

**DEPARTMENT OF THE INTERIOR****Geological Survey****30 CFR Part 250****Oil and Gas and Sulphur Operations in the Outer Continental Shelf**

**AGENCY:** U.S. Geological Survey, Department of the Interior.

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a regulatory program to implement Section 5(a)(8) of the Outer Continental Shelf (OCS) Lands Act Amendments of 1978, Pub. L. 95-372 (herein referred to as the "Act"), concerning the regulation of air emissions from oil and gas operations on the OCS. The regulations revise 30 CFR 250.2 and 250.34 and create a new section 30 CFR 250.57.

**DATE:** This rule shall become effective on June 2, 1980.

**ADDRESSES:** A copy of this final rule may be obtained from the following offices of the Geological Survey:

Chief Conservation Division, U.S. Geological Survey, National Center Mail Stop 600, Reston, Virginia 22092.

Conservation Manager—Eastern Region, U.S. Geological Survey, 1725 K Street, NW., Suite 204, Washington, D.C. 20006.

Conservation Manager—Gulf of Mexico OCS Region, U.S. Geological Survey, 338 Imperial Office Building, P.O. Box 7944, Metairie, Louisiana 70010.

Conservation Manager—Pacific OCS Region, U.S. Geological Survey, 1340 West Sixth Street, Room 180, Los Angeles, California 90017.

Conservation Manager—Alaska Region, U.S. Geological Survey, 600 "A" Street, Suite 109, Anchorage, Alaska 99501.

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**SUPPLEMENTARY INFORMATION:****Background**

The Act requires that the Secretary of the Interior prescribe regulations with provisions 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 the Act significantly

affect the air quality of any State (Section 5(a)(8), 43 U.S.C. 1334). By Notice of December 28, 1978, (43 FR 60612) public comments were requested to assist the Department of the Interior in the identification and selection of a regulatory program to control air emissions from activities authorized under the Act which significantly affect onshore air quality. On May 10, 1979, proposed regulations on this subject were published in the Federal Register (44 FR 27449).

**Comments**

Fifty-five sets of comments and recommendations were submitted in response to the invitation contained in the notice of proposed rule. The comments and recommendations varied widely in nature, scope, and content. Several of the commenters included studies and analyses as part of their submission. The comments represented the views of 6 public interest and environmental groups, 20 Federal, State, and local government agencies, and 29 industry and trade organizations.

**Public Hearings**

Oral testimony relating to the proposed regulations was taken at public hearings held in Los Angeles, California on June 7, 1979, New Orleans, Louisiana on June 12, 1979, and Washington, D.C. on June 14, 1979.

**Discussion of Major Issues**

**1. Need for Regulations.** Several commenters asserted that the promulgation of the air quality regulations is premature. They argued that no regulatory action should be taken until the Department makes a formal determination that OCS operations are having or could have significant effects on the air quality of an onshore area of a State.

The Department has rejected this argument. The procedures outlined in the final regulations are to be used to determine whether emissions from an OCS facility significantly affect an onshore area. The regulations are necessary to insure that all concerned are aware of these procedures and are advised as to how the Secretary intends to fulfill the statutory responsibilities related to the protection of onshore air quality. This approach is similar to that followed under other regulatory programs and is fully consistent with the Department's statutory mandate.

A number of commenters asserted that the regulations are excessively stringent and unnecessarily broad and complex. They argued that the regulations would delay and add unnecessary expense to the exploration

for and development of OCS oil and gas resources and characterized the program as a clear case of overregulation that ignores Congressional intent and exceeds the statutory mandate. One commenter remarked that a decision to publish such complex regulations should be coupled with a commitment to establish a training program for industry. The Department believes that the regulations are reasonable, practical, and consistent with the statutory mandate. This preamble contains a detailed discussion of the regulations which explains the necessity and rationale for each regulatory requirement. Air quality considerations are complicated, particularly as they relate to the unique circumstances encountered on the OCS. However, every effort has been made to make the Department's OCS air quality regulations as clear and straightforward as possible.

Although a number of commenters expressed support for the overall regulatory framework and the adoption of significance levels and prevention of significant deterioration (PSD) increments from the Environmental Protection Agency (EPA), others argued that EPA standards and practices were inappropriate in the regulations. The Department has developed a regulatory framework which is similar, in many respects, to the one employed by EPA. The Department decided to follow EPA's program, to the maximum extent possible, because of that agency's air quality expertise. The Department's program differs in some respects, however, because the Department's mandate under the Act is different than EPA's mandate under the Clean Air Act and because offshore conditions differ from those encountered onshore. The Clean Air Act gives EPA the authority to regulate air pollution sources onshore. The Act, on the other hand, authorizes the Department to regulate OCS activities only if the emissions from the activities have significant effects on onshore air quality. Also, all OCS sources are external to the areas whose air quality they may affect, a situation not commonly encountered in EPA's regulatory program. Thus, the Department has used only those aspects of EPA's program that are adaptable to the offshore situation. In doing so, we have fulfilled the Congressional intent that the Department be "guided by the Clean Air Act, in consultation with the Environmental Protection Agency" in devising this air quality program.

One commenter requested that the final regulations explain the relationship of section 25(a)(1) of the Act to the air

regulatory scheme. Section 25(a)(1) provides for the creation of a less burdensome regulatory program in the western Gulf of Mexico. Under regulations governing the submission and approval of exploration plans and development and production plans, (see 44 FR 53886, September 14, 1979) OCS leases in the western Gulf of Mexico will be treated differently from leases in other OCS areas. Environmental Reports, for example, will not be required unless an affected State has an approved coastal zone management plan. If a report is requested, the Director of the U.S. Geological Survey (GS) will allow a lessee to submit only that information the State indicates it needs to make its consistency determination. The different treatment accorded for western Gulf of Mexico leases does not, however, extend to air quality reporting and control requirements. Nothing in the language of the statute or the legislative history suggests that the provisions of Section 25(a)(1) of the Act exempt lessees from the air quality regulatory program. Section 5(a)(8) of the Act requires "compliance . . . to the extent that activities authorized under this Act significantly affect the air quality of any State." A lessee submitting a new or revised plan after June 2, 1980, will be required to submit the information needed to make the findings under § 250.57-1(d)-(1), and to take the necessary measures to control emissions regardless of whether an Environmental Report is required. Likewise, existing facilities in the Gulf of Mexico may be reviewed in the same manner as existing facilities in other parts of the OCS.

Finally, several commenters objected to the regulatory scheme because the lessee, instead of the Department, "controls" the information. These commenters criticized the "passive" role of the Department and asserted that the regulator, not the regulated, should be responsible for collecting and interpreting data and making decisions concerning the applicability of the regulations to OCS operations. We do not believe that this is an accurate characterization of the role of the Department in implementing these regulations. The regulations place initial responsibility for all information gathering on the lessee. However, the Director has clear authority to require supplementary information and to take whatever action is necessary to validate the information. Additionally, the GS will review and evaluate all information submitted by the lessee and will make

all final decisions concerning the necessity for controls and offsets.

2. *Need for Regulatory Analysis.* Several commenters argued that implementation of the regulations represents a significant regulatory action and, pursuant to Executive Order 12044, requires preparation of a regulatory analysis. Prior to the publication of the proposed regulations, the Department prepared a Negative Declaration and Regulatory Analysis. That document examined the criteria for determining whether the proposed regulations constituted a significant regulatory action. The Department found that: (1) Failure to promulgate rules could have a major regionwide impact on state and local governments because a failure to adequately control air emissions could affect the eligibility of state and local governments to receive Federal financial assistance. The Clean Air Act requires that state and local governments achieve national ambient air quality standards by specific dates in order to maintain eligibility for specified Federal grants; (2) The proposed regulations would impose new recordkeeping and reporting requirements on the oil and gas industry. However, the impact of these requirements was diminished for certain lessees operating in certain areas because they had already voluntarily compiled air quality information for proposed activities which corresponded to that required under the proposed regulations; (3) The proposed regulations would not involve a potential conflict between environmental and other considerations; (4) Although the proposed regulations would have a modest impact on the budget and personnel of the GS, they would not have a major impact on other programs of the Department, other Federal agencies, or the allocation of Federal funds; and (5) Based on an analysis of the projected cost to industry of complying with the proposed regulations, they were not estimated to have an annual economic consequence of \$100 million or more. Based on these conclusions, the Department determined that the implementation of the regulations, as proposed, was a significant action but, because the potential cost of compliance was under \$100 million, the preparation of a regulatory analysis was not required.

A review of that determination, in light of the comments received, failed to show any basis for changing the determination. In fact, the adoption of emission exemption rate formulas will reduce the overall cost of compliance by increasing the number of lessees exempt

from regulatory review under the program and, thereby, decreasing the number of lessees who will have to model emissions to determine whether they produce onshore ambient air concentrations above the significant levels. We therefore maintain our finding that a regulatory analysis is not called for by the criteria set out in Executive Order 12044.

3. *Exemptions.* The proposed regulations exempted from further regulatory review OCS facilities with less than 100 tons per year uncontrolled emissions of each pollutant or less than 50 tons per year of controlled emissions of each pollutant. These exemption levels were applied to all facilities regardless of their distance from shore. In the preamble to the proposed regulations, the Department cited an analysis by EPA which indicated that emissions of less than 100 tons per year would not cause onshore ambient concentrations of air pollutants that exceed the 24-hour, 3-hour, and 1-hour EPA significance levels. The Department also noted that although a distance exemption could be established, data were insufficient to justify such an exemption in the proposed rule.

Several commenters favored the development of an exemption formula which incorporates a distance consideration. The American Petroleum Institute (API) derived an emission rate-distance formula which received wide industry backing. API began their analysis by using EPA's emission exemption rate of 100 tons per year for a source locating in a nonattainment area. Based on assumed and observed meteorological data, API then calculated the maximum ground level ambient air concentration of emissions from the source and substituted this concentration for the EPA significance levels. Then API calculated the emission rates and offshore source distances that would produce this concentration at the shoreline. The API formula is  $E=80D$ , where E is emissions of air pollutants expressed in tons per year and D is distance from an onshore area expressed in miles. Thus, facilities with emissions of less than 240 tons per year at 3 miles, 800 tons per year at 10 miles, and 4,000 tons per year at 50 miles would be exempt.

