utilize the results in attempting to model the effects of emissions at various destination points. These same commenters noted that most air quality models are not equipped to handle multiple annual projects and this requirement would "add an extra burden to post-processing the model results that is not included in most modeling systems. Such uncertainty could lead to considerable modeling costs of questionable value that have not been anticipated by the agency." Because BOEM has decided that it would be best to first evaluate in connection with its studies where and under what circumstances emissions from multi-year operation of OCS facilities may affect the States, BOEM has determined that this requirement should not be implemented until more information about such effects has been evaluated.

BOEM is deferring any consideration about amending the regulations to add new EETs corresponding to non-annual emissions averaging times for the criteria air pollutants pending the evaluation of results of its air quality studies. For that reason, in this final rule, BOEM has made no changes to the time intervals or forms for which reporting is required in either §§ 550.218(a)(1) or 550.249(a)(1). Lessees or operators will continue to provide peak hourly and total annual emissions, but not 3-hour, 8-hour, or 24-hour, or rolling emissions data, nor any new data related to the form of the NAAQS (e.g., the number of times that a pollutant concentration level is exceeded).

The proposed rule stated in § 550.205(b) that lessees and operators must include the following in each plan: "For each criteria and major precursor air pollutant, calculate the

attributed projected annual emissions for each of your MSCs [mobile support craft]." Instead, this final rule requires in § 550.218(a) (for EPs) that lessees and operators provide "Tables showing the projected emissions of criteria air pollutants, volatile organic compounds (VOC), and TSP generated by your proposed exploration activities." As previously stated, the final rule does not adopt the proposed reporting requirements for a 12-month rolling sum.

As noted previously, BOEM refers to air pollutants that contribute to the formation of a criteria air pollutant as precursor air pollutants. In order to ensure that the NAAQS standards for these pollutants are not exceeded, DOI must also regulate the emissions of both the criteria air pollutants and the precursor air pollutants. Historically, the major precursor air pollutant that DOI has regulated is Volatile Organic Compounds (VOCs). In addition to VOCs, the proposed rule identified Hydrogen Sulfide (H_2S) as a precursor for Sulfur Dioxide (SO_2); Nitrogen Oxides (NOx), VOCs and Carbon Monoxide (CO), as precursors for Ozone (O_3); and NOx, VOCs, Fine Particulate Matter ($PM_{2.5}$), Sulfur Oxides (SOx) and Ammonia (NH_3), as precursors for $PM_{2.5}$. The proposed rule suggested that DOI require the collection of additional data on these precursors and that new formulas be created to evaluate precursor pollutants in their capacity as precursors. In particular, DOI suggested that lessees and operators be required to start reporting ammonia emissions. VOCs and ammonia were classified as "major precursor pollutants" under the proposed rule because these precursors were included in the list of pollutants for which States would be required to gather emissions data to comply with USEPA requirements.

The final rule does not adopt the concept of "major precursor pollutant" that was included in the proposed rule. As is the case in the existing regulations, the only non-criteria air pollutants included in the final rule are VOCs and TSP. The proposed rule would also have included ammonia under the heading of "major precursor pollutant." BOEM has decided not to add

ammonia at this time. There were several reasons for this. First, as is the case with all the EETs, BOEM does not believe that it has an adequate scientific basis for establishing new formulas. Indeed, BOEM never had an EET for ammonia. Second, it is not clear that ammonia is emitted from OCS facilities in quantities sufficient to cause a significant effect to any State. Third, since ammonia is primarily a precursor for $PM_{2.5}$ and BOEM does not have an EET for $PM_{2.5}$, it is unclear how a formula should be determined. Although BOEM is modifying the air quality spreadsheets to calculate ammonia emissions on behalf of operators, BOEM has determined not to add an EET for ammonia or to add any requirements (including requirements for photochemical modeling) for ammonia to this final rule, though BOEM will continue to evaluate and review its study results.

This final rule is not adopting the proposed changes regarding MSC as was proposed in a new section 30 CFR 550.205. The proposed section would have required lessees and operators to add vessel emissions to those of facilities and the proposed Subpart C would have required lessees and operators to compare the total emissions against the EETs.

The final rule is not adopting these proposed changes for two reasons. First, it is questionable whether BOEM has legal authority to include vessel emissions as proposed. The Secretary's statutory authority is distinct from that of the USEPA under the CAA. The CAA explicitly authorizes the Administrator of the USEPA to regulate emissions from vessels servicing or associated with an OCS source within 25 miles of the OCS source in specific areas of the OCS. 42 U.S.C. 7627. In contrast, OCSLA only authorizes the Secretary to regulate air pollutants from "activities authorized" by OCSLA. OCSLA, section 5(a)(8). The Office of the Solicitor has previously opined that vessel traffic to and from OCS facilities is not an activity "authorized" under OCSLA, rendering requirements to count vessel emissions in regulating

facilities potentially beyond the scope of the Secretary's statutory authority.[34] For these reasons, the proposed provision is not appropriate in implementing section 5(a)(8) of OCSLA.

Second, in addition to legal concerns, commenters pointed out practical difficulties involved in requiring operators to prepare plans with the highly specific details about vessel emissions sources that the proposed rule would have required. Commenters also pointed out that no state has identified emissions from vessels supporting OCS operations as a significant contributor to onshore air pollutant concentrations. For these reasons, and because section 5(a)(8) of OCSLA does not require BOEM to consider vessel traffic to and from OCS facilities in order to determine modeling and control requirements, BOEM is not adopting the proposed changes on this point. Existing §§ 550.224 and 550.257 require operators to report emissions from their support vessels within 25 miles of their facilities in their EP or DPP or DOCD, and this final rule does not affect those sections.

§ 550. 249 – What air emissions information must accompany the DPP or DOCD?

For the same reasons as discussed under § 550.218 above, BOEM has made changes to § 550.249 paragraphs (a) and (e) that mirror those changes made to § 550.218.

In addition, BOEM has replaced the term "air pollutant" with "criteria air pollutant, VOC, or TSP" in the one place the term appears in paragraph (a)(2). This latter change, which is consistent with the proposed rule, does not change the substantive requirements of this paragraph.

As noted in the discussion for § 550.218(e), BOEM is modifying the requirement to perform air quality modeling using the guidelines of the USEPA's Appendix W to clarify that

[34] The Solicitor's Office prepared a memorandum from Associate Solicitor, Energy and Resources, to Deputy Assistant Secretary, Land and Minerals Management, Authority to Require Air Pollution Controls on Vessels in Transit to Outer Continental Shelf Facilities (June 15, 1987).

operators must only comply with the modeling guidelines of Appendix W to the extent that they are required to perform dispersion modeling.

BOEM did not receive any comments that would be relevant to the changes made to this section of the final rule.

§ 550.283 – When must I revise or supplement the approved EP, DPP, or DOCD?

BOEM has replaced the term "air pollutant" with "criteria air pollutant, VOC, or TSP" in § 550.283(a)(4), to make the wording consistent with the changes made to the other sections of the rule. This change is consistent with BOEM's interpretation of the existing regulatory text. Because this section deals with when a revision to an EP, DPP, or DOCD is required, and VOCs and TSP are specifically listed in existing §§ 550.218 and 550.249, the existing provision has been interpreted to include VOCs and TSP.

BOEM did not receive any comments that would be relevant to the changes made to this section of the final rule.

Subpart C – Pollution Prevention and Control

The proposed rule would have replaced all references to exploration or development plans with a generic term "plan" and the new term "plan" would have encompassed all EPs, DPPs, DOCDs, RUEs, pipeline ROWs, and lease term pipelines. Section 550.205 of the proposed rule, which outlined all of the reporting requirements, was accordingly entitled, "What air emissions information must be submitted with my Plan (EPs, DPPs, DOCDs, or application for a RUE, pipeline ROW, or lease term pipeline)?" The intention was that all EPs, DPPs, DOCDs, RUEs, pipeline ROWs, and lease term pipeline applications would be subject to the same air quality requirements. This approach was consistent with the proposed rule's goal to consolidate all air quality requirements in one place, rather than follow the structure of the

existing regulations that lists separate requirements, in separate sections, for each type of plan.

Because BOEM no longer intends to consolidate all the air quality data requirements into one section, the changes that BOEM is implementing with this final rule are made separately by section. The text of Subpart C of part 550 in the existing regulations refers only to EPs and DPPs. Because BOEM also uses DOCDs to review and approve production plans, BOEM is replacing all references to DPP with references to DPPs or DOCDs, or both (depending on the context). BOEM is not including the proposed references to pipeline ROWs, RUEs, and lease term pipelines in this final rule. BOEM ensures that lessees and operators address lease term pipelines and RUEs within the DPP or DOCD review process. See existing § 550.241 (regarding lease term pipelines) and Notice to Lessees and Operators (NTL) No. 2015-N06 (regarding RUEs). Since our existing program relies on plan reviews and since lease term pipelines and any facilities on a RUE must be described in a plan, this issue can readily be addressed under BOEM's and the Bureau of Safety and Environmental Enforcement's (BSEE) procedures for implementing the existing regulations. The proposed references to lease-term pipelines and RUEs are unneeded.

According to the requirements outlined in NTL No. 2007-G09, BOEM collects information on emissions from the installation or operation of any new or modified accessory platform on a ROW whenever an application is submitted to BSEE. Based on BOEM's review of the information that BSEE has collected, BOEM is not aware of any such facilities on ROWs that would exceed the EETs, and so BOEM believes that such facilities are not causing significant effects to any State's air quality. Therefore, BOEM is not adopting the proposed language on ROWs with this final rule.

§ 550.302 – Definitions concerning air quality.

BOEM made the following changes in this final rule in a manner consistent with the proposed rule:

Air pollutant. The term "air pollutant" was defined in § 550.302 in the existing regulations as follows:

> "*Air pollutant* means any combination of agents for which the Environmental Protection Agency (EPA) has established, pursuant to section 109 of the Clean Air Act, a national primary or secondary ambient air quality standard."

This definition is essentially the definition for "criteria air pollutants," not for air pollutants generally, since it excludes many substances defined by the USEPA as air pollutants (e.g., precursor air pollutants or hazardous air pollutants), including some air pollutants referenced in DOI's existing regulations (i.e., hydrogen sulfide and VOC).

The existing definitions of the terms "attainment area," "non-attainment area" and BACT all contain the term "air pollutant" and this final rule replaces the term "air pollutant," in those definitions with either the newly defined term "criteria air pollutant" or "criteria air pollutant or VOC," as appropriate.