Most of those who favored the adoption of the API formula said that if the Department decides to retain exemptions based on an emission rate alone, the distinction drawn between controlled and uncontrolled emissions should be dropped and the Clean Air Act exemption levels of 100 tons per year for facilities impacting

nonattainment areas and 250 tons per year for facilities impacting attainment areas should be adopted. Other commenters recommended exempting facilities more than 8 miles from shore, and there was a scattering of support for more lenient emission rate exemptions (e.g. one commenter recommended 750 tons per year, and another 400 tons per year at 8 miles.)

Many commenters argued that the proposed exemption levels were not stringent enough and that, when this fact is coupled with other alleged deficiencies in the proposed regulatory scheme (i.e. the recognition of atmospheric dilution, the adoption of significance levels, and the absence of controls for cumulative effects), the result is insufficient protection for the air quality of areas with more stringent State standards. They recommended the adoption of exemption levels equivalent to those allowed by the onshore jurisdiction potentially affected by emissions from offshore facilities (e.g. 25 pounds per hour, or 250 pounds per day for facilities located adjacent to many jurisdictions in California).

Emission rate-distance formulas, developed by the GS, have been incorporated into the final regulations. However, an approach different from that recommended by API has been adopted. The GS adopted an approach suggested by EPA which is designed to insure that exempt OCS facilities will not produce onshore ambient air concentrations above the adopted significance levels. Because of the decision to rely on significance levels to make the "significantly affected" determination (except for volatile organic compounds (VOC)—see "Volatile Organic Compounds"), the distance-emission rate approach designed by GS is preferable to that suggested by API.

In developing the exemption formulas, the GS assumed source characteristics and meteorological conditions similar to those encountered on the OCS. Working with the adopted significance levels, the GS then calculated, for each pollutant and averaging time, the emission rates that would produce, from OCS sources at varying distances from shore, onshore ambient air concentrations equivalent to the significance levels. Three pollutants (total suspended particulates (TSP), sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>)) produced approximately the same results showing that a 100 tons per year emission rate for a facility located three statute miles from shore would not exceed significance levels onshore. This emission rate is the exemption level used by EPA for new sources locating in

nonattainment areas onshore. Because of the higher allowed concentration for carbon monoxide, the GS developed a separate formula for carbon monoxide (CO).

The Department's exemption formulas are:  $E=3400D^{2/3}$  for CO and  $E=33.3D$  for TSP, SO<sub>2</sub>, NO<sub>x</sub>, and VOC (see "Volatile Organic Compounds"), where E is the emission exemption amount expressed in tons per year and D is distance from an onshore area expressed in statute miles. Under these formulas, facilities with emissions of SO<sub>2</sub>, for example, of 100 tons or less at 3 miles 333 tons or less at 10 miles, and 1665 tons or less at 50 miles would be exempt from further air quality review.

The adopted exemption formulas are more conservative than that developed by API because they were based on different assumptions concerning the effective release height and meteorological conditions. It is important to remember that an exemption level serves only as a screen to eliminate from review those sources which, when considered alone, will have no significant effect on the air quality of any onshore area.

In response to the comments concerning the ability of the proposed regulatory scheme to protect more stringent State standards, the Department is publishing, in a separate Notice, proposed regulations which would establish a more stringent program for application to those OCS facilities located off the coast of California.

4. *Modeling and Atmospheric Dilution.* The proposed regulations required a lessee to model emissions other than volatile organic compounds (hereinafter called "non-VOC emissions") from a non-exempt facility to determine whether they would produce onshore ambient air concentrations above the significance levels. The lessee was required to use a model approved by EPA.

Several commenters pointed out that there is no overwater model which EPA has "approved for use." They argued that the EPA approved models, especially when they are applied to overwater conditions, have unacceptably high margins of error—being overly conservative or not conservative enough depending on the respondent. They recommended dropping the EPA approval provision to allow the use of new models which better predict overwater plume behavior and more accurately describe offshore conditions. One commenter expressed opposition to any provision which would mandate the use of a given model, and another opposed the use of

models altogether. The latter commenter suggested conducting actual monitoring to determine whether emissions from an OCS facility have a significant onshore effect.

Some commenters recommended that the Department should develop a list of acceptable models for offshore application, and one commenter suggested that the acceptable model or models contain guidelines on the factors to be considered in using the model. Another commenter objected to the use of models for predicting long term impacts. This respondent argued that models are capable of predicting short term impacts but are not suited for measurement of long term impacts and recommended the development of a model validation process. A number of commenters believed that the model approval process should be expanded to include a role for States.

Many commenters also criticized the establishment of an exemption formula which incorporates a distance consideration and opposed any regulatory provision that allows the dilution of air pollutants during atmospheric transport to be considered in determining whether emissions from an offshore facility significantly affect an onshore area. They argued that such an approach is analogous to the use of tall stacks as a control measure—a technique designed to lower ground-level air concentrations which has not been allowed by some courts.

The Act requires that the Department devise a regulatory scheme which requires the control of emissions from OCS facilities *only* when these emissions would have significant effects on the air quality of an onshore area. It is the position of the Department that this compels development of a method of calculating the onshore concentration of an offshore emission. Modeling is a common and accepted method of predicting the impact of emissions on ambient air concentrations. EPA, for example, uses the results of such models for determining the applicability of certain new source requirements, such as offsets. Thus, the agency with primary responsibility for protecting the Nation's air quality recognizes the ability of the atmosphere to dilute emissions during transport, as long as excessive stack heights and other illegal dispersion techniques are not used. The Department has adopted this analysis.

The Department has retained the modeling requirement established in the proposed regulations but, in recognition of the comments received, has initiated a step-by-step process which will lead to the development of an acceptable overwater model or models. At the

present time, GS is reviewing the list of EPA approved models and will select one or two which lessees must use in the air quality program. During the next year, these models will be adapted for overwater applications. Also, during the next two to three years, the Bureau of Land Management (BLM), Department of the Interior, will conduct actual field tests off the coast of southern California to develop diffusion coefficients for overwater conditions. These diffusion coefficients will be used to validate models the Director has approved for use. Finally, the GS will establish a mechanism, similar to the one used by EPA, under which interested outside parties can recommend new models or adaptations to existing models to the GS. Each recommendation will be subject to public review and comment before being added to the list of approved models.

It is the Department's position that the benefits to be derived from requiring the use of an approved model or models outweigh the loss of "flexibility" advocated by some commenters. Despite the deficiencies in existing EPA models, their use, in the short term, is preferable to the controversies that would arise if all the parties involved were allowed to pick different models to predict and analyze the onshore air quality impacts of offshore operations.

It should be noted that EPA provides information on its approved models explaining how they work and how to use them. The Survey plans to provide similar information on the models which the Director approves for use. Finally, the Department disagrees with those who contend that, although the EPA models can estimate short term impacts, they cannot estimate long term (i.e. annual) impacts. Several EPA models calculate one hour averages of relative concentrations and sum these to estimate the annual average impact of the source. Thus the long term impacts are based on the cumulative effect of short term impacts.

The Department disagrees with comments concerning the impact of atmospheric dilution in its regulatory program. Any effort to equate atmospheric dilution of offshore emissions to using tall stacks is faulty for three reasons. First, the use of models to predict onshore impacts of offshore emissions does not constitute, as the commenters suggest, a "form of emission regulation." Instead, the models are used to answer the threshold question—*is there a significant impact on the air quality of an onshore area? If the models predict an impact in excess of that level which is defined as*

*significant, then emission limitations and, in some instances, offsets are required. Second, the outcome in the "tall stack" cases cited by commenters was based on the court's interpretation of specific language in Section 110(a)(2)(b) of the Clean Air Act, as amended (42 U.S.C. 1857c-5(a) (2)(B)). No similar language appears in the OCS Lands Act Amendments of 1978. Third, it is clear that Congress intended that the Department should consider distance in determining whether emissions from an OCS facility should be controlled:*

*It is expected that some activities may not have significant effects because of distance from shore or meteorological conditions that blow the pollution out to sea. If an OCS activity or facility is determined to have no such significant effect, when, for example, it is located many miles from the coast, the requirement of the regulations under section 5(a)(8) would not apply. (see House Conf. Rep. No. 95-1474, p. 88).*

This statement reflects the understanding that emissions further from shore are less likely to cause increases in the onshore ambient air concentrations than emissions released closer to the onshore area. Thus, a regulatory program which considers atmospheric dilution is consistent with this mandate.

**5. Significance Levels.** The proposed regulations adopted the significance levels established by EPA to control sources locating in a "clean" area but which would impact a nonattainment area. (see "Emission Offset Interpretive Ruling", 44 FR 3283 January 16, 1979). Non-VOC emissions from a non-exempt OCS facility were compared to these EPA significance levels to determine whether the emissions would significantly affect the air quality of an onshore area. These significance levels are approximately two percent of the national ambient air quality standards and correspond closely to the Class I increments under the Prevention of Significant Deterioration (PSD) program.

Several commenters argued that the proposed significance levels were too stringent and they recommended the adoption of levels that are 10 percent of the national ambient air quality standards. They maintained that this level would account for the natural variability of atmospheric background concentrations of the pollutants of concern and the limitations inherent in equipment and techniques which measure ambient pollutant concentrations. Other commenters, noting the relationship between the significance levels and the Class I increments, recommended basing the significance levels on the Class II

increments, which are 25% of the national ambient air quality standards. They pointed out that Class II increments apply to the areas where most people live and would be more reasonable for determining a significant effect than the Class I increments.