To ensure that there is no confusion regarding the meaning of the term "criteria air pollutant," BOEM has included a definition of the term "criteria air pollutant" in **§** 550.302, as follows:

> "*Criteria air pollutant* means any air pollutant for which the Environmental Protection Agency (EPA) has established a national primary or secondary ambient air quality standard pursuant to section 109 of the Clean Air Act."

Despite the fact that the existing definition of air pollutant in § 550.303 refers only to criteria air pollutants, the usage of the term "air pollutants" in the existing regulations may have been read to mean that the regulations were applicable more broadly. For instance, § 550.303(e) refers to "air pollutants other than VOC," even

though VOC is not within the scope of the definition of "air pollutant." Paragraph 550.303(d) requires the evaluation of various air pollutants, including VOC. Section 550.283, discussed above, refers to conditions under which a lessee or operator would be required to submit a revised plan as being any time "you propose to increase the emissions of an air pollutant to an amount that exceeds the amount specified in your approved EP, DPP, or DOCD;" a reference which, given the apparent purpose of the provision, should also include VOCs and TSP. Thus, the term "air pollutant" has not been used consistently and in line with the requirements specified in the regulations that refer to the term "air pollutant."

To correct this problem, BOEM has replaced the definition of the term "air pollutant" with a definition of the term "criteria air pollutant" and made related edits to the existing regulations to address these issues, as previously noted in discussion of Subpart A, above.

The proposed rule would have revised the definition of "air pollutant" to include hazardous air pollutants and greenhouse gases, as well as criteria air pollutants and precursor air pollutants. BOEM received comments both in favor and opposed to expanding the scope of the regulations beyond criteria air pollutants and precursor air pollutants. Generally, industry argued that the Secretary's authority under OCSLA did not permit BOEM to regulate for anything else. Environmental groups argued the opposite. After reviewing the comments, BOEM determined that limiting the scope of this rulemaking to that of the existing regulations would be appropriate. Although this final rule has replaced some references to specific pollutants with general references to criteria air pollutants, it does not add or subtract any air pollutants from the list of criteria pollutants in the existing regulations.

Emission exemption threshold (EET). According to OCSLA, the Secretary shall prescribe regulations to ensure compliance with the NAAQS to the extent that certain authorized activities "significantly affect the air quality of any State." There are two ways that operators can demonstrate this. They can perform a detailed analysis of their proposed pollutant emissions through the use of complex air quality models. Alternately, they can demonstrate that their emissions are below a BOEM-determined exemption level. This has long been the practice employed under OCSLA's distinct authorities.

The adoption and use of the term "Emissions Exemption Threshold" does not make any substantive change to the air quality regulations. BOEM has always had a mechanism to determine whether an offshore operator proposing to explore or develop oil and gas on the OCS should be exempt from air quality modeling. BOEM has historically used a number of terms (e.g., exemption amount, exempt emissions, "E," exempt plans, and exemption levels) to define these values. This change is being made to establish a single term and to clarify the purpose and intent of the existing exemptions calculations and does not affect the formulas, or their usage, in any way.

The term "threshold" reflects the fact that emissions reported in a plan below that amount do not require the operator to model its air quality impacts. On the other hand, emissions above the "threshold" are subject to further air quality modeling and evaluation and may be subject to mitigation requirements. For that reason, BOEM believes that the term "threshold" more accurately reflects the nature and purpose of the EETs.

BOEM added a definition in this final rule to clarify the purpose and use of the acronym EET. The proposed rule in § 550.302 defined this term as follows:

> "*Emission exemption threshold(s*) *(EET)* means the maximum allowable rate of projected emissions, calculated for each air pollutant, expressed as short tons per

year (tpy), above which facilities would be subject to the requirement to perform modeling."

The final rule in § 550.302 defines the term as follows:

"*Emission exemption threshold (EET)* means the rate of projected emissions, calculated for a criteria air pollutant or VOC or TSP, above which a facility would be subject to the requirements of 550.303(e)-(i) or 550.304(b)-(e)."[35]

In drafting the final rule, BOEM came to realize that the qualifiers "maximum allowable" and "above which facilities would be subject to the requirement to perform modeling" might cause confusion vis-à-vis the provisions in §§ 550.303(j) and 550.304(f), which relate to the review of facilities with emissions below the EET. Accordingly, the final rule clarifies that the EETs are specifically applicable in the context of §§ 550.303(e)-(i) and 550.304(b)-(e) of the regulations. In contrast, the use of the EET is not necessary for BOEM to make a determination under §§ 550.303(j) and 550.304(f) as to whether its approval may or may not cause a significant effect to any State.

Commenters raised a question as to why BOEM would establish EETs only in terms of annual emissions, given that many of the NAAQS and SLs, which would have been cross-referenced by the proposed rule, relate only to short-term effects (e.g., 3-hour emissions). BOEM will review EETs for such short-term effects as are warranted once the regional modeling air quality studies are completed and evaluated. Instead of specifying the units (i.e., tons per year) for the EET in the definition of EET, as was proposed, BOEM has decided to specify the units in § 550.303(d) in the final rule, where the EETs are actually set forth. For that reason, BOEM has decided to remove the

[35] BOEM is not updating the EET formulas at this time. Because the current EET formulas do not directly account for all the criteria pollutants, the formulas would apply to the same pollutants as are found in the existing BOEM regulations.

qualifier “expressed as short tons per year (tpy)” from the proposed definition of EET, but retain the reference to tons per year in §§ 550.303(d) and 550.304(b) of the final rule.

Other commenters suggested that BOEM modify the proposed definition of EET so that the definition of EET refers only to criteria air pollutants. BOEM is not making this suggested change since the existing regulations include a formula for VOCs, and the final rule does not change this or change the types of pollutants that the AQRP regulates.

National Ambient Air Quality Standards (NAAQS). BOEM has added a definition of National Ambient Air Quality Standards.

The proposed rule would have defined the term with explicit cross-references to particular USEPA’s regulations. Instead, BOEM has provided a definition clarifying what the NAAQS are, and under what statutory authority they are promulgated. BOEM determined that although the NAAQS appear at a number of locations in 40 CFR part 50, it is not difficult for a lessee or operator to find the relevant provisions, and, if they cannot, they can contact BOEM for assistance in locating them. Referencing specific provisions could introduce confusion should USEPA reorganize or renumber their regulations.

Significant Impact Level.

The proposed rule would have defined the term Significant Impact Level in § 505.302, and used it in lieu of the existing term “Significance Level” as follows:

“Significance level or Significant Impact Level (SIL) means an ambient air benchmark or limit that applies to the ambient air impact of the emissions of a criteria air pollutant, as set out in the table in 40 CFR 51.165(b)(2).”

This final rule does not define the term “Significance Level” with reference to the

USEPA's regulations because BOEM is instead providing a table of the relevant SLs that are to be applied as part of the air quality regulatory program. BOEM is finalizing the rule using the existing term "Significance Level," as it is used in the current regulation, to set the level above which impacts from emissions of criteria air pollutants on a State's air quality would be significant under section 5(a)(8) of OCSLA.

The proposed rule would have replaced the current table setting forth the SLs in 30 CFR 550.303 and 550.304 with a cross-reference to USEPA regulations at 40 CFR 51.165(b)(2). The purpose was to address the disparities between BOEM's table and those presented in that USEPA regulation that have developed over 39 years. To accomplish this, in the final rule, BOEM is updating the table utilizing the values of the SLs in USEPA's regulation to address these disparities. The proposed rule recognized that the USEPA's SLs would not always be appropriate to apply to offshore operations and would have given BOEM the authority to grant a departure to exempt such SL revisions from applying under BOEM regulations. The final rule will avoid the problem by allowing DOI to promulgate updates to the SLs table in the future, with notice and comment as necessary, and to make an independent determination as to which USEPA revisions should be adopted offshore and which should not in accordance with OCSLA's authorities.

Emissions Offset/Existing Facility. In addition to the changes noted above, the definitions of the terms "emissions offset" and "existing facility" in § 550.302 have been modified in this section to add a reference to DOCD, where the existing regulation definitions refer inconsistently to either an "Exploration Plan or a Development and Production Plan" or an "Exploration Plan or Development and Production Plan." This merely clarifies BOEM's existing interpretation that the regulations include DOCDs among the list of plans referenced in

these definitions. The proposed rule included language to consistently apply all requirements to EPs, DPPs, and DOCDs.

BOEM did not receive any comments that would be relevant to the changes made to this section of the final rule. BOEM did receive comments pertaining to the proposed provisions that would have added requirements for "emissions credits" (which, in the proposed rule, was the term that would have replaced "emissions offsets"). However, BOEM is not adopting those proposed substantive changes and is instead merely making the clarification regarding DOCDs described above. BOEM has never encountered an instance in which operators have used the existing regulatory provision for emissions offsets. Further, most States' comments highlighted the differences in their onshore programs, and BOEM is not aware of any instance of OCS activities causing significant onshore air quality impacts.

§ 550.303 – Facilities described in a new or revised Exploration Plan, Development and Production Plan, or Development Operations Coordination Document.

Paragraphs (a)–(c) – New Plans, Applicability of § 550.303 to existing facilities, Revised facilities

The only change made to these paragraphs is to add the phrase "Development Operations Coordination Document" after "Development and Production Plan" anywhere that the latter phrase is mentioned. BOEM made this change to reflect its long-term practice with respect to these closely related plan documents, for the reasons previously described in the discussion of definitions.

BOEM did not receive any comments that would be relevant to the changes made to these paragraphs of the final rule.

Paragraph (d) – Exemption formulas

We have made a minor clarification to the text of § 550.303(d). In the existing regulations, the first part of paragraph (d) reads:

> "To determine whether a facility described in a new, modified, or revised Exploration Plan or Development and Production Plan is exempt from further air quality review, the lessee shall use the highest annual-total amount of emissions from the facility for each air pollutant calculated in § 550.249(a) or § 550.218(a) of this part…"

The location of the word "calculated" in this sentence may cause confusion. The sections to which the sentence applies refer to the amount of emissions generated by a facility for each type of air pollutant, not to the air pollutants themselves. To clarify the meaning, BOEM has reworded the sentence as follows:

> "To determine whether a facility described in a new, modified, or revised Exploration Plan, Development and Production Plan, or Development Operations Coordination Document is exempt from further air quality review, the lessee must use the highest annual-total amount of emissions from the facility calculated for each air pollutant listed in § 550.249(a) or § 550.218(a) of this part…"

Separately, commenters questioned the meaning of the word "calculated" in the proposed rule, asking whether BOEM intended this term to mean that the emissions amounts associated with revised or supplemental plans would need to be recalculated every time a lessee or operator revised, modified, or supplemented[36] a plan or whether the original emissions amounts could continue to be used (assuming that no changes to the facility were being proposed that would give cause to alter the original estimates). BOEM did not intend that the proposed rule would have required lessees and operators to recalculate their emissions with every revision of their plan, regardless of whether the proposed changes would affect the amount of air pollution emitted. The regulation at § 550.283(a)(4) specifies that a plan needs to be revised when the

[36] The comments were made in reference to proposed rule provision that would have required lessees and operators to resubmit and reevaluate air emissions every 10 years, a provision that BOEM is not finalizing as part of this rule. Although the comments were made in another context, BOEM has determined that it would be beneficial to clarify the meaning of the text to address any confusion arising from the ambiguity of the existing regulation.

lessee or operator proposes to "[i]ncrease the emissions of an air pollutant to an amount that exceeds the amount specified in your approved EP, DPP, or DOCD." Except for the change in the use of the term "air pollutant" as previously discussed, § 550.283(a)(4) is unchanged with this final rule; thus, BOEM has retained the original language and intent of the existing regulations (i.e., that an update of the air emissions, and the associated analysis, must be provided only if a proposed plan revision would increase the amount of air emissions released).[37]

We made five additional changes to § 505.303(d), all of which were included in the proposed rule and none of which commenters opposed.

First, the term "emission exemption threshold" replaces the term "emissions exemption amount" used in the existing regulations.

Second, although the proposed rule suggested replacing TSP with PM_{10} in the existing EET formula for particulates, BOEM has determined that doing so would have the effect of lowering the air quality standards for particulates. Although TSP is a largely-outdated measure of the mass concentration of PM in the air that counts particles up to 100 microns in diameter, for any given facility the emissions of TSP would typically be double those of PM_{10} and roughly four times the volume of $PM_{2.5}$. Thus, if BOEM were to simply substitute PM_{10} for TSP in the EET formula, this would have the effect of potentially allowing a much higher level of emissions to occur under an existing exemption.

TSP includes a broad range of particle sizes, and under windy conditions can be

[37] In addition to the changes discussed here, BOEM is also changing the word "shall" in § 550.303(d) and (e)(1), and (h) and in § 550.304(b) and (c), to "must," and BOEM is changing "shall" to "will" in §§ 550.303(f) and 550.304(d). These changes merely modernize usage and clarify the meaning of these paragraphs, and they do not change their meaning. BOEM acknowledges that this rulemaking will leave the word "shall" in some provisions of Part 550, which are unaffected by this rulemaking, and, while BOEM intends to make similar edits in the future, no implication of differences in meaning should be drawn the use of "will" or "must" in these amended paragraph, while 'shall' remains in un-amended sections.

predominantly composed of large wind-blown soil particles of relatively low toxicity. USEPA has determined that PM_{10} and $PM_{2.5}$ are better indicators of particulate health impacts than TSP, and now uses only PM_{10} and $PM_{2.5}$ in formulating SLs and NAAQS for particulates.[38]

This final rule does not add EET formulas specifically for PM_{10} or $PM_{2.5}$ emissions for several reasons. BOEM is just completing and evaluating its modeling studies in the GOMR and in the Alaska OCS Region (AKOCSR) and needs to evaluate the results and potentially follow-up studies to consider whether PM_{10} and $PM_{2.5}$ EET formulas should be considered. In addition, PM_{10} and $PM_{2.5}$ emissions are both components of TSP. For this reason, if the EET for TSP is exceeded, it is likely that the emissions of PM_{10} and $PM_{2.5}$ may also be exceeded, thereby significantly affecting an adjacent State.

This final rule will create a situation where there will be SLs for PM_{10} and $PM_{2.5}$ but not corresponding EETs. However, BOEM has consistently interpreted the existing regulations to require facilities to model for all SLs and NAAQS that might be exceeded when emissions of any air pollutant exceeds an EET. For PM, exceedance of the EET for TSP will require the lessee or operator to model for both PM_{10} and $PM_{2.5.}$ In the event that modeling results indicate that the SL for either $PM_{2.5}$ or PM_{10} would be exceeded, a lessee or operator would be expected to undertake appropriate mitigation measures based on the regulations and BOEM's policies. Because BOEM has not replaced the MACI table in § 550.303(g)(2)(i)(A), lessees and operators are required, when exceeding the SLs for PM_{10}, to apply the TSP values in the MACI table to ensure sufficient reduction in impacts in attainment areas.

Third, the final rule in § 550.303(d) explicitly references the DOCD as a covered plan,

---

[38] See USEPA, *Integrated Review Plan for the National Ambient Air Quality Standards for Particulate Matter*, EPA 452/R-08-004, March 2008, available at https://www3.epa.gov/ttn/naaqs/standards/pm/data/2008_03_final_integrated_review_plan.pdf.

conforming to BOEM's long-standing practice in reviewing both DPPs and DOCDs for compliance with these regulations.

Fourth, as proposed, the final rule in § 550.303(d) substitutes the term "initial" for the term "new" in reference to plans. Any time a lessee or operator proposes a new facility, BOEM must review it for compliance with the AQRP. The term "initial" in reference to a plan reflects the reality that a lessee or operator may update a plan to add an additional facility. Under those circumstances, even though BOEM would not consider the plan to be a new plan, it would still be the first (i.e., initial) plan for the additional facility and would therefore be subject to the requirement for an air quality review. In addition, lessees or operators may submit supplemental plans, so BOEM added the term "supplemental" to the types of plan submissions requiring review.

Fifth, the final rule in § 550.303(d) replaces the phrase "for each air pollutant" with the phrase "for each criteria air pollutant, VOC, and TSP" to align with the change in the definitions in § 550.105, using the term "criteria air pollutant" instead of "air pollutant," and to address the fact that this final rule will retain existing EETs for criteria air pollutants[39], VOCs, and TSP.

For the reasons discussed above in the context of § 550.218, this final rule is not adopting the proposed changes regarding MSC, and, accordingly, § 550.303(d), like the rest of §§ 550.303 and 550.304, will continue to refer to a facility's emissions and not, as proposed, "projected emissions" more broadly.[40] While BOEM has traditionally maintained that the proposed framework for attributing MSC emissions was permissible under section 5(a)(8) of OCSLA, the Solicitor's Office has pointed out that the Secretary's statutory authority under

[39] The existing regulations do not have EET formulas for PM_{10}, $PM_{2.5}$, lead or ozone. This final rule will not add EETs for any pollutants.

[40] This was one feature of proposed § 550.205. In the existing regulations, information on vessel emissions is dealt with in §§ 550.224 and 550.257

OCSLA is distinct from that of the USEPA under the CAA. OCSLA does not require considering attributed emissions from vessels in order to determine modeling and control obligations. Moreover, the practical considerations discussed above weigh against doing so.

Because of the manner in which the USEPA defines criteria pollutants, it is sometimes unclear under what circumstances they refer to nitrogen oxides (NO_x) generally and under what circumstances they refer to nitrogen dioxide (NO_2) in particular. With respect to the table of SLs, BOEM has continued its longstanding practice of utilizing NO_2 as an indicator pollutant for NOx, consistent with the practice of the USEPA. The use of NO_2 as an indicator of NO_x is conservative, and is consistent with BOEM's approach of requiring operators to report emissions based on the maximum potential emissions from their equipment.

BOEM did not receive any other comments that would be relevant to the changes made to this paragraph of the final rule.

Paragraph (e)(1) – Significance Levels

The proposed rule would have replaced the table of SLs from the existing regulations at §§ 550.303(e) and 550.304(c) with a cross-reference to the corresponding USEPA regulations. Instead, BOEM has updated the table to reflect those SLs that are currently identified in the regulations of the USEPA at 40 CFR 51.165(b)(2). By using this table, BOEM provides lessees and operators with a simple consolidated listing of the relevant SLs values, organized by air pollutant and averaging time. Rather than including a cross-reference to the USEPA tables, BOEM believes that it would be better for BOEM to make a determination about the appropriateness of applying future changes to USEPA's SLs to the OCS. The SLs in this regulation may not always be identical to those of the USEPA SLs for that reason. The proposed rule implicitly recognized this because it would have added a provision to the regulations to

allow BOEM to issue exceptions to those SLs that BOEM determined would not be relevant. Rather than including a cross-reference to a USEPA table and then providing a list of exceptions, BOEM has determined that it would be more appropriate to produce DOI's own table of relevant SLs. That way, BOEM can update the SLs table in the future, whenever it is appropriate to do so, whether to accommodate any changes in the SLs that are made by the USEPA in 40 CFR 51.165(b)(2) or for some other reason.

Paragraph (e) in the existing regulations lists the SLs to use in modeling if a proposed plan has projected emissions in excess of an EET. DOI adopted the USEPA's SLs in the existing regulations as they existed in 1980. However, the USEPA has updated the SLs since then and the SLs in the existing regulations can be updated. This final rule updates the table of SLs in the existing regulations with the USEPA's current values.

The existing regulations at § 550.303(e) state the following:

"For a facility not exempt under paragraph (d) of this section for air pollutants other than VOC, the lessee shall use an approved air quality model to determine whether the projected emissions of those air pollutants from the facility result in an onshore ambient air concentration above the following significance levels: . ."

The proposed rule would have addressed this modeling requirement as stated above through a revised proposed § 550.303(f), which would have required the following:

> "If your projected emissions or complex total emissions of the precursor or criteria air pollutant exceed the applicable emissions exemption threshold, then further review and/or controls are required, in accordance with the provisions below:
>
> (1) If the exceedance is for VOCs, you must control your emissions of VOCs in accordance with § 550.306, for a short-term facility, or § 550.307, for a long-term facility.
>
> (2) If the exceedance is for any criteria air pollutant, then you must conduct modeling in accordance with § 550.304."

This final rule retains the existing definition in § 550.303(e), except for referring to "criteria air pollutants" rather than to "air pollutants other than VOC" and referring to the updated SLs table, consistent with changes elsewhere in this final rule. It will read:

> "For a facility not exempt under paragraph (d) of this section, the lessee must use a BOEM approved air quality model to determine whether projected emissions of criteria air pollutants from the facility result in an onshore ambient air concentration above any SL set forth in the following table: . ."

The proposed rule would have changed BOEM's interpretation of the word "State" in the statutory phrase "significantly affect the air quality of any State." Specifically, the proposed rule would have defined "State" to include submerged lands adjacent to the State shoreline to the State seaward boundary, changed the distance term in the emission exemption formulas, and required that non-exempt plans provide modeling results, which would include air quality effects over offshore State submerged lands in addition to onshore effects. This final rule leaves in place the current and long-standing approach, as reflected in the existing regulations, of evaluating impacts to the air quality of a State at its shoreline.