Other commenters argued that the significance levels are not stringent enough and that an increase in air contaminants of up to two percent of the national ambient air quality standards is too much for nonattainment areas which are struggling to meet the standards. They recommended reducing the exemption level (see "Exemptions"), eliminating the modeling requirement (see "Modeling") and the significance levels, and requiring all emissions from non-exempt facilities to be fully reduced or offset.

It is the position of the Department that the use of EPA's significance levels in these air quality regulations is prudent. To fulfill the requirements of the Act, a regulatory scheme must be designed so that offshore emissions are converted into onshore ambient air concentrations which are then measured against a criterion to determine whether the onshore air quality is sufficiently affected to warrant regulation of the offshore source. EPA encounters an analogous situation where emissions from new sources locating in "clean" areas may adversely affect a nonattainment area. To address this situation EPA established a set of significance levels and stipulated that if the emissions from the new source locating in the "clean" area would cause ambient air concentrations in excess of these levels in the actual area of nonattainment, mitigation measures are necessary. Because the onshore situation for which the EPA significance levels were designed is similar to the offshore situation, the levels have been incorporated into this regulatory program. The levels are stringent enough to assure that onshore effects from offshore operations will be inconsequential but are not overly burdensome to operators on the OCS.

**6. Volatile Organic Compounds (VOCs).** Under the proposed regulations, a "36-hour travel time" criterion was used to determine whether emissions of VOCs (i.e. compounds which react with other pollutants in the atmosphere to form ozone) from a non-exempt facility significantly affect the air quality of a State. The "36-hour travel time" criterion, adopted from EPA, was selected because EPA informed the Department that acceptable reactive models for calculating ozone concentrations resulting from VOC

emissions from individual sources do not exist. EPA's rationale for this criterion was that most reactions leading to the formation of ozone occur during this 36-hour timeframe.

In the preamble to the proposed regulations, the Department noted that EPA was reevaluating the "36-hour travel time" criterion and might change it after the department published its proposed or final regulations.

The Department indicated that it would evaluate any new EPA approach for inclusion in the air quality regulations. On September 5, 1979, EPA withdrew the "36-hour travel time" criterion and proposed a requirement that sources locating in attainment or unclassifiable areas (the location of all OCS sources) monitor for one year (or for a shorter period specified by EPA) to determine whether there is an ozone violation at the site. If at least one ozone violation occurs during the monitoring period, the source generally would be subject to all EPA regulations which apply to sources locating in nonattainment areas. If no onsite violation occurred, the source would be subject to all EPA regulations which apply to sources locating in attainment areas.

Commenters on the proposed regulations gave very little support for the retention of the "36-hour travel time" criterion. Many commenters claimed that the criterion had no scientific basis and that the regulatory requirements were difficult to understand and apply. Alternative recommended approaches included adopting any future EPA approach, treating VOCs like the other criteria pollutants, or requiring control of all non-exempt VOC sources.

The Department has dropped the "36-hour travel time" criterion and has decided against following EPA's new approach to VOC emission control. An approach has been adopted which will require control of all facilities not exempt for VOC. The Department will treat offshore VOC emissions much like EPA treats them onshore. That is to say, the exemption level of 100 tons per year at three miles will apply. Sources at distances of more than three miles from shore will be exempt in accordance with the emission exemption amount determined by using the formula  $E = 33.3D$  (see Exemption). All VOC emissions which are not exempted will be controlled.

The decision not to adopt EPA's new approach was based on the belief that onsite ambient air monitoring would pose unacceptable technologic and economic problems. It is unclear how sensitive monitoring equipment would react to the marine environment, and the

placement of a monitoring buoy or tower on the OCS does not appear to be worth the cost, compared to the regulatory approach adopted. The decision not to treat VOCs like the other criteria pollutants was based on the absence of an acceptable reactive model. Should EPA approve a reactive model, the Department will reevaluate the regulations to determine the feasibility of treating VOCs as other criteria pollutants.

**7. Best Available Control Technology (BACT).** Under the proposed regulations, any lessee proposing a facility whose non-VOC air pollutants would significantly affect the air quality of a nonattainment area would have been required to take any measures necessary to reduce or offset the emissions from the facility so that the pollutant concentrations would not affect the nonattainment area. In determining the appropriate level of control for facilities with non-VOC emissions that significantly affect the air quality of an attainment or unclassifiable area, the lessee would follow a two-step approach.

First, the lessee would have identified BACT in the exploration plan or development and production plan. Next, assuming the application of BACT, the lessee would have modeled emissions of SO<sub>2</sub> and TSP to determine whether they would have produced ambient air concentrations in the attainment or unclassifiable area above the maximum allowable increments prescribed in the proposed regulations. If concentrations exceeded the maximum allowable increments, the lessee, in addition to applying BACT, would have been required to take whatever additional measures were necessary to reduce or offset the emissions down to a level at which the maximum allowable increments would not have been exceeded. The same general approach would have been followed for a facility with VOC emissions which were within 36 hours travel time of a nonattainment, attainment, or unclassifiable area. Finally, when modeling indicated that emissions from an existing or temporary facility would have significantly affected any nonattainment, attainment, or unclassifiable area of a State, the lessee would have been required to install BACT.

Many commenters complained that the imposition of the BACT requirement will impede the installation of the most cost effective technologies. They like the approach that would be followed when emissions significantly affect a nonattainment area (where some level of control less than BACT might be

adequate) and complained that it is excessive to require a more stringent level of control when the same emissions significantly affect an attainment or unclassifiable area. They recommended deleting the BACT requirement and allowing the lessee to use a combination of controls and offsets to achieve the necessary reductions.

Other commenters pointed to the discrepancy between the level of control required for emissions significantly affecting a nonattainment area and those significantly affecting an attainment or unclassifiable area, and recommended modifying the regulations to more closely correspond with the level of control required by EPA in nonattainment areas (i.e. EPA's lowest achievable emission rate (LAER) standard). They did, however, support the use of BACT to control emissions significantly affecting attainment or unclassifiable areas.

The Department has decided to adopt an approach which more closely parallels the one used by EPA to control emissions which significantly affect a nonattainment area. The Department believes that it is important to require the installation of control equipment on OCS sources affecting the air quality of nonattainment areas. However, the Department has rejected the recommendation that EPA's standard of LAER be imposed on sources significantly affecting a nonattainment area. The LAER standard, unlike the BACT standard, gives no consideration to economic, environmental, or technological factors and thus conflicts with the best available and safest technologies standard contained in Section 21(b) of the Act. For this reason, the Department will require the use of BACT to control emissions which significantly affect a nonattainment area. In addition to applying BACT, a lessee of a facility which significantly affects a nonattainment area will also be required to install additional control equipment, obtain offsets, in order to fully reduce the emissions from the facility. For example, assume that a facility is found to significantly affect a nonattainment area, and that the total emissions of a particular air pollutant which must be fully reduced are 500 tons per year. Under the final regulations the lessee first must apply BACT. Assume that the installation of BACT reduces the emission of the pollutant down to 200 tons per year. In this instance, the lessee would then be required to install additional control equipment or obtain offsets (or a combination of the two) to fully reduce or offset the remaining

emissions attributable to the facility by 200 tons.

The Department has also retained the requirement that BACT be applied when emissions would significantly affect an attainment area and when emissions from a temporary facility would significantly affect a nonattainment, attainment, or unclassified area. Additionally, the installation of BACT may be required, in some instances, for existing facilities.

8. *Prevention of Significant Deterioration (PSD)*. The proposed regulations required lessees to control emissions from facilities which significantly affect the air quality of onshore areas where the air quality is better than the primary or secondary ambient air quality standards.

A number of commenters argued that the Secretary does not have the authority, under Section 5(a)(8) of the Act, to include PSD requirements in the regulations. They asserted that the statutory language, which mandates "compliance with the national ambient air quality standards," limits the Department's regulatory authority to those onshore situations where the primary and secondary ambient air quality standards, established by the Clean Air Act, are being violated. They also asserted that the regulatory program established for nonattainment areas is totally separate and independent of the PSD regulatory program and that by using the term "national ambient air quality standards" Congress was referring only to the nonattainment program. Finally, some commenters pointed out that the offshore operations, unlike land based operations, usually are confined to the location where the oil or gas are discovered and cannot be relocated.

Other commenters, however, supported the imposition of controls on OCS facilities which significantly affect attainment or unclassifiable areas. They argued that the legislative history clearly indicates that the Department's regulations must insure that OCS sources will not have an adverse effect upon the air quality or attainment areas. One commenter pointed out that the PSD increments are federally-established and nationally applicable standards for attainment areas and operate in much the same way as the primary and secondary standards operate for nonattainment areas. Further, they argued that the PSD program, when incorporated into the State Implementation Plan, becomes a more stringent State program which, according to the Conference Report, must not be adversely affected by the offshore drilling program. Another

commenter agreed that the PSD program should be included in the final regulations, but complained that the regulatory scheme as proposed is not sufficiently stringent. The commenter suggested that all OCS facilities should be required to install LAER whether or not the facility would significantly affect an attainment or nonattainment area. This commenter also asserted that in order to prevent the significant deterioration of onshore air quality, it would be necessary for the Department to require, in all cases, the modeling of cumulative impacts.

Also, one commenter believed that the proposed rules failed to recognize that some of the allowable increment may have been consumed by other new sources which have previously been located in an area. This commenter also argued that the OCS facility should not be allowed to consume the entire PSD increment because the clean air area would then be put at the same economic disadvantage as a nonattainment area when attempting to site new sources. The commenter recommended that the regulations should limit the offshore facilities to a certain percentage of the annual and short term increment (25 percent and 75 percent, respectively). Finally, one commenter suggested that the decision on the PSD requirements be delayed until the D.C. Court of Appeals issued its final ruling in *Alabama Power Co. v. Costle*.

After carefully considering the arguments presented by the many commenters, the Department has decided that it is legally authorized to retain the provisions which require compliance with standards established by EPA to prevent the significant deterioration of onshore air quality in attainment areas.