Some commenters objected to the proposal to use the State seaward boundary, pointing to OCSLA legislative history that they assert would support congressional intent to protect onshore air quality—not to regulate offshore air quality. Commenters also raised practical difficulties with the proposed change, pointing out that because the seaward boundary of Texas is much farther offshore than other producing Gulf States, a facility off the coast of Texas would have a lower exemption amount than one the same distance off the coast of Louisiana. They also maintained that the proposal to require modeling of impacts over State submerged lands would be difficult due to the lack of offshore monitoring stations and information about background pollutant concentrations. Other commenters, however, expressed general support for extending consideration of impacts to the State seaward boundary, and one commenter argued that

evaluating impacts over the entirety of a State (including offshore submerged lands) was required by section 5(a)(8) of OCSLA.

While the term "State," read in isolation from its context in the statutory phrase "significantly affect the air quality of any State" could be interpreted to include offshore submerged lands of the State, the context and purpose reflected in the legislative history demonstrates congressional focus on the health effects on the onshore population.

The goal expressed in the first clause of section 5(a)(8) of OCSLA is to ensure compliance with the NAAQS, and the NAAQS have historically been established based on an evaluation of impacts to onshore populations and resources. See e.g., USEPA, Integrated Science Assessment for Particulate Matter, Second External Review Draft, July 2009.

Also, the existing regulations, which consider onshore impacts on a State's air quality, more closely matches the intent of Congress as expressed in the Conference Committee report to the 1978 OCLSA amendments. In two separate passages, that report describes the application of the regulations prescribed by section 5(a)(8) as focusing on effects to "adjacent onshore areas" and not impacts over offshore submerged lands. S. Rep. 95-1091, at pp. 85-86 (1978).

Moreover, two practical considerations support a decision not to adopt this aspect of the proposed rule. First, BOEM is in the process of completing its study of the EET formulas, so any changes to the distance term in the formulas would be premature. Second, the lack of monitoring stations offshore and the resulting lack of data about background concentrations would make determinations about the offshore impacts of a facility's emissions uncertain. For all these reasons, BOEM is not adopting the proposed changes interpreting "State" to include submerged lands out to the State seaward boundary, and thus leaves in place this aspect of the existing regulation.

The proposed rule contained a provision that would have authorized the deferral or waiver of new SILs in order to avoid adding new USEPA designated SILs that might not be relevant to OCS operations. Because BOEM has instead elected to update the SLs table with a new table containing the USEPA SLs currently found in 40 CFR 51.165(b)(2), that provision is no longer necessary and has not been included in this final rulemaking.

The final rule also makes clarifying edits that eliminate the use of the existing phrase "any air pollutant other than VOC" in § 505.303(e). This particular change does not affect the meaning of the existing provision and reflects the deletion of the defined term "air pollutant" discussed earlier.

Paragraph (e)(2) – Significance Levels

This provision is being added to clarify that, in the event that the EET for TSP is exceeded, air quality modeling will be required not of TSP but instead of PM_{10} and $PM_{2.5}$.[41] In the event that that modeling determines that an SL for $PM_{2.5}$ or PM_{10} is exceeded in any State, this would be interpreted by BOEM to indicate that the incremental amount of the criteria air pollutant "significantly affects the air quality of a State." This final rule replaces the values for the SLs of TSP with new SLs for PM_{10} and $PM_{2.5}$. Going forward, the SLs table will no longer contain any values for TSP. The SLs for PM_{10} and $PM_{2.5}$, which are criteria air pollutants, are a more appropriate basis for evaluating PM pollution and must be used for any air quality modeling, as well as for evaluating the effectiveness of any mitigation or controls that may be used.

Paragraph (f) – Significance determinations

Based on the comments received in response to the proposed rule, there may be situations

[41] Air quality modeling of TSP may still be required in limited cases if the SLs for PM are exceeded and the analysis of the MACI becomes necessary (since the MACI table retains TSP in 30 CFR 303(g)(2)(i)(A)).

in which emissions do not result in an exceedance of the SLs but the area does not comply with the NAAQS. However, the existing regulations provide a way of addressing such situations should they arise. First, existing § 550.303(g)(2)(B) already provides that, in a situation where an operator has exceeded the EETs and must submit modeling information, the modeled concentration of an air pollutant cannot exceed the NAAQS (as described below this provision is being changed by replacing "air pollutant" with "criteria air pollutant"). Second, because the States can oppose an OCS plan, both under the existing air quality regulations and under the Coastal Zone Management Act's consistency certification process, there are existing mechanisms for triggering review of proposed decisions to approve plans when there is an exceedance of the NAAQS.

In the existing regulations, this paragraph sets the criteria for what BOEM means by the word "significant" in the context of the OCSLA mandate "for compliance with the national ambient air quality standards pursuant to the CAA (42 U.S.C. 7401 *et seq*.), to the extent that activities authorized under [OCSLA] significantly affect the air quality of any State." Although BOEM received many comments, particularly from industry, to the effect that BOEM's historical environmental analyses had previously concluded that air pollutant emissions associated with OCS activities have not had a significant effect on the air quality of the States, these comments did not relate to the standard established for significance in the air quality regulations. BOEM's policy of using the SLs to define significance has been in place since the beginning of DOI's AQRP and BOEM did not propose to change this policy as part of the proposed air quality rule. Although BOEM has been consistent in following this policy, paragraph (e) of this section is now being updated with the USEPA SLs currently found at 40 CFR 51.165(b)(2).

The phrase “air pollutant other than VOC” is replaced with the newly defined term “criteria air pollutant.” Finally, the term “air pollutant” has been replaced with “criteria air pollutant” in the two additional places where the term is used in the paragraph, consistent with similar changes and rationale given elsewhere in this final rule. As was noted in the proposed rule, the existing regulations do not use the terms “air pollutant” and “criteria air pollutant” consistently throughout. This final rule ensures that every term is used properly and consistently and appropriate changes to the usage of these terms were made wherever necessary.

As is the case with paragraph (d) of this section, this final rule is not adopting the proposed changes regarding MSC.

Paragraph (f)(1) – Significance determinations

The terms “air pollutant other than VOC” and “air pollutant” have been replaced with “criteria air pollutant” in those places in this paragraph where these terms were used.

Paragraph (f)(2) – Significance determinations

This paragraph was revised for clarity but without making any substantive change in the meaning of the text. The paragraph in the existing regulations was changed from “The projected emissions of VOC from any facility which is not exempt under paragraph (d) of this section for that air pollutant shall be deemed to significantly affect the air quality of the onshore area for VOC.” to “The projected emissions of VOC from any facility which is not exempt under paragraph (d) of this section will be deemed to significantly affect the air quality of the onshore area for VOC.”

Paragraphs (g)(1) and (g)(2)

The only change made to these paragraphs was to replace the reference to “air pollutant other than VOC” with “criteria air pollutant.” This change conforms this paragraph with similar

changes made throughout Subpart C and discussed previously.

Paragraph (g)(2)(i)(A)

The proposed rule would have replaced the MACI table with a cross-reference to the USEPA's table of Ambient Air Increments. This final rule does not implement that change.

The regulations employ the table of MACIs in this paragraph as a criterion for determining whether required controls are sufficient for facilities that significantly affect attainment areas (i.e., areas that are in compliance with the NAAQS). The concept of MACI in the AQRP originally came from the USEPA's Prevention of Significant Deterioration (PSD) program. The USEPA's PSD program is designed primarily to prevent the air quality in an attainment area from deteriorating substantially from a prior baseline. The statutory requirements for the PSD program are described in detail in the CAA, but OCSLA contains no reference to preventing deterioration within attainment areas.

BOEM has only rarely had to apply the MACI table in an evaluation of any plan. Because of this, it is not clear that the existing MACI table is necessary or relevant to evaluate emissions from OCS facilities. Furthermore, it is unclear whether emissions from OCS facilities cumulatively cause significant degradation in State air quality in attainment areas, particularly with respect to SO_x and TSP, the two pollutants which are referenced in the MACI table. Until BOEM makes such a determination, BOEM does not intend to update this table. Once BOEM has more information about potential updates to other aspects of the regulation, it may decide to make changes to this table.

Paragraph (g)(2)(i)(B)

The only change made to this paragraph was to replace the reference to "air pollutant other than VOC" with "criteria air pollutant." This change conforms this paragraph with similar

changes made throughout Subpart C and discussed previously.

For the reasons described previously, BOEM has determined that it would be best not to implement a formal cross-reference to the USEPA's regulations setting out the NAAQS as in the proposed rule.

Instead, BOEM has added a definition of the term "NAAQS" that refers to the statutory authority for establishing NAAQS to the list of definitions.

Paragraph (h) - Controls required on temporary facilities.

Consistent with a similar change made in other places throughout this final rule, BOEM is replacing the term "air pollutant" with the term "criteria air pollutant or VOC." The existing text of § 550.303(h) is as follows:

> "*(h) Controls required on temporary facilities.* The lessee shall apply BACT to reduce projected emissions of any air pollutant from a temporary facility which significantly affects the air quality of an onshore area of a State."

With this change, the text of § 505.303(h) will read as follows:

> "*(h) Controls required on temporary facilities.* The lessee must apply BACT to reduce projected emissions of any criteria air pollutant or VOC from a temporary facility that significantly affect the air quality of an onshore area of a State."

The existing rule establishes what a significant impact would be for both criteria pollutants and VOCs, and it would be incongruous for this provision to apply to criteria pollutants, but not VOCs. This change in terminology is consistent with the proposed rule, which proposed to consistently use the terms criteria air pollutant and air pollutant.

Paragraph (j) - Review of facilities with emissions below the exemption amount.

The proposed rule contained provisions requiring the aggregation of emissions across multiple facilities and facilities covered by multiple plans. Comments submitted in response to the proposed rule raised many concerns about the practicality and implications of such

consolidation. The major concern expressed was the fact that adding nearby facilities could thereby implicate other facilities in the vicinity of those added and those facilities could, in turn, be located nearby other facilities, and so forth. Thus, the requirement to consolidate emissions across multiple nearby facilities could lead to a "chain reaction" that would potentially be unbounded or, at the least, be very confusing to operators. Aside from that, the practicalities of getting emissions data from competing companies would make it very difficult for operators to comply with these proposed requirements. BOEM agrees that these are valid concerns and has elected not to finalize that proposal. The final rule retains the existing paragraph (j) under which the regional supervisor may require the consolidation of emissions reporting from multiple facilities if, in his or her determination, such emissions would cause a significant effect to any State.

Consistent with the proposed rule's terminology, the final rule replaces the term "exemption amount" with the phrase "emission exemption threshold."

Consistent with the changes made elsewhere in this rule, the reference to "Exploration Plan or Development and Production Plan" is replaced by "Exploration Plan, Development and Production Plan, or Development Operations Coordination Document."

§ 550.304 – Existing facilities.

Section 550.303 refers to plans for new facilities or to those that are described in a plan that was approved after 1980, and § 550.304 refers to facilities that are described in a plan approved before 1980. The proposed rule would have eliminated this distinction and established one set of requirements for all plans. Because the final rule is more limited in scope than the proposed rule, BOEM has retained § 550.304 and has made changes to § 550.304 that conform to those changes made in the corresponding parts of § 550.303.

Although the vast majority of plans related to facilities still in operation post-date 1980, public comments received from industry did indicate that there are still a small number of offshore facilities that were approved under a plan that pre-dated 1980. If such a facility were to emit pollutants in sufficient amounts so as to significantly affect the air quality of any State, BOEM could utilize OCSLA's existing authority to require that appropriate action be taken to mitigate these emissions. For these reasons, BOEM has determined that leaving the existing § 550.304 as amended would be more appropriate than either substantially revising or deleting it.

Paragraph (b) - Exemption formulas.

The changes made to this paragraph are analogous to those made in § 550.303(d), as noted above.

Paragraph (c) - Significance levels.

The primary change made to this paragraph is to replace the existing table with a cross-reference to the new BOEM table of SLs in section 550.303(e).

Just as in § 550.303(e), the final rule also makes clarifying edits that eliminate the use of the existing phrase "any air pollutant other than VOC" in this paragraph. This particular change does not affect the meaning of the existing provision and reflects the deletion of the defined term "air pollutant" discussed earlier. Also, consistent with the change made to § 550.303(e), the changes to this paragraph clarify that, in the event that the EET for TSP is exceeded, air quality modeling for SLs will be required, not of TSP, but instead of PM_{10} and $PM_{2.5}$. The values for the SLs of TSP are being replaced with new SLs for PM_{10} and $PM_{2.5}$. Going forward, the SLs table will no longer contain any values for TSP. The SLs for PM_{10} and $PM_{2.5}$, which are criteria air pollutants, are a more appropriate basis for evaluating PM pollution and must be used for any air quality modeling, as well as for evaluating the effectiveness of any mitigation or controls that

may be used.

BOEM did not receive any comments that would be relevant to the changes made in this paragraph of the final rule.

Paragraph (d) - Significance determinations.

Under the existing regulations, § 550.304(d) describes what constitutes "significant emissions" with respect to the OCSLA requirement that OCS operations must not "significantly affect the air quality of any State." Facilities that pre-date the 1980 adoption of the regulations are subject to the requirements of this section. The text of this paragraph is unchanged with three exceptions. First, in paragraph (d)(1), the new text uses the acronym SL for the term "significance level," consistent with a similar change made elsewhere in this rule; however, this change has no effect on the substance of these regulations. Moreover, consistent with adding the definition of "criteria air pollutant" to the regulations, this final rule removes the phrase "for that air pollutant" in paragraph (d). Finally, BOEM is modifying paragraph (d)(2) to delete the term "air pollutant." The paragraph does not deal with any air pollutant other than VOCs and the use of the term "air pollutant" is needlessly confusing. This change does not affect the meaning of the provision.

BOEM did not receive any comments that would be relevant to the changes made to this paragraph of the final rule.

Paragraph (e) - Controls required.

Consistent with a similar change made in other places throughout this final rule, BOEM is replacing the term "air pollutant" in § 550.304(e)(1) with the term "criteria air pollutant or VOC." The existing text of § 550.304(e)(1) is as follows:

> "(1) The projected emissions of any air pollutant which significantly affect the air quality of an onshore area shall be reduced through the application of BACT."

With this change, the text of this paragraph reads as follows:

> "(1) The projected emissions of any criteria air pollutant or VOC that significantly affect the air quality of an onshore area must be reduced through the application of BACT."

This change does not change the meaning of the provision and mirrors the change made to paragraph (h). BOEM is making it for the same reasons as for the change in that paragraph.

BOEM did not receive any comments that would be relevant to the changes made to this paragraph of the final rule.

Paragraph (f) - Review of facilities with emissions below the exemption amount.

Consistent with the terminology in the proposed rule, the final rule changes the term "exemption amount" to "emissions exemption threshold" to correspond to the use of this term elsewhere in the final rule.

BOEM did not receive any comments that would be relevant to the changes made to this paragraph of the final rule.

V. Key Statutes and Executive Orders

A. Key Statutes

1. Congressional Review Act

Pursuant to the Congressional Review Act 5 U.S.C. 801 *et seq.*, the Office of Information and Regulatory Affairs (OIRA) of the OMB has determined that this rulemaking is not a major rulemaking, as defined by 5 U.S.C. 804(2), because this rulemaking has not and is unlikely to result in:

- an annual effect on the economy of $100,000,000 or more;
- a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

2. Data Quality Act

In developing this rule, BOEM did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106-554, app. C sec. 515, 114 Stat. 2763, 2763A-153-154). BOEM received one comment relevant to the Data Quality Act, also known as the Information Quality Act (IQA). The commenter asserted that the draft Environmental Assessment (EA) under NEPA seems to be subject to the IQA and, therefore, should have been made available to the public to aid comment. However, contrary to the commenter's assertion, the draft EA is not subject to the IQA. In any case, BOEM did make the draft EA publicly available for review and public input during the proposed rulemaking by placing that document in the public docket along with the proposed rule.

3. National Environmental Policy Act

BOEM has developed a final EA and made a finding that this final rule does not have a significant impact on the quality of the human environment under the NEPA. The final EA and Finding of No Significant Impacts (FONSI) are available for review in conjunction with this final rule at www.regulations.gov (in the Search box, enter BOEM-2018–0038).

4. Paperwork Reduction Act (PRA)

The PRA (44 U.S.C. 3501-3521) provides that an agency may not conduct or sponsor, and a person is not required to respond to a "collection of information," unless the collection of information is approved by OMB and it displays a currently valid OMB control number. Collections of information include requests and requirements that an individual, partnership, or corporation obtain information, and report it to a Federal agency (44 U.S.C. 3502(3); 5 CFR 1320.3(c) and (k)). This final rule contains a collection of information that BOEM submitted to OMB for review and approval under the PRA. This PRA section of the final rule relates to the OMB control numbers associated with information collection under 30 CFR part 550, subpart B and C. The proposed rule, soliciting comments on the collections of information for 60 days, was published in the Federal Register on April 5, 2016 (81 FR 32259). BOEM received ten comments on the collections of information. Commenters raised a number of issues specific to individual collections of information and estimated costs associated with the proposal. Although BOEM made certain changes related to information collection in the final rule, it did not do so directly in response to the comments received.

This final rule retains most of the text of the existing regulations while making only a small number of the changes originally proposed. The proposed rule changes were far greater than those implemented in this final rule. BOEM has determined that the changes in the final

rule are necessary to update outdated standards and benchmarks. The changes related to collection of information include:

- Updating the table of SLs in the existing regulations, dating from 1980, with current SLs at 40 CFR 51.165(b)(2). Annual burden hours will not be significantly impacted.

- Updating the data collection requirements from the existing regulations, dating from 1980, with a statement requiring operators to provide TSP data in Subpart B in §§ 550.218 and 550.249. This requirement was implied by the necessity to apply TSP estimates to the EET formulas in Subpart C §§ 550.303 and 550.304; however, the requirement to actually collect the data analyzed in Subpart C was not previously mentioned as a requirement in Subpart B. Annual burden hours will not be significantly impacted.

- Although BOEM has not replaced the EET formula for TSP with an identical formula for PM_{10}, as suggested in the proposed rule, BOEM has replaced TSP with two categories of criteria air pollutants, PM_{10} and $PM_{2.5}$ in the table of SLs as part of this final rule. This change will provide more clarity to OCS lessees and operators, but will not impact annual burden hours.

- BOEM updated the paragraph that refers to the EETs to clarify that the formulas apply to both DPPs and DOCDs. This update will not change current practice because the air quality regulations have always applied to DPPs and DOCDs, and the spreadsheets are already set up for both DPPs and DOCDs. BOEM's spreadsheets automatically calculate the formulas. This clarification will not increase annual burden hours.

- BOEM is updating the spreadsheets so that emissions from transiting support vessels will no longer be considered as part of the EET evaluation. The rule is not, however, changing the requirement that emissions from vessels temporarily attached either to the seabed

or to another facility must be accounted for as part of the EET evaluation process. This means that some sources may fall under the definition of "facility" depending on their function (i.e. a vessel transiting to and from a facility would need to report the associated emissions, but those emissions would not be added in with the facility emissions for the purpose of the EET analysis; however, emissions generated from the same vessel during workover operations would be added in with the facility emissions). In some cases, therefore, emissions from the same source may need to be separately reported to account for the different functions (e.g., transiting versus well operations) that they intend to perform

Title of Collection: Air Quality Control, Reporting, and Compliance

OMB Control Number: Information Collection burdens associated with 30 CFR part 550, Subpart A, are approved under OMB Control Number 1010-0114 (30, 635 annual burden hours, $165,492 non-hour costs; expires January 31, 2020). Information Collection burdens associated with 30 CFR part 550, subpart B, are approved under OMB Control No. 1010-0151, Plans and Information (436,438 annual burden hours; $3,939,435 non-hour costs; expires June 30, 2021). Information Collection burdens associated with 30 CFR 550, subpart C, are approved under OMB Control No. 1010-0057 (35,200 annual burden hours; $0 non-hour costs; expires May 31, 2021).

This rule does not add new information collection requirements or change the burden estimates. However, BOEM is submitting OMB control number 1010-0151 for revisions with publication of the final rule. The final rule will modify two forms, BOEM-0138 and BOEM-0139.

Form Number:

- BOEM-0137, OCS Plan Information Form

- BOEM-0138, EP Air Quality Screening Checklist
- BOEM-0139, DOCD/DPP Air Quality Screening Checklist
- BOEM-0141, ROV Survey Report
- BOEM-0142, Environmental Impact Analysis Worksheet

Type of Review: Revision of a currently approved information collection

Respondents/Affected Public: Respondents are Federal oil and gas or sulfur lessees or operators.

Total Estimated Number of Annual Response: 4,266 response.

Total Estimated Number of Annual Burden Hours: 436,438 hours.

Respondent's Obligation: Some responses to the information collection are required to obtain or retain a benefit, and some are mandatory.

Frequency of Collection: The frequency of the response varies, but primarily responses are required only on occasion.

Total Estimated Annual Nonhour Burden Cost: $3,939,435.