The Department believes that commenters are mistaken in their argument that, because of the statutory reference to "national ambient air quality standards," the authority of the Secretary is limited to control of OCS emissions affecting the air quality of nonattainment areas. We believe that Congress used the term "national ambient air quality standards pursuant to the Clean Air Act" in a broad sense to mean that the Secretary should promulgate regulations which insure the protection of air quality in attainment as well as nonattainment areas from degradation resulting from emissions from OCS operations. This interpretation is entirely consistent with the intent of Congress as expressed in the legislative history. Statements made on the House floor during the debate over the air quality provisions of the Act

clearly demonstrate that Congress intended that all applicable aspects of the air quality regulatory program established under the Clean Air Act be extended to the program established under the Act (*see* 1978 Cong. Rec. H. 415-416, January 31, 1978). That the provisions of Part C of the Clean Air Act are "applicable" is underscored by the debates which occurred among the conferees during Conference Committee meetings. The point was made emphatically that if emissions from offshore operations are not regulated to the same extent as emissions from onshore operations, then onshore growth will be slowed in favor of offshore development (*see* Transcript of Conference Committee on OCS Lands Act Amendments, June 19, 1978). No distinction was made between attainment and nonattainment areas, strongly suggesting that Congress had no intention of creating a special exemption for offshore operations significantly affecting the air quality of an attainment area. Indeed, the legislative history indicates that once it is determined that offshore emissions significantly affect the air quality onshore areas, these emissions are to be regulated regardless of attainment status.

The commenter who argued that the regulations fail to recognize that some of the allowable increases may have already been consumed is mistaken. The regulations clearly indicate that the "maximum allowable increases" for SO<sub>2</sub> and TSP are ceilings which cannot be exceeded within the applicable area. To calculate the acceptable emission level, a lessee must combine the ambient air concentrations resulting from the projected emissions of TSP and SO<sub>2</sub> from the proposed OCS facility with those emissions of TSP and SO<sub>2</sub> from other onshore and offshore sources which contribute to the consumption of the maximum allowable increases.

The Department has rejected the suggestion that a lessee be limited to a percentage of the maximum allowable increases. Since EPA has not established this requirement for onshore sources, the Department has decided not to impose such a requirement on offshore operations. Finally, the D.C. Court of Appeals issued its final ruling in *Alabama Power v. Costle* on December 14, 1979. These final regulations contain no provisions or requirements which conflict with the ruling in that case.

9. *Offsets*. Under the proposed regulations, the lessees were allowed to use offsets instead of controls to reduce the emissions significantly affecting an

onshore nonattainment area. In each instance, the lessee would be given a choice between the use of controls or offsets, or a combination of the two.

Several commenters questioned the Department's authority to require emission offsets from onshore facilities since these facilities are outside the Department's jurisdiction under the Act. Other commenters, who supported giving the lessees the choice of controlling or offsetting emissions, argued that the amount of offset required should be only that necessary to reduce the emissions to that level which would prevent violations of the national ambient air quality standards. They also argued that offsets should never be necessary where only an attainment area is affected. Finally, some commenters argued that the Department should require greater than one-to-one (1:1) offsets when emissions significantly affect nonattainment areas.

The Department has retained offset provisions in its final regulations. The offset requirement is discretionary; no absolute requirement for onshore offsets exists in the final regulations. Instead, lessees are given the choice, after the application of BACT (see "Best Available Control Technology"), of installing additional controls or obtaining onshore or offshore offsets.

It is the position of the Department that it would be unwise to limit the use of offsets as the commenters recommended. The decision to require full reduction of emissions which affect the air quality of nonattainment areas (through the application of BACT and whatever additional controls or offsets are necessary) is consistent with EPA's regulatory program. The provision regarding the use of offsets to prevent a violation of the PSD increment is consistent with EPA's program and is reasonable because it provides lessees with an alternative to installing more control equipment.

Finally, the Department has rejected the recommendation that the offset requirement for emissions significantly affecting a nonattainment area should be greater than 1:1. The Department believes that such a requirement would conflict with its legislative mandate. The Department is limited to preventing significant onshore effects and cannot impose a level of control which would leave the air cleaner, in effect, than it would have been if the OCS facility had never located offshore.

**10. Temporary Facilities.** The proposed regulations contained a definition of "temporary activities" which indicated that construction and drilling activities that occur in one location for less than three years would

be considered temporary. The proposed rule required a lessee to apply BACT to temporary activities which significantly affect the air quality of any state.

Several commenters supported this approach. Others agreed with the BACT requirement but recommended shortening the timeframe provided in the definition of "temporary activities" from three years to one year. One respondent noted that EPA uses a two year exemption period onshore and suggested that two years is also appropriate offshore.

Many other commenters argued for a total exemption of all temporary activities, including all mobile drilling equipment and pipeline and platform construction activities, from the regulatory requirements. They asserted that extensive experience has shown that temporary facilities have no adverse onshore air quality impacts. They argued that the cost of regulating temporary activities is far greater than the benefits and reiterated that onshore temporary activities are exempt under EPA's regulations. Finally, several commenters took the position that temporary facilities, if regulated at all, should only be regulated if they affect nonattainment areas.

The Department has decided to retain the approach to the regulation of temporary facilities which appeared in the proposed regulations. First, the Act does not distinguish between temporary and permanent facilities; it directs the Secretary to control *all* activities authorized under the Act that would have significant effects on onshore air quality. In fact, Section 11(c)(1) of the Act specifically directs the Secretary to insure that air quality impacts from exploratory activities do not have adverse effects on a State's air quality. Second, the information available to the Department indicates that substantial emissions (in excess of 100 tons per year) may be associated with temporary drilling activities.

Finally, application of the BACT requirement to temporary facilities is consistent with EPA practices in that temporary activities are exempt from other regulatory requirements but, nevertheless, must install BACT. The Department's approach is different, however, from EPA's because OCS lessees will be required to install BACT *only* if their temporary activities cause significant onshore effects. Only the BACT level of control is required for temporary facilities, and not more stringent controls or offsets, because of the limited time that these activities will emit pollutants and the difficulties and inequities that would be involved in obtaining offsets for temporary facilities.

The Department also intends to retain a definition of "temporary facility" which includes exploration and development drilling activities which are conducted in one location for less than three years. The definition also encompasses construction activities. The decision to classify construction activities as temporary was adopted from EPA's regulations. The three year time frame is based on the GS's experience with the time normally associated with exploration or development drilling activities.

**11. Existing Facilities.** Under the proposed regulations, an activity which had commenced operations prior to the effective date of the final regulations was subject to control if an affected State could demonstrate, and subsequent analyses would affirm, that emissions from the facility were significantly affecting the air quality of an onshore area. The criteria used to make the necessary determinations were the same as those applied to new or modified facilities, but the maximum level of control was different. Existing facilities with emissions which significantly affect onshore areas were required only to apply BACT.

Many commenters argued that existing facilities should be exempt from any regulatory requirements related to air emissions. They argued that Congress did not intend to regulate emissions from existing facilities, that retrofitting existing facilities is very difficult and expensive, and that existing facilities are not known to have any detectable impact on onshore air quality.

The Department has retained the regulatory requirements of the proposed rules which are applicable to existing facilities. There is no evidence to suggest that Congress intended to exempt existing facilities from the regulatory program. Section 5(a)(8) of the Act draws no distinction between existing and proposed facilities. Indeed, section 5(a) of the Act specifically states that rules and regulations promulgated under the Act shall apply as of their effective date, to all operations conducted under a lease issued or maintained under the provisions of the Act. The House Conference Report explains this language by stating that regulations are to be applicable to any lease in effect at the date of promulgation, as well as to any lease to be let in the future (see House Conf. Rep. No. 95-1474 p. 82).

The Department believes that the approach adopted gives adequate consideration to the problems associated with retrofitting existing facilities, particularly since the

application of BACT takes into account economic factors.

12. *Cumulative Effects.* The proposed regulations contained no specific provisions addressing the possible cumulative effects of sources locating in close proximity to each other. Numerous commenters argued that the final regulations must address more adequately the problem of cumulative effects. The Department's analysis of technical reports submitted to substantiate both sides on this issue convinced us that, in certain infrequent instances, it is possible for emissions from OCS sources to interact in such a way as to increase notably onshore ambient air concentrations of pollutants. Spacing of facilities is such, however, that it would be unusual for this to occur. However, to insure that cumulative effects are recognized and, if necessary, regulated, a provision has been added to the final regulations which gives the Director the authority to require a lessee to use models which demonstrate the effect on onshore air quality of emissions from a proposed OCS facility in combination with emissions from other OCS facilities in the area. Thus, the Director can require the lessee to use multi-source models to provide information concerning cumulative effects.

Additionally, a section has been added which provides that if a State demonstrates to the Director that emissions from an otherwise exempt facility will, either individually or in combination with other OCS emissions, significantly affect the air quality of an onshore area, or the Director believes that an otherwise exempt facility may cause significant air quality effects onshore, the Director may require the lessee to submit additional information. This provision was added to address the situation in which a State or the Director believes that an OCS facility is having significant impacts on the air quality of an onshore area even though the emissions from the facility are below the exemption level. This might occur if the emissions from the facility are acting in combination with emissions from a nearby OCS facility to cause cumulative impacts. It is the position of the Department that the incorporation of these provisions insures that cumulative impacts of OCS facilities on the air quality of onshore areas will be identified and effectively controlled.

#### Section-by-Section Discussion

##### 1. Section 250.2 Definitions

*Attainment areas.*— One commenter urged that the definition of "attainment area" be rephrased to make it absolutely

clear that an area can be "in attainment" for one pollutant and "in nonattainment" for another. The definition that appeared in the proposed regulations and that has been adopted in the final regulations is the same as EPA's definition. Retention of this definition is important because the final regulations incorporate most of EPA's PSD program and the classification system employed by the two agencies must be consistent. In any case, the definition is sufficiently clear to indicate that an area may be in attainment status for one air pollutant and in nonattainment status for another air pollutant.

*Best Available Control Technology (BACT).*—Several commenters raised objections to the definition of "best available control technology". One respondent urged the Department to adopt, word for word, EPA's definition of BACT. Another argued that the definition of BACT should not encompass production processes. One commenter argued that the BACT definition should be modified to recognize the paramount importance of safety and economic factors and space and weight limitations on OCS facilities. This person recommended allowing BACT certification of individual rigs and other portable equipment. Finally, one respondent suggested that lessees should be required to identify and justify the technology chosen only if the GS has specifically identified BACT equipment which the lessee does not propose to use.

The Department has decided to modify its definition of BACT to more closely parallel EPA's definition. The definition in the proposed regulations gave the mistaken impression that methods, such as offsets, which do not result in an actual decrease in emissions could be employed to satisfy the BACT requirement. This is not the case and language has been added to make this clear. The BACT determination process was chosen because it gives recognition to energy, environmental, and economic impacts and other costs. The Department recognizes the space and weight limitations on OCS facilities and will consider these and other factors in the BACT determination process. The Department also believes that it is appropriate, particularly in the initial stages, for lessees to identify BACT. As time goes on, certain technologies, methods, systems, and techniques will be recognized as BACT, and the burden of identifying BACT will be reduced.

In developing these regulations, the Department must comply with the provisions of Section 21(b) of the Act

which requires, "on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technologies which the Secretary determines to be economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies." Control equipment installed to satisfy the BACT requirement will be deemed to satisfy the Department's best available and safest technology requirement as well.

*Commence, Facilities and Source.*—The proposed regulations contained the terms "activities", "facilities", "sources", and "commenced", but none of these terms was defined. The absence of definitions for these terms, and the way they were used throughout the proposed regulations, confused reviewers. A number of commenters suggested that definitions of these terms be included in the final regulations. Several felt that the term "facilities" should be substituted for the word "activities". Others suggested that "activity" should be defined as broadly as possible to avoid situations where a number of individual activities in close proximity to each other, which in aggregate may have a significant onshore impact, are exempt from the regulatory requirement. One commenter believed that the term "activity" should be defined to include all emissions at an individual platform and should include emissions from ships and barges associated with the platform. Several commenters suggested that "facility" be defined as all emission points on an individual platform and "source" be defined as each specific piece of equipment that results in emissions. Another recommended that "OCS activity" and "facility" both be defined as "an installation including all platforms joined above water."

In response to these comments the term "facility" has been substituted for the term "activities" and definitions of the terms "facility" and "source" have been incorporated into the regulations. A platform and all equipment directly associated with a platform will be considered to be one facility. Each emission point on the facility is a source.

Multiple installations or devices may be considered part of a single facility if they are related directly to the production of oil or gas from a single site. Emissions from an offshore storage and treatment unit are to be treated as if

from a source that is part of the facility. Also, vessels used to transfer production away from a facility on the OCS shall be considered part of the facility for the entire period of time that the vessel is moored or otherwise physically attached to the facility. Thus, for purposes of calculating the total emissions, all emissions from such a vessel must be treated as emissions from a source on the facility during that period in which the vessel is physically attached to the facility. Sources on support vessels other than vessels used to transfer production from a facility will not be considered part of the facility.

The term "commenced" has been deleted from the regulations and a definition of "existing facility" has been added to establish a more precise criterion that the GS will apply to determine whether a facility is regulated by § 250.57-1 or § 250.57-2.

**Onshore Area of a State.**—One commenter suggested that the definition of "onshore area of a State" be extended to the three mile territorial limit of the State rather than landward of the mean high water mark. According to the commenter this is necessary because air pollutants can be deposited on surface waters.

The Department has not made this change because it would conflict with the intent of Congress. The primary concern under section 5(a)(8) is the protection of the air quality of onshore areas of the States. This is evidenced by language in the Conference Report which states "[T]he standards of applicability the conferees intended \* \* \* is that when a determination is made that offshore operations may have or are having a significant effect on the air quality of an adjacent onshore area \* \* \* regulations are to be promulgated." Accordingly, the Department believes that it is appropriate to measure the impact of the offshore emission landward of the shoreline instead of at the 3-mile territorial limit.

**Projected Emissions.**—The final regulations contain a definition of the term "projected emissions". This change was incorporated in response to many commenters who questioned the validity of the distinction drawn in the proposed regulations between controlled and uncontrolled emissions. They pointed out that the D.C. Circuit Court of Appeals in *Alabama Power Co. v. Costle*, No. 78-1006, (D.C. Cir. 1979) (Summary Opinion, June 18, 1979; final decision December 14, 1979) invalidated an EPA regulation which required calculation of emissions based on uncontrolled emissions. The Court held

that the "potential to emit" of a source must be calculated on the basis of the *actual* levels of emissions which would result after the application of whatever air pollution control equipment may be incorporated into the design of the facility. The Department agrees with the commenters that, in light of the court's opinion, it would be inappropriate for its air quality regulations to distinguish between controlled and uncontrolled emissions. Accordingly, the term "projected emissions" was added to clarify the basis for calculating emissions from OCS facilities.

**Volatile Organic Compound (VOC).**—Several commenters suggested that the definition of "Volatile Organic Compound" be modified to exclude methane and ethane. Another recommended that the definition should create an exception for carbon monoxide, carbon dioxide, carbonic acid, metallic carbides and carbonates, and ammonium carbonate. Finally, two commenters recommended a change in the definition to make it clear that the unreactive compounds specified are exempt, in all cases, from the definition.

The Department has adopted the recommendation that the exempt status of the unreactive compounds be clarified by changing the term "may be exempt" to "are exempt". However, the definition has not been changed to name the exempt unreactive hydrocarbons or to expand the list. The definition provides that unreactive compounds specified by EPA in Table I of 42 FR 35314, July 8, 1977 are not to be treated as volatile organic compounds. This list includes methane; ethane; 1,1,1-Trichloroethane (Methyl Chloroform); and Trichlorotrifluoroethane (Freon 113). Because this table is referenced, methane and ethane clearly are excluded from the definition. The reference to the EPA table has been retained so that future changes in the table will be incorporated automatically into these regulations.

#### 2. Section 250.34-3 Information Requirements

This section requires the submission of air pollution emission data as a part of the exploration plans or development and production plans which must be submitted and approved under 30 CFR 250.34 prior to the initiation of exploration, development, or production activities on any leased OCS area. One commenter objected to making air quality determinations a part of the plan approval process. This commenter suggested that the proper time for a decision is during the preparation of the environmental impact statement for each lease sale. This suggestion is

impractical. The onshore effects of offshore operations cannot be assessed adequately until detailed information about each facility, such as the exact distance from shore and the number of wells and type of generators to be used, is available. This type of information is not available until after a lease sale. For this reason a case-by-case examination of the potential of each facility to significantly affect the air quality of onshore areas is necessary at the time that detailed plans for exploration or development and production activities on the lease are submitted.

Several commenters urged that the Department reduce the information requirements to the minimum necessary to determine whether emission controls are required. They referred to the President's recent Executive Order No. 12044 which calls for regulations to be as simple and clear as possible. The regulations are designed to comply with the President's order by eliminating all unnecessary reporting. To implement this, the regulations state that the lessee is required to submit only that information needed to make the requisite findings under the regulatory program. Thus, a lessee who finds that emissions from the proposed facility fall under the exemption level would not be required to provide any further information because it would be clear, as a result of calculating the projected emissions, that no emission control is required. In addition, 30 CFR 250.34-3(a) and 250.34-3(b) allow a lessee to reference information in earlier Environmental Reports prepared for the geographic area by identifying the information and indicating a source for obtaining copies of the cited materials. Thus it is unnecessary for the lessee to resubmit information which has appeared in earlier Environmental Reports. For these reasons, the Department has rejected the suggestion of one commenter that the lessee be required, in every instance, to provide all the information listed in § 250.34-3(a)(4)(ii).

Several commenters recommended deletion of the provisions requiring a lessee to provide information on each onshore source of air pollution associated with the proposed offshore facility. They argued that the requirement for information about onshore emissions is duplicative, irrelevant, and not within the authority of the Secretary. This information requirement first appeared in the January 1978 regulations issued by the Department of Interior (30 CFR 250.34, 43 FR 3880) as a result of an agreement between the Department and the

National Oceanic and Atmospheric Administration. The regulations required the submission of air quality information to assist States with approved coastal zone management programs in evaluating consistency determinations. It has been included in these regulations for that same purpose.

One commenter urged that the regulations clarify the meaning of the term "load factor," which appeared in the proposed regulations in the information requirements section. The term "load factor" has been eliminated from the final regulations. To calculate whether a projected emission is exempt from control under the regulations, the lessee must use the anticipated highest annual total emissions from each facility for each air pollutant.

One commenter recommended that lessees be required to note specifically which emission factors were used in the calculation of the projected emissions. The regulations require that the lessee describe the bases of all calculations; this would include the emission factors used.

Several comments were received concerning the provision in the proposed regulations requiring the lessee to identify any emission reduction control technology which exists that would achieve a greater reduction in emissions than the technology the lessee proposes to use and present the reasons why the lessee should not be required to use this technology. One commenter argued that such a requirement is unnecessary and unreasonable. Other commenters, on the other hand, supported this requirement. The requirement for submitting information on alternative control technologies has been deleted in the final regulations. However the lessee is required to explain the basis for the technology proposed as BACT. This would include a discussion of alternative technologies.

One commenter asserted that operators in the Western Gulf of Mexico should be required to submit air quality information regardless of their Environmental Report exemption status. The Department agrees with this comment and has incorporated language in §§ 250.34-1(a)(2) and 250.34-2(a)(3) to indicate that the Director has the authority to require such information in the absence of an Environmental Report.