BOEM is updating the air quality spreadsheets, BOEM-0138 (EP Air Quality Screening Checklist) and BOEM-1039 (DOCD/DPP Air Quality Screening Checklist), in response to this final rule. BOEM intends for these forms to be comprehensive and to meet the needs of different lessees and operators. BOEM uses the data from these forms to determine the effect of the air emissions on the environment. These forms aim to provide a way for the designated operator to document the emissions sources and facilitate the calculation of emissions, which BOEM evaluates against the EETs. As recommended in and submitted to OMB in the proposed rulemaking, the new spreadsheets would split the PM data into two categories, PM_{10} and $PM_{2.5}$ and would clarify that the reporting requirement for PM would include both filterable and

condensable PM, in accordance with USEPA guidelines.

The proposed rulemaking also included reporting requirements for lead and ammonia and BOEM proposed corresponding changes to those forms. Lead is a criteria air pollutant and has a defined NAAQS. For that reason, information on lead emissions will still be required with this final rule.

BOEM is not adding any reporting requirement for ammonia in this final rule. Instead, BOEM will modify the spreadsheets so that they calculate and display ammonia emissions along with the list of other pollutants reported. This latter change would impose no additional burdens on operators since the spreadsheets will use the activity data already being provided by operators to calculate that amount of ammonia that would be generated by any given plan. BOEM will use this information about ammonia to inform potential future policy making.

In addition to changing the data collection to accommodate different types of pollutants, BOEM will also update these forms as discussed in the proposed rule to reflect the addition of unique emissions sources that are applicable to Alaska. In the past, BOEM's air quality spreadsheets could not be used in the Alaska region because they did not encompass the unique types of equipment that were necessary to properly evaluate emissions from Alaskan operations.

With the publication of this final rule, BOEM submitted the updated forms, BOEM-0138 and BOEM-0139, to OMB for approval under OMB Control Number 1010-0151. Once OMB approves OMB Control Number 1010-0151, BOEM will publish the updated forms on the BOEM OCS Operation Forms website at: *https://www.boem.gov/BOEM-OCS-Operation-Forms/*.

As part of our continuing effort to reduce paperwork and respondent burdens, BOEM invites the public and other federal agencies to comment on any aspect of this information

collection, including:

(1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on respondents.

The collection of information does not include questions of a sensitive nature. BOEM protects proprietary information according to section 26 of OCSLA; the Freedom of Information Act (5 U.S.C. 522), the DOI's implementing regulations at 43 CFR part 2; and the regulations at 30 CFR 550.197, Data and information to be made available to the public or for limited inspection, and 30 CFR 556.104, Information collection and proprietary information.

Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395-5806 (fax) or OIRA_Submission@omb.eop.gov (email). Please provide a copy of your comments to the Information Collections Clearance Officer, Office of Policy, Regulation, and Analysis; Bureau of Ocean Energy Management; U.S. Department of the Interior; VAM-BOEM DIR; 45600 Woodland Road, Sterling, VA 20166; or by email to anna.atkinson@boem.gov. Please reference Air Quality Control, Reporting, and Compliance (Final Rulemaking) in your comments.

5. Impact of this Final Rule on Small Entities, Regulatory Flexibility Act (RFA)

The RFA, 5 U.S.C. 601-612, requires agencies to analyze the economic impact of regulations when a significant economic impact on a substantial number of small entities is likely. If the agency certifies that the rule will not have a significant economic impact on a

substantial number of small entities, then this analysis is not required.

As defined by the Small Business Administration (SBA), a small entity is one that is "independently owned and operated and which is not dominant in its field of operation." What characterizes a small business varies from industry to industry in order to properly reflect industry size differences. This final rule will affect lease operators that are conducting OCS exploration and development operations in the Gulf of Mexico and adjacent to the North Slope Borough of Alaska. BOEM's analysis shows this could include about 70 companies with active operations. Of the 70 companies, 21 (~30 percent) are large and 49 (~70 percent) are small. Entities that will operate under this rule primarily fall under the SBA's North American Industry Classification System (NAICS) codes 211120 (Crude Petroleum Extraction) and 211130 (Natural Gas Extraction). For NAICS classifications 211120 and 211130, SBA defines a small business as one with fewer than 1,251 employees.

BOEM's analysis shows that there are 49 small companies with active operations on the OCS, and all of these companies would be impacted by the rule if they engage in activities that require an air quality review. Most of these entities are likely to engage in such activities (i.e., exploration and/or development of offshore mineral resources). BOEM has determined that this final rule will affect a substantial number of small entities. However, as the rule does not increase costs compared to the baseline, it will not impose additional costs on small entities.

The regulatory changes in this final rule are technical corrections or reflect updates to the list of USEPA criteria pollutants, primary and secondary NAAQS, and their relevant SL values. Because operators have already been designing their plans based upon USEPA's updated NAAQS, BOEM does not anticipate that these definitional and technical updates will have a significant impact on operators. Other changes are definitional or intended to confirm and codify

existing policies or procedures. There will not be an increase in compliance burdens as a result of this rule because this final air quality rule does not impose new information reporting or air quality modeling requirements, it does not change any requirements for air quality monitoring on the part of lessees or operators, and it does not implement the proposed requirements for additional emissions reductions measures. The regulatory updates will not add paperwork or other burdens to small or other entities operating in OCS areas under BOEM's air quality jurisdiction. None of these changes increase or decrease the burden on small or other entities operating on the OCS. The effect of this final rule is simply to clarify requirements and update BOEM regulations to reflect current practice; therefore, BOEM certifies that this rule will not have a significant economic impact on a substantial number of small entities.

6. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act, because this rule:

(a) will not have an annual effect on the economy of $100 million or more;

(b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(c) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

7. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector, of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, a statement

containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq*.) is not required.

B. Executive Orders

1. Governmental Actions and Interference with Constitutionally Protected Property Rights (E.O. 12630)

This rule does not affect a taking of private property or otherwise have takings implications under E.O. 12630. Therefore, a takings implication assessment is not required.

2. Regulatory Planning and Review (E.O. 12866)

E.O. 12866 provides that the OIRA will review all significant rules. The proposed rule was deemed significant both because of its potentially substantial economic impact and because it raised certain issues that could have significant policy implications. Although, the scope of this final rule is much more limited than the proposed rule, OMB has nevertheless determined that this rule should be classified as significant because of the overall importance of air quality to the potentially affected States and the potential implications of the proposed rule on the oil and gas industry. The rule is considered significant for policy reasons, not for economic reasons, however, because the final rule would not cause a substantial impact to either the regulated entities or any other potentially affected parties. Unlike the proposed rule, as compared to the current AQRP, this rule would impose no additional burdens or costs and would likely cause a minor reduction in such burdens and costs.

BOEM has compared the costs and benefits of the provisions in this final rule to the baseline scenario. The baseline scenario represents BOEM's best assessment of what U.S. OCS operations would be like absent this regulatory action. The baseline includes compliance with existing BOEM regulations and current established procedures for the Department of the

Interior's (DOI) administered air-quality jurisdiction in the Gulf of Mexico (GOM) and adjacent to the North Slope Borough of Alaska.

In comments on the proposed rule, industry stakeholders asserted that BOEM's proposed rule cost estimates were significantly underestimated. These same stakeholders also asserted that BOEM's benefits were over-stated since the emissions reductions were unlikely to occur. BOEM evaluated the comments and information provided by the commenters and concurs that the compliance costs in the proposed rule's regulatory impact analysis were underestimated and the benefits were overestimated.

This final rule will result in no changes to compliance burdens and no change in benefits compared to BOEM's existing regulations and practices. The major change in this final rule with respect to the SLs is the deletion of annual and 24-hour averaging times for TSP and the insertion of annual and 24-hour averaging times for both PM_{10} and $PM_{2.5}$. Although the final rule requires the use of updated USEPA SLs, BOEM's practice over the past several years has been to review plans it has received against these same SLs. Accordingly, BOEM has determined that using the updated SLs will not cause any increase in costs compared to the baseline.

BOEM is seeking approval from OMB for changes to the air quality spreadsheets necessitated by this rule. These include adding columns to allow separate reporting of $PM_{2.5}$ and PM_{10}, as well as lead.[42] None of these changes would impose any additional costs on operators because current BOEM practice is to have BOEM's spreadsheets perform the emissions calculations based on an inventory of the types of equipment and activity levels provided by the

[42] Although the new rule is not adding any new EET or SL for lead, because § 550.218 and § 550.249 now refer to "criteria air pollutants," BOEM is adding a separate column to report lead. As with other pollutants, when the operator enters activity information (e.g. fuel usage and duration) the lead emissions would be automatically calculated and populated into the spreadsheet based upon an emissions factor embedded in the spreadsheet.

operators. There is no change that will be required of operators as a result of this rule because BOEM will update all the necessary data in the spreadsheets so that the new information required by this rule will be calculated automatically for the operator. Because the EET for TSP has never been exceeded, and also because the EET for TSP is not being updated with this rulemaking, it is likely that the change to the SLs will not have any effect on the mitigation that BOEM requires of operators.

This final rule updates BOEM's existing requirements, but does not add any new procedures to the air quality review program, nor does it add any reporting requirements. It does not add any incremental burden to industry to meet the criteria BOEM uses to review plans nor does it change what lessees and operators must do to ensure compliance with OCSLA. The plan requirements, operating requirements, and compliance and monitoring requirements of BOEM's regulations remain unchanged. This final air quality rule does not impose any new air quality modeling requirements, it does not require any new air quality monitoring on the part of lessees or operators, and it does not implement any additional emissions reductions measures.

None of the regulatory changes in this final rule increase or decrease the regulatory burden compared to current practice. BOEM does not expect any changes in OCS air quality emissions resulting from this rule; the air pollution reductions that BOEM estimated may have been caused by the proposed rule may or may not occur.

In accordance with the existing regulations, EPs, DPPs or DOCDs submitted by lessees and operators must show whether regulated air pollutant emissions are below the exemption threshold or below the SLs in order to avoid applying controls.[43] If a plan's maximum estimated

[43] There is an exception to this noted in current 30 CFR 550.303(j). If BOEM determines that a proposed plan would result in one or more facilities to be installed that could generate a level of pollution that would exceed the SLs or NAAQS, BOEM could require additional analysis and modeling (regardless of the EET analysis).

emissions are below the exemption threshold, no additional modeling or controls is required. According to both the existing regulations and this final rule, if the maximum emissions estimated for a proposed plan are above the exemption threshold, lessees must model emissions to determine if the plan's emissions will remain below the SLs. If the plan's emissions exceed an SL, then, under both the existing regulations (baseline) and this final rule, BOEM requires lessees and operators to implement BACT to reduce the proposed facility's air quality impact on the State.