Several other changes have been made in §§ 250.34-3(a)(4)(ii)(A) and 250.34-3(b)(4)(ii)(A) related to the calculation of projected emissions from a facility. The requirement for expressing the emission from each source in "maximum anticipated pounds per hour" has been eliminated. Instead, for facilities described in development

and production plans, a requirement for a frequency distribution of total emission from a facility, expressed in pounds per day, is included. This change enables the Department to evaluate whether any short term fluctuations in emissions from development and production facilities could cause problems. Additionally, lessees proposing modifications to existing facilities are required to submit information on both the incremental amount of the modified emissions and the total of any new and pre-existing emissions from the modified facility. This language was added to make it clear that when a lessee adds one or more new sources to an existing facility, the total emissions from the facility must be recalculated to determine whether the exemption levels are exceeded. In adopting this approach the Department rejected the suggestion of some commenters that only the additional emissions resulting from the new sources on the existing facility be considered in calculating whether emissions significantly affect the air quality of an onshore area. If this suggestion were adopted, modifications could result in emissions which, when considered alone, would be under the exemption levels but which would cause, when combined with the existing emissions, significant effects on a State's air quality. The Department chose to require an analysis of the total emissions from a modified facility to insure adequate long term protection of onshore air quality.

A provision has been added which indicates that the Director may require a lessee to use models which demonstrate the onshore effect of emissions from a proposed facility *in combination with* the emissions from other OCS facilities in the area (see "Cumulative Effects").

The final regulations indicate that models must be approved by the Director instead of by EPA (see "Models") and require the use of the best meteorological information and data available. Many commenters legitimately pointed out that the quantity and quality of meteorological information and data vary from area to area and that the proposed regulations, which cited EPA's "Guidelines on Air Quality Models," did not give any direction on what type of information or data would be required. The new language is designed to provide the necessary direction.

### 3. Section 250.57-1 Facilities Described in a New or Revised Exploration Plan or Development and Production Plan

Sections 250.57-1(a) and (c) provide that all new or modified exploration plans and development and production plans deemed submitted under §§ 250.34-1(a) or 250.34-2(a) on or after June 2, 1980 shall be subject to the regulatory program established in § 250.57-1.

Section 250.57-1(b) authorizes the Director to review any exploration plan and development and production plan which was deemed submitted or approved by GS prior to June 2, 1980 to determine whether any facility described in such a plan should, because it has the potential to significantly affect onshore air quality, be subject to § 250.57-1. It also sets forth some general criteria which the Director shall apply in determining whether this review should be conducted and whether the facility reviewed should be subject to § 250.57-1. Any facility deemed submitted or approved prior to June 2, 1980 which is identified by the Director, on the basis of the criteria, as having the potential to significantly affect the air quality of an onshore area of any State shall be required to submit the information specified in § 250.34-3(a)(4) or § 250.34-3(b)(4) and comply with the applicable requirements of § 250.57-1.

Many commenters argued that the regulations should not apply to activities covered under an approved exploration plan or development or production plan. Other commenters indicated their strong support for the revision of such plans but suggested that the language of the regulations be clarified to insure that there was no confusion on this issue.

In order to clarify the ambiguities of the proposed regulations and to respond to commenter's criticisms, §§ 250.57-1(a), (b) and (c) have been substantially revised. First, the reference to the filing of plans prior to the effective date of the regulations has been deleted. Instead, to be consistent with §§ 250.34-1(a)(6) and 250.34-2(b)(6), the term "filing" has been deleted and the term "deemed submitted" has been added. The status of a plan is to be determined by the date that the plan is deemed submitted by the GS. Additionally, instead of referring to the "effective date of these regulations," the actual effective date—June 2, 1980—has been incorporated into the regulations.

The second major change from the proposed regulatory scheme concerns facilities described in development and production plans deemed submitted or

approved prior to June 2, 1980, which have the potential to significantly affect onshore air quality. The overall goal of the Department's air quality program is to prevent significant onshore air quality effects from OCS facilities. Several major emission sources covered under development and production plans which have already received GS approval have not yet commenced operations. Also, the possibility exists that some plans which are deemed submitted before these regulations become effective may cover sources which have the potential to significantly affect the air quality of an onshore area. The release of emissions from these sources could result in substantial adverse onshore air quality effects. To avoid such effects, the regulations have been structured to give the Director the discretion to require that plans which were deemed submitted or approved by the GS prior to June 2, 1980 (existing facilities) be subject to the provisions of § 250.57-1 instead of § 250.57-2.

To determine whether such a facility should be treated as a new facility under § 250.57-1 or an existing facility under § 250.57-2, the Director will consider the size of the facility, the distance of the facility from shore, the number of sources planned for the facility and their operational status; and the air quality status of the onshore area. It is the intent of the Department that use of this discretionary authority will generally be restricted to those situations where a large emission source, which is part of a facility located rather close to a nonattainment area, has not yet commenced operations. For instance, it is possible that some facilities in the Santa Barbara Channel and possibly in other OCS areas off California will be subject to review under this provision.

It should be noted that the discretion created under this section is sufficient to allow the Director to review any existing facility, regardless of the operational status of the sources on the facility, if the Director has reason to believe, after evaluation of the facility according to the criteria set out in § 250.57-1(b)(1), that the facility may be significantly affecting the air quality of an onshore area. However, we believe that the Director will rarely have reason to exercise the authority under § 250.57-1(b) for existing facilities on which most or all of the sources are operating. Such existing facilities will, however, be subject to State review as described in § 250.57-2.

Section 250.57-1(d) establishes the formulas to be used in determining whether projected emissions from a

facility are exempt from the regulatory program. For a detailed discussion of these provisions, *see* "Exemptions."

Section 250.57-1(e) identifies the "significance levels." For a discussion of this provision, *see* "Significance Levels."

Section 250.57-1(f) explains how significance determinations will be made for non-VOC pollutants and for VOC pollutants. For non-VOC pollutants, any emission which would result in an onshore ambient air concentration above the significance level for that pollutant is deemed to "significantly affect" the air quality of an onshore area. For VOCs, any emission in excess of the exemption level "E" is deemed to significantly affect the air quality of an onshore area. The rationale for choosing these levels and a discussion of the comments received on this issue are included in other sections of this preamble (*see* "Modeling", "Significance Levels" and "Volatile Organic Compounds.")

Section 250.57-1(g)(1) requires lessees to fully reduce any non-VOC pollutant which significantly affects a nonattainment area. This must be done through the application of BACT and, if additional reductions are necessary, through the application of additional emission controls or the acquisition of offshore or onshore offsets. A discussion of the comments received concerning the application of BACT and the offset requirement is included in another section of this preamble (*see* "Best Available Control Technology" and "Offsets").

Section 250.57-1(g)(2) requires lessees to apply BACT to control non-VOC emissions significantly affecting attainment or unclassifiable areas. Assuming the application of BACT, the lessee is then directed to model emissions to determine whether the emissions of TSP or SO<sub>2</sub> which remain after the application at BACT would cause the PSD maximum allowable increases (established in the Clean Air Act) to be exceeded. If the increases are exceeded, the lessee must apply additional emission controls or obtain offsets so that the concentrations of TSP and SO<sub>2</sub> in the onshore ambient air of an attainment area do not exceed the maximum allowable increases.

The reference to the EPA regulations (40 CFR 52.21(d) and (f)), which appeared in the proposed regulations, has been deleted. The provisions of 40 CFR 52.21(f) apply to onshore areas and are independent of OCS operations. However, the provision of 40 CFR 52.21(d) has been retained and incorporated into the regulations.

Section 250.57-1(g)(3) provides that VOC emissions, except those from a

temporary facility, which significantly affect a non-attainment area shall be fully reduced. The lessee must apply BACT to the facility and, if further reductions are necessary, the lessee must apply additional controls or obtain onshore or offshore offsets. This section also requires that VOC emissions which significantly affect an attainment area be reduced through the application of BACT. For a detailed discussion of these decisions, *see* "Volatile Organic Compounds."

A new § 250.57-1(g)(4) has been added which provides that, in those instances when emissions from a facility significantly affect both a nonattainment and an attainment or unclassifiable area, the regulatory requirements applicable to emissions significantly affecting a nonattainment area shall apply. This section also includes a requirement that, in those instances when emissions from a facility significantly affect more than one class of attainment area, the lessee must reduce emissions to meet the maximum allowable increases specified for each class. For example, if emissions from a facility simultaneously impact both Class I and Class II areas, the emissions must be reduced to the point where the maximum allowable increases are not exceeded in either area.

Section 250.57-1(h) contains the provisions which apply to temporary facilities. Under this section lessees must apply the best available control technology to reduce emissions from temporary facilities which significantly affect the air quality of a State. For a discussion of the comments received on this issue, *see* "Temporary Facilities."

Section 250.57-1(i) sets forth certain requirements for emission offsets. In order to obtain approval of a proposed emission offset, the lessee must demonstrate that: (1) The offsets are equivalent in nature and quantity to the emissions that must be reduced; (2) a binding commitment exists between the lessee and the owner of each offsetting source; (3) the appropriate air quality control jurisdiction has been notified of the need to revise the State Implementation Plan to include the information regarding the offsets; and (4) the required offsets come from sources which affect the air quality of the area significantly affected by the lessee's OCS operations. One commenter recommended dropping the provision requiring offsets "equivalent in nature and quantity to the emissions that must be reduced." Instead, the commenter suggested that the amount of the offset required should be limited to the equivalent of the onshore impact of

the emission. Another commenter argued that the requirement that the lessee obtain binding commitments be eliminated because such a requirement could lead to delays and uncertainties and because changes at the offsetting source could adversely affect the binding commitment. Both the "equivalency" requirement and the binding commitment requirement have been retained in the final regulations. The "equivalency" requirement is the same as EPA's and is necessary to insure the effectiveness of the offsets. The Department agrees that, in some instances, a change in status of the offsetting source which affects the binding commitment could occur, but believes that such a contingency can be addressed easily in the document creating the commitment.

Many comments were received on the question of whether the regulations should require that all existing onshore or offshore sources owned and operated by the lessee be in compliance with all Clean Air Act requirements as a condition to operating on the OCS. Most commenters believed that the Secretary has no authority under the Act to impose such a requirement and that such action would result in a total bar of OCS activities. One commenter, however, took the position that the cross-compliance requirement is necessary. Since onshore violations of the Clean Air Act already are subject to a variety of enforcement actions and these actions are outside the Department's jurisdiction and control, the Department believes that it is unnecessary to impose this additional condition to OCS development. Accordingly, no cross-compliance requirement has been incorporated into the final regulations.

A new § 250.57-1(j), which is similar to a provision appearing at § 250.57-1(c) of the proposed regulations, has been added. It provides that if a State demonstrates to the Director that emissions from an exempt OCS facility will, either individually or in combination with emissions from other OCS facilities, significantly affect the air quality of an onshore area, or the Director believes that an otherwise exempt facility may cause onshore significant effects, the Director may require the lessee to submit additional information to determine whether control measures are necessary. The Director will provide the lessee involved an opportunity to comment on the State's information.

Several commenters argued that this provision constitutes an impermissible delegation of authority to States. Other

commenters suggested that lessees should have the opportunity to rebut information supplied by the State to demonstrate that emissions from exempt facilities are not resulting in significant onshore impacts. Others suggested that if States are allowed to intervene they must be required to carry a heavy burden of proof and provide substantial technical evidence to support their position.

It is the Department's position that the provision giving the States the opportunity to present information about the impact of otherwise exempt emissions is not a delegation of authority because the final decision concerning onshore impacts remains with the Director, not the States. However, the Department has incorporated language allowing the lessee to respond to the presentation provided by a State before the Director makes a decision concerning the necessity for the submission of further information by the lessee.

Section 250.57-1(k) is a new provision which requires the lessee to monitor, in a manner approved or prescribed by the Director, emissions from a facility. This information is to be provided in a manner and form approved or prescribed by the Director and to be included in the monthly report or operations required under 30 CFR 250.93.

The proposed regulations contained no monitoring requirements. Several commenters noted the absence of the requirement and urged that both pre-construction site-specific data and post-construction monitoring data be required to validate the analysis and the modeling. Other commenters argued that monitoring should be required only where emissions cannot be adequately estimated. These commenters were concerned with the costs and need for monitoring.

The Department must have a means of insuring that the actual emissions from a facility are the same as the projected emissions contained in the plan. This type of verification is essential for effective enforcement and to assure coastal areas that emissions from offshore facilities are not significantly affecting their air quality. Thus, the final regulations impose a post-construction monitoring requirement on any lessee that has installed emission controls. The Director must approve the form and manner in which the monitoring is to be performed. The Department expects that these requirements will vary from case to case.

Section 250.57-1(l) is a new provision under which the Director may require lessees to collect, for a period of time and in a manner approved or prescribed

by the Director, and submit meteorological data from the facility.

The proposed regulations contained no requirements for the collection of meteorological data by lessees. Some commenters urged that site-specific data be required as a pre-requisite to approval of a facility. It also was argued that pre-construction collection of meteorological data would be virtually impossible. Others pointed out that until the platform is constructed, the collection of meteorological data would be extremely costly.

The Department believes that onsite monitoring of meteorological conditions is not economically feasible prior to the construction of a structure on the lease area. However, once a structure is in place, the Director may impose a requirement that meteorological data be collected and reported for a specified period of time. § 250.57-2 Existing Facilities

Under the final regulations, an existing facility is defined as an OCS facility described in a plan deemed submitted prior to June 2, 1980, except for a facility identified for review by the Director under § 250.57-1(b). Operators of existing facilities are not required automatically to submit information regarding emissions. However, the Director may require the submission of this information under § 250.57-1(b) (see discussion under "Facilities Described in a New or Revised Exploration Plan or Development and Production Plan"). Additionally, a State may trigger a review of an existing facility under § 250.57-2. An affected State may request that the Director supply basic emission data from existing facilities when the data are needed for the updating of the State's emission inventory. In submitting the request, the State must demonstrate that any similar onshore or offshore facilities under the State jurisdiction are included in the State's emission inventory. After the submission of this request by the State, the Director may require lessees of existing facilities to submit the basic emission data to the requesting State. The State then is given the opportunity to submit information to the Director which indicates that emissions from existing facilities may be significantly affecting the air quality of the State.

The Director will evaluate the information submitted by the State and will provide the lessees involved an opportunity to comment on the State's information. The Director will then evaluate all information. If the Director determines that no existing facility has the potential to significantly affect the air quality of the State submitting the information, the Director shall notify the

State of this finding and explain the basis for this determination. If the Director determines that a facility has the potential to significantly affect the air quality of the State submitting the information, the Director shall require the lessee of the facility to submit within 120 days, or a longer period of time if the Director determines it is needed, information required to make findings concerning the impacts on onshore air quality impacts.

In submitting such information, the lessee shall apply the same exemption levels and significance criteria as are applicable to new facilities. If, under these criteria, any non-VOC or VOC emission is determined to significantly affect any onshore area, then the lessee is required to reduce the emissions through the application of BACT. The Department does not intend that an existing facility must shutdown if it is determined to significantly affect an onshore area. Instead, a compliance schedule for the application of BACT must be submitted to the Director. The Director will monitor the progress of the lessee to insure adherence to the compliance schedule. If it is necessary to cease operations to allow for the installation of emission controls, the lessee may apply for a suspension of operations under the provisions of 30 CFR 250.12.

Some commenters suggested that, if the Department declined to create an exemption for existing facilities, the BACT requirement should only apply to those facilities affecting nonattainment areas. They recommended eliminating any control requirements when attainment or unclassifiable areas would be impacted. For a discussion of the Department's rejection of this suggestion, see "Prevention of Significant Deterioration."

One commenter argued that the regulations should set out the requirements a State must meet to activate the review process for existing facilities. The final regulations do not set forth a comprehensive list of requirements a State must meet. However, they do require that before a State can request basic emissions data from the Director, it must submit information demonstrating that similar onshore or offshore facilities within the State's jurisdiction also are included in the State's emissions inventory.

Another reviewer suggested that provisions be added which describe the criteria the Director will apply in determining whether existing facilities have the potential to significantly affect an onshore area. The final regulation states that the Director will base this decision on information available on the

facilities themselves (i.e. basic emissions data), meteorological data, and the distance of the facility from shore. The Department cannot be more specific about these factors because they will vary from area to area.

Finally, one commenter suggested that the 120-day provision for revision of the plan should be deleted. The requirement has not been deleted, but a provision has been added which allows the Director to extend the 120-day period whenever necessary.

The regulatory procedure described in this final rule for existing facilities is essentially the same as the one in the proposed regulations. The major change involves the States' ability to request the submission of basic emission data. For a more detailed discussion of the comments received on provisions relating to existing facilities, see "Existing Facilities".

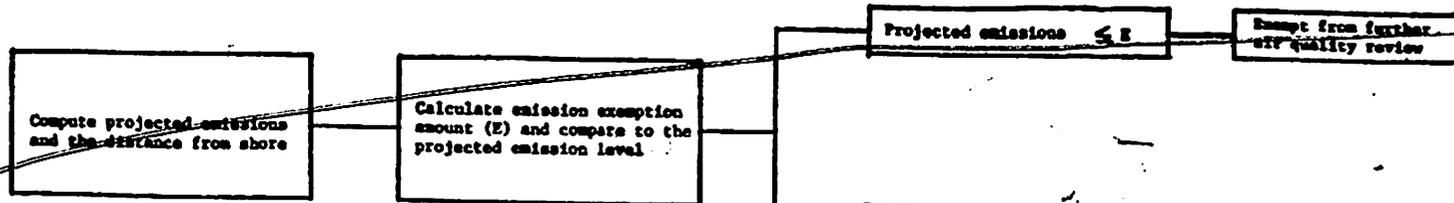
#### Overview of the Regulatory Program

The final regulations are designed to insure that emissions from OCS facilities do not cause significant effects on the onshore air quality of a State. The program is divided into three steps for each air pollutant. The first two steps are screening procedures to determine whether emissions of an air pollutant from an OCS facility would significantly affect the onshore air quality of a State. The third step, if necessary, determines what measures the lessee must take to mitigate the impact of the emissions of the air pollutant. These steps are illustrated in Figure 1.

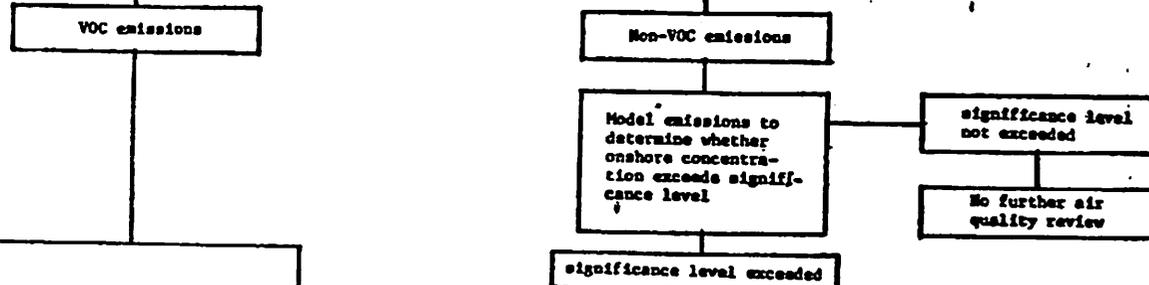
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FIGURE 1: AIR REGULATORY SCHEME FOR OCS FACILITIES