Congress transferred air quality jurisdiction for the OCS adjacent to the North Slope Borough of Alaska to DOI in December 2011. Potential minor differences in practice between the GOMR and AKOCSR in implementing the air quality regulations do not result in material compliance differences. Practical differences are minor and the sheer quantity of GOM EPs and DOCDs dwarf the one or two plans BOEM expects to receive each year in the AKOCSR.

This final rule retains most of the existing air quality regulations and makes only minor changes, as discussed above. These changes are primarily updates to outdated air quality standards and benchmarks. BOEM is updating the table of SLs in the existing regulations, dating from 1980, with the values currently found in the USEPA table at 40 CFR 51.165(b)(2). Other changes are mostly to clarify terminology.

BOEM believes that this rule is deregulatory in nature, both because it replaces onerous provisions of the proposed rule with provisions that are much simpler and because it corrects a number of inconsistencies and inaccuracies in the existing regulations in such a manner as to reduce the complexity of the regulatory process. BOEM does not expect any changes in OCS air quality resulting from this rule.

3. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

4. Protection of Children from Environmental Health and Safety Risks (E.O. 13045)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks, requires that environmental and related rules separately evaluate the potential impact to children. The USEPA has determined, and BOEM agrees, that children are an at-risk group for health effects associated with exposures to certain air pollutants, including some pollutants released or formed from OCS operations. BOEM has evaluated this final rule according to the requirements of E.O. 13045 and determined that this final rule is not an economically significant rule and does not create an environmental risk to health or a risk to safety that may disproportionately affect children.

5. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. Therefore, a federalism summary impact statement is not required.

6. Consultation with Tribes and Alaska Native Claims Settlement Act Corporations (E.O. 13175 and Other Authorities)

DOI strives to strengthen its government-to-government relationship with federally recognized tribes through a commitment to consultation with tribes and recognition of their right to self-governance and tribal sovereignty. E.O. 13175 and DOI's tribal consultation policy,

which implements the E.O., provide for procedures for consultation with tribes when taking an action with tribal implications. DOI has extended its consultation policy to Alaska Native Claims Settlement Act (ANCSA) Corporations. Furthermore, BOEM recently issued its own expanded Tribal Consultation Guidance on June 29, 2018 (https://www.boem.gov/Tribal-Engagement/https://www.boem.gov/Tribal-Engagement/), identifying various consultation authorities that BOEM will follow in consulting with tribes and ANCSA Corporations.

DOI recognizes and respects the distinct, unique, and individual cultural traditions and values of Alaska Native people and statutory relationship between ANCSA Corporations and the Federal Government. In developing this rule, BOEM determined, based on DOI's consultation policies and the criteria in E.O. 13175, that the rule will not cause a substantial, direct effect on any federally recognized Indian tribe or ANCSA Corporation. 81 FR at 19795. The proposed rule preamble discussed the reasons for this determination with relation to the overall goals of the rulemaking. This final rule is much narrower in scope than the proposed rule, and any effects that the proposed rule might have had on tribes or ANCSA Corporations are more limited in this final rule.

Despite this determination on the proposed rule, BOEM offered to hold consultations with tribes and ANCSA Corporations during the proposal comment period. To determine whether tribes or ANCSA Corporations wanted to consult, BOEM provided, or offered to provide, information to several federally recognized tribes in Alaska (Kotzebue IRA,[44] Inpuiat Community of the Arctic Slope, Native Village of Wainwright, Native Village of Point Hope, Native Village of Point Lay, Native Village of Kaktovik, Native Village of Nuiqsut, and Native Village of Barrow) and in the GOM. BOEM received several requests for consultation, and in

[44] The Tribe, a sovereign entity, is commonly called the Kotzebue IRA due to its organization pursuant to the 1934 Indian Reorganization Act as amended for Alaska in 1936.

July 2016, BOEM followed through with invitations for government-to-government consultations with the federally recognized tribes listed above and several ANCSA Corporations (Kuupik Corporation, Inc.; Kaktovik Inupiat Corporation; the Northwest Arctic Native Association (NANA, also known as the NANA Regional Corporation); Cully Corporation; Ukpeagvik Inupiat Corporation; Arctic Slope Regional Corporation; Kikiktagruk Inupiat Corporation; Tikigaq Corporation; and Olgoonik Corporation). BOEM also invited the following tribes in the GOM to consult: the Poarch Band of Creek Indians of Alabama, the Mississippi Band of Choctaw Indians, the Chitimacha Tribe of Louisiana, the Coushatta Tribe of Louisiana, the Jena Band of Choctaw Indians, the Tunica-Biloxi Indian Tribe of Louisiana, the Alabama-Coushatta Tribes of Texas, the Kickapoo Traditional Tribe of Texas, and the Ysleta Del Sur Pueblo of Texas. No federally recognized tribes in Alaska or the GOM accepted the invitation.

One ANCSA Corporation, the Arctic Slope Regional Corporation (ASRC), accepted the invitation and engaged in consultation with BOEM. Their concerns related primarily to the amount of new information that could be required of lessees and operators in connection with the new rule, the increased complexity of the rulemaking, and the timing of the rulemaking relative to the ongoing Alaska regional air quality study. BOEM has taken all of the concerns raised by ASRC into consideration and has removed a number of rule provisions, in part in response to some of the comments made by the ASRC and other tribal organizations.

7. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action as defined in E.O. 13211. Therefore, a Statement of Energy Effects is not required.

8. Improving Regulation and Regulatory Review (E.O. 13563)

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

9. Enhancing Coordination of National Efforts in the Arctic (E.O. 13689)

E.O. 13689 recognizes the Arctic has critical long-term strategic, ecological, cultural, and economic value, and it is imperative we continue to protect our national interests in the region, which include national defense; sovereign rights and responsibilities; maritime safety; energy and economic benefits; environmental stewardship; promotion of science and research; and preservation of the rights, freedoms, and uses of the sea as reflected in international law.

E.O. 13689 also recognizes it is vital that Federal agencies work together to enhance coordination on Arctic efforts. Pursuant to this goal, the E.O. establishes an Arctic Executive Steering Committee (Steering Committee), to provide "guidance to executive departments and agencies (agencies) and enhance coordination of Federal Arctic policies across agencies and offices, and, where applicable, with State, local, and Alaska Native Tribal governments and similar Alaska Native organizations, academic and research institutions, and the private and nonprofit sectors." DOI is a member of this Steering Committee.

Consistent with DOI's long-standing commitment to coordinate with other Federal agencies on Arctic matters, BOEM worked with the Steering Committee and other relevant agencies in developing this rule. Within DOI, these agencies included the BSEE, the U.S. Fish and Wildlife Service, the National Park Service, and the Bureau of Land Management. In addition, BOEM consulted extensively with the USEPA and the U.S. Forest Service within the Department of Agriculture.

The E.O. also recognizes "it is in the best interest of the Nation for the Federal Government to maximize transparency and promote collaboration where possible with the State of Alaska, Alaska Native Tribal governments and similar Alaska Native organizations, and local, private-sector, and nonprofit-sector stakeholders." BOEM has complied with this order, as described further in the section K, which is entitled, "Consultation with Tribes and Alaska Native Claims Settlement Act Corporations (E.O. 13175) and Other Authorities," above.

10. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

E.O. 13771 (January 30, 2017) directs federal agencies to reduce the regulatory burden on regulated entities and control regulatory costs. E.O. 13795 directs the DOI to reconsider its proposed rule on air quality compliance. The proposed rule would have changed BOEM's air quality regulatory program (AQRP) to align BOEM's regulatory scheme with various aspects of USEPA's regulations under the CAA. That alignment would have resulted in an AQRP that imposed a significant increase in the regulatory burden on industry. In contrast, this final rule is limited in scope to those provisions mandated by OCSLA and which do not impose additional cost burdens on industry. As a result, there are no incremental compliance costs in this rulemaking and the concerns associated with the high cost of the proposed air quality rule are no longer relevant. This final rule streamlines information collection and provides compliance

clarity to the regulated entities. Therefore, BOEM considers this final rule to be deregulatory.

11. Promoting Energy Independence and Economic Growth (E.O. 13783)

E.O. 13783 section 2 requires agencies to "review all existing regulations, orders, guidance documents, policies, and any other similar agency actions" with the goal of eliminating provisions that impede domestic energy production. Section 2(a) exempts agency actions "that are mandated by law, necessary for the public interest, and consistent with the policy [to remove unnecessary regulatory burdens on domestic energy production while promoting clean air and water within the constraints of current statutes]." BOEM determined in coordination with DOI and OMB that the E.O. 13783 principles should be applied to the proposed rule. Consequently, BOEM is publishing this final rule consistent with OCSLA's statutory mandate to ensure OCS domestic energy activities authorized under OCSLA comply with the NAAQS under the CAA. The final rule promotes the public interest and clean air, while also eliminating many of the proposed rule's unnecessary and premature provisions that may not have withstood judicial review. This is done in an effort to reduce compliance costs on industry and to narrowly tailor the regulatory system to BOEM's specific statutory jurisdiction, pending evaluation of the results of air quality studies.

12. Implementing an America-First Offshore Energy Strategy (E.O. 13795)

E.O. 13795 section 2 states that U.S. policy is "to encourage energy exploration and production, including on the [OCS], in order to maintain the Nation's position as a global energy leader and foster energy security and resilience . . . while ensuring that any such activity is safe and environmentally responsible." Section 8 specifically directs the Secretary to review the proposed rule and "consistent with law, consider whether [it] . . . should be revised or withdrawn." Consequently, BOEM reviewed the proposed rule through the section 2 policy lens

and eliminated or revised many of the provisions in this final rule by striking a balance between OCS energy development and clean air responsibilities consistent with this Administration's policy. This final rule reflects the Secretary's clean air responsibilities mandated under 43 U.S.C. 1334(a)(8). It also, as discussed elsewhere in this preamble, avoids adding requirements that could have been unduly burdensome, that would be premature in light of the evaluation of recent studies, and that were based on an attempt to align with requirements under the CAA in spite of the differences between that statute and section 1334(a)(8).

List of Subjects

Administrative practice and procedure, Air pollutant, Air pollution, Air quality, Arctic, Attainment area, Continental shelf, Compliance, Criteria air pollutants, Development plan, Development and production plan, Environmental protection, Exploration plan, Federal lands, Federal Land Manager, Incorporation by reference, New source review, Non-attainment area, Oil, gas, and sulfur exploration, Oil, gas, and sulfur development, Oil pollution, Oil production, Outer Continental Shelf, Ozone, Penalties, Pipelines, Precursor pollutants, Prevention of significant deterioration, Reporting and recordkeeping requirements, Sulfur.

_____ _____

Casey Hammond
Principal Deputy Assistant Secretary,
Exercising the Authority of the Assistant Secretary,
Land and Minerals Management

Date

For the reasons stated in the preamble, BOEM amends 30 CFR part 550 as follows:

PART 550—OIL AND GAS AND SULFUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 550 continues to read as follows:

Authority: 30 U.S.C. 1751; 31 U.S.C. 9701; 43 U.S.C. 1334.

2. In section 550.105, remove the term and definition of "air pollutant" and add a definition of "criteria air pollutant" to read:

Criteria air pollutant means any air pollutant for which the Environmental Protection Agency (EPA) has established a primary or secondary national ambient air quality standard pursuant to section 109 of the Clean Air Act.

3. In sections 550.105 and 550.302, revise the definitions of attainment area and non-attainment area to replace the term "air pollutant" with the term "criteria air pollutant"

Attainment area means, for any criteria air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator of EPA to be reliable) not to exceed any primary or secondary ambient air quality standards established by EPA.

* * * * *

Non-attainment area means, for any criteria air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator of EPA to be reliable) to exceed any primary or secondary ambient air quality standard established by EPA.

4. In sections 550.105 and 550.302, revise the definition of Best Available Control Technology to replace the term "air pollutant" with the terms "criteria air pollutant and VOC."

5. In section 550.105, add the following definition:

Volatile organic compound (VOC) means any organic compound that is emitted to the atmosphere as a vapor. The unreactive compounds are exempt from the above definition.

6. In sections 550.105, 550.302, and 550.303, remove each reference to "Exploration Plan or Development and Production Plan" and add in its place "Exploration Plan, Development and Production Plan, or Development Operations Coordination Document." In the same sections, remove each reference to "Exploration Plan or a Development and Production Plan" and add in its place "Exploration Plan, Development and Production Plan, or Development Operations Coordination Document".

7. In section 550.218, revise the first sentence of paragraph (a) to read as follows:

(a) *Projected emissions.* Tables showing the projected emissions of criteria air pollutants, volatile organic compounds (VOC), and total suspended particulates (TSP) generated by your proposed exploration activities. * * *

* * * * *

8. In section 550.218, revise paragraph (e) to read as follows:

(e) *Non-exempt drilling units.* A description of how you will comply with § 550.303 when the projected emissions reported under paragraph (a) of this section are greater than the respective emission exemption thresholds (EET) calculated using the formulas in § 550.303(d). When BOEM requires air quality dispersion modeling, you must use the guidelines in Appendix W of 40 CFR part 51 for dispersion modeling with a model approved by the Director. You must also submit the best available meteorological information and data consistent with the model(s) used.

* * *

9. In sections 550.218 and 550.249, remove each reference to “emission exemption amount” and add in its place “emission exemption threshold.”

10. In paragraphs 550.249(a)(2) and 550.283(a)(4), remove each reference to “air pollutant” and add in its place “criteria air pollutant, VOC, or TSP.”

11. Revise the heading of section 550.249 to read as follows:

§ 550.249 What air emission information must accompany the DPP or DOCD?

12. In section 550.249, revise the first sentence of paragraph (a) to read as follows:

(a) *Projected emissions.* Tables showing the projected emissions of criteria air pollutants, volatile organic compounds (VOC), and total suspended particulates (TSP) generated by your proposed development and production activities. * * *

13. In section 550.249, revise paragraph (e) to read as follows:

(e) A description of how you will comply with § 550.303 when the projected emissions reported under paragraph (a) of this section are greater than the respective emission exemption thresholds “EET” calculated using the formulas in § 550.303(d). When BOEM requires air quality dispersion modeling, you must use the guidelines in Appendix W of 40 CFR part 51 for dispersion modeling with a model approved by the Director. You must also submit the best available meteorological information and data consistent with the model(s) used.

14. Amend section 550.302 to remove the term and definition of “air pollutant” and to add the following definitions:

* * * * *

Criteria air pollutant means any air pollutant for which the Environmental Protection Agency (EPA) has established a primary or secondary national ambient air quality standard pursuant to section 109 of the Clean Air Act.

* * * * *

Emission exemption threshold (EET) means the rate of projected emissions, calculated for a criteria air pollutant or VOC or TSP, above which a facility would be subject to the requirements of 550.303(e)-(i) or 550.304(b)-(e).

* * * * *

National Ambient Air Quality Standard (NAAQS) means a national air quality standard for any given criteria air pollutant, established pursuant to section 109 of the Clean Air Act.

* * * * *

15. Remove the heading of section 550.303 and add the heading:

§ 550.303 Facilities described in a new or revised Exploration Plan, Development and Production Plan, or Development Operations Coordination Document.

16. In section 550.303, remove each reference to "Exploration Plans and Development and Production Plans" and add in its place "Exploration Plans, Development and Production Plans, and Development Operations Coordination Documents".

17. Revise paragraph 550.303(d) to read as follows:

(d) *Exemption formulas.* To determine whether a facility described in an initial, modified, supplemental, or revised Exploration Plan, Development and Production Plan, or Development Operations Coordination Document is exempt from further air quality review, the lessee must use the highest annual-total amount of emissions from the facility calculated for each criteria air pollutant, VOC, and TSP listed in § 550.249(a) or § 550.218(a) of this part and compare these emissions to the emission exemption threshold (EET) calculated using the following formulas: $EET = 3400*D^{2/3}$ for carbon monoxide (CO); and $EET = 33.3*D$ for total suspended particulates (TSP), sulfur dioxide (SO_2), nitrogen oxides (NO_X), utilizing NO_2 as the indicator pollutant for

NO_x, and VOC (where EET is the emission exemption threshold expressed in short tons per year, and D is the distance of the proposed facility from the closest onshore area of a State expressed in statute miles). If the amount of these projected emissions is less than or equal to the emission exemption threshold (EET) for the corresponding criteria air pollutant, VOC, and TSP, the facility is exempt from further air quality review required under paragraphs (e) through (i) of this section.

18. Revise paragraph 550.303(e) to read as follows:

(e)(1) *Significance Levels.* For a facility not exempt under paragraph (d) of this section, the lessee must use a BOEM approved air quality model to determine whether projected emissions from the facility result in an onshore ambient air concentration above any SL set forth in the following table:

Table 1: Significance Levels (SLs)

		AVERAGING TIME				
		1 Hour	**3 Hour**	**8 Hour**	**24 Hour**	**Annual**
CRITERIA AIR POLLUTANT	**Sulfur Dioxide**	---	25.0 µg/m^3	---	5.0 µg/m^3	1.0 µg/m^3
	PM_{10}	---	---	---	5.0 µg/m^3	1.0 µg/m^3
	$PM_{2.5}$	---	---	---	1.2 µg/m^3	0.3 µg/m^3
	Nitrogen Dioxide[1]	---	---	---	---	1.0 µg/m^3
	Carbon Monoxide	2.0 mg/m^3	---	0.5 mg/m^3	---	---

[1)] NO_2 is the indicator pollutant for NO_x.

(e)(2) In the event that the emissions of TSP exceed the EET for TSP, the lessee must use a BOEM approved air quality model to determine whether the projected emissions from the facility result in an onshore ambient air concentration above the SL for either PM_{10} or $PM_{2.5}$.

* * * * *

19. Revise paragraph 550.303(f)(1) to read as follows:

* * * * *

(1) The projected emissions of any criteria air pollutant from any facility that result in an onshore ambient air concentration above a SL determined under paragraph (e) of this section for

that criteria air pollutant will be deemed to significantly affect the air quality of the onshore area for that criteria air pollutant.

20. In paragraph 550.303(f)(2), remove reference to “for that air pollutant”; and replace the word “shall” with the word “will.”

21. In paragraphs 550.303(j) and 550.304(f), remove each reference to “exemption amount” and add in its place “emission exemption threshold.”

22. In paragraphs 550.303(g)(1) and 550.303(g)(2), replace the term “air pollutant other than VOC” with the term “criteria air pollutant”

23. In paragraph 550.303(g)(2)(i)(B), replace the term “air pollutant” with the term “criteria air pollutant.”

24. Revise paragraph 550.303(h) to read as follows:

(h) Controls required on temporary facilities. The lessee must apply BACT to reduce projected emissions of any criteria air pollutant or VOC from a temporary facility that significantly affect the air quality of an onshore area of a State.

25. Revise paragraph 550.304(b) to read as follows:

(b) *Exemption formulas.* To determine whether an existing facility is exempt from further air quality review, the lessee must use the highest annual-total amount of emissions from the facility calculated for each criteria air pollutant, VOC, and TSP listed in § 550.249(a) or § 550.218(a) of this part and compare these emissions to the emission exemption threshold (EET) calculated using the following formulas: $EET = 3400*D^{2/3}$ for carbon monoxide (CO); and $EET = 33.3*D$ for total suspended particulates (TSP), sulfur dioxide (SO_2), nitrogen oxides (NO_x), utilizing NO_2 as the indicator pollutant for NO_x and VOC (where EET is the emission exemption threshold expressed in short tons per year, and D is the distance of the proposed facility from the

closest onshore area of a State expressed in statute miles). If the amount of these projected emissions is less than or equal to the emission exemption threshold (EET) for the corresponding criteria air pollutant, VOC, and TSP, the facility is exempt from further air quality review required under paragraphs (c) through (e) of this section.

26. Revise paragraph 550.304(c) to read as follows:

(c) *Significance Levels.* For a facility not exempt under paragraph (b) of this section, the lessee must use a BOEM approved air quality model to determine whether the projected emissions from the facility result in an onshore ambient air concentration above any SL set forth in § 550.303(e). In the event that the emissions of TSP exceed the EET for TSP, the lessee must use a BOEM approved air quality model to determine whether the projected emissions from the facility result in an onshore ambient air concentration above the SL for either PM_{10} or $PM_{2.5}$.

27. Revise paragraph 550.304(d)(1) to read as follows:

(1) The projected emissions of any criteria air pollutant from any facility that result in an onshore ambient air concentration above an SL determined under paragraph (c) of this section for that criteria air pollutant, will be deemed to significantly affect the air quality of the onshore area for that criteria air pollutant.

28. Revise paragraph 550.304(d)(2) to read as follows:

(2) The projected emissions of VOC from any facility, which is not exempt under paragraph (b) of this section, will be deemed to significantly affect the air quality of the onshore area for VOC.

29. Revise paragraph 550.304(e)(1) to read as follows:

(1) The projected emissions of any criteria air pollutant or VOC that significantly affect the air quality of an onshore area must be reduced through the application of BACT.