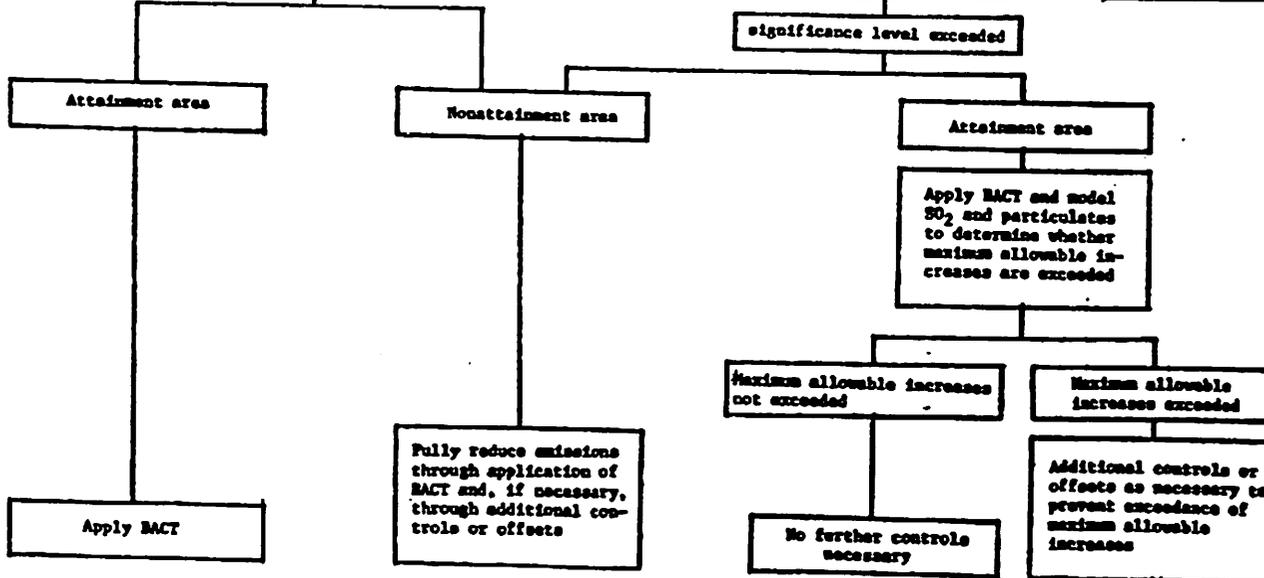
STEP ONE



STEP TWO



STEP THREE



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Step 1: Do the emissions of an air pollutant exceed the exemption amount "E"?

The projected emissions of an air pollutant from each facility are calculated and compared to an emission exemption amount "E". The emission exemption amount "E" is dependent upon the distance of the facility from shore and is calculated for each air pollutant on the basis of formulas described in the regulations. If the projected emissions from the facility are equal to or less than "E", the facility is exempt from further air quality review for that air pollutant and the information required from the lessee is limited to projected emission and distance data and an explanation of how the exemption formulas were applied. (For exploration plans see § 250.34-3(a)(4)(ii)(A); for development and production plans see § 250.34-3(b)(4)(ii)(A).

Step 2: Do the emissions of an air pollutant cause onshore air pollutant concentrations to exceed the significance levels established in the regulations?

If a facility is not exempt under Step 1 because the emissions of an air pollutant from the facility exceed the emission exemption amount "E", the lessee must determine whether the emissions cause onshore pollutant concentrations above the "significance levels" established in the regulations.

For non-VOC emissions of TSP, SO<sub>2</sub>, NO<sub>x</sub>, and CO which exceed the emission exemption amount "E", the lessee must determine the onshore concentrations by air pollutant that will be caused by the offshore emissions. This is done through the application of models approved by GS. The resulting onshore concentration of these pollutants is then compared to the significance levels established in the regulations. If the emissions result in onshore concentrations below the significance level for that pollutant, the facility is not subject to further regulatory review for that pollutant and the information submitted by the lessee need include only the projected emission and distance data, and the information related to the meteorological data and models used. (For exploration plans see § 250.34-3(a)(4)(ii)(A) and (B); for development and production plans see § 250.34-3(b)(4)(ii)(A) and (B).

A VOC emission which exceeds the emission exemption amount "E" is deemed to significantly affect an onshore area of the State.

Step 3: What degree of control is necessary?

Lessees must control the emissions of those air pollutants which are not "screened out" of the regulatory scheme

under either Step 1 or Step 2. The degree of control imposed depends on the air quality status of the nearby onshore area and the nature of the pollutant. The control requirements are summarized as follows:

Emission

Controls Required

Non-VOC emissions:

1. Affecting a nonattainment area  
BACT + additional controls or offsets necessary to "fully reduce" emissions.
2. Affecting an attainment area  
BACT + additional controls or offsets necessary to prevent exceedance of maximum allowable increases for SO<sub>2</sub> and TSP.

VOC emissions:

1. Affecting a nonattainment area  
BACT + additional controls or offsets necessary to "fully reduce" emissions
2. Affecting an attainment area:  
BACT

Non-VOC or VOC emissions:

1. From a temporary facility affecting an attainment or a nonattainment area:  
BACT
2. From an existing facility affecting an attainment or a nonattainment area (except if designated by the Director to be treated as a facility described in a new plan)  
BACT

A lessee proposing a facility which is subject to any of these control requirements must submit all information required by § 250.34-3(a)(4)(ii)(A) through (D) for exploration plans or § 250.34-3(b)(4)(ii)(A) through (D) for development and production plans. This includes information about projected emission and distance from shore, the meteorological data and models used and the modeling results, the air quality status of the onshore area, and the emission reduction control technologies to be used to reduce emissions.

This regulatory scheme is applicable to any newly proposed facility or to any proposed modification of a facility. It also is to be applied to any existing facility which the Director identifies under § 250.57-1(b) as a facility with the potential to significantly affect the onshore air quality of any State. Additionally, the information requirements and procedures described in Steps 1 and 2 for determining significance are to be followed where the Director, at a State's request, requires the submission of information pursuant to § 250.57-2 for an existing facility. The emissions control requirement for existing facilities is limited to the installation of BACT.

Decisions concerning the potential impacts on onshore air quality of emissions from OCS facilities and the necessity for control or offset of those emissions will be made as part of the approval process for exploration plans

and development and production plans (see Sections 11 and 25 of the Act). As part of its review of the plan the GS will evaluate the information submitted by the lessee. State and local governments will have an opportunity to review and comment on the information in accordance with the procedures described in 30 CFR 250.34. The exploration plan or development and production plan will not be approved until the GS is satisfied that the air emission data are accurate, that the air models have been run in accordance with relevant guidelines, and that, where applicable, the controls and other mitigating measures proposed are adequate and available.

Because the Survey has integrated the air quality regulations into its established regulatory scheme, no separate permit issuing procedure is necessary. A lessee can undertake no exploratory, development or production activities on a lease until the applicable plan is approved and required drilling permits are granted. Additionally, at any time after approval of a plan the Department has authority to suspend operations under 30 CFR 250.12 if the lessee deviates from the approved plan. If, for instance, a lessee fails to honor a commitment to obtain an offset, or to take some other action to prevent or mitigate the effects of emissions from operations under an approved plan, operations can be suspended until the problem is remedied. The lessee also may be assessed substantial monetary penalties for failure to conduct activities on the OCS in accordance with the approved plan.

#### Environmental Impact and Regulatory Analysis

The Department of the Interior has determined that the revision of the regulations in 30 CFR Part 250, in accordance with this notice, is not a major Federal action significantly affecting the quality of the human environment and will not require preparation of an Environmental Impact Statement. The Department has also determined that this notice of final rule is a significant rule but does not require preparation of a regulatory analysis under Executive Order 12044 and implementing regulations 43 CFR Part 2.

Dated: February 29, 1980.

Cecil D. Andrus,

Secretary of the Interior.

30 CFR Part 250 is revised as follows:

1. Section 250.2 Definitions is revised by adding paragraphs (tt) through (ggg) which read as follows:

**§ 250.2 Definitions.**

(tt) "Air pollutant" means any airborne agent or combination of agents for which the Environmental Protection Agency (EPA) has established, pursuant to Section 109 of the Clean Air Act, national primary and secondary ambient air quality standards.

(uu) "Ambient Air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(vv) "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 standard, established by EPA in 40 CFR Part 50, for the air pollutant.

(vww) "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. BACT shall be verified on a case-by-case basis by the Director, and may include reductions achieved through the application of processes, systems, and techniques for the control of each air pollutant.

(xx) "Emission offsets" means emission reductions obtained from facilities, either onshore or offshore, other than the facility or facilities covered by the proposed exploration plan or development and production plan. The provisions of Part IV.C and D. of "Appendix S" of EPA's Emission Offset Interpretive Ruling (44 FR 3274, January 16, 1979) are applicable when determining offsets.

(yy) "Existing facility" is an OCS facility described in an exploration plan or a development and production plan deemed submitted, under § 250.34-1(a) or § 250.34-2(a), prior to June 2, 1980, except for a facility identified for review by the Director under § 250.57-1(b).

(zz) "Facility" means any installation or device permanently or temporarily attached to the seabed on the OCS which is used for exploration, development, and production activities, and which emits or has the potential to emit any air pollutant from one or more sources. All equipment directly associated with the installation or device shall be considered part of a single facility if the equipment is dependent on, or affects the processes of, the installation or device. During production, multiple installations or devices will be considered to be a single facility if the installations or devices are

directly related to the production of oil or gas at a single site. Any vessel used to transfer production from an OCS facility shall be considered part of the facility while physically attached to the facility.

(aaa) "Nonattainment 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 quality standard, established by EPA in 40 CFR Part 50, for the air pollutant.

(bbb) "Onshore area of a State" means areas of a State landward of the mean high water mark (mean higher high water mark on the Pacific coast).

(ccc) "Projected emissions" means emissions, either controlled or uncontrolled, from a source or sources.

(ddd) "State Implementation Plan (SIP)" means a plan submitted to and approved by the EPA, pursuant to Section 110 of the Clean Air Act; which provides for the implementation, maintenance, and enforcement of the national primary and secondary ambient air quality standards within a State.

(eee) "Source" means an emission point. Several sources may be included within a single facility.

(fff) "Temporary facility" means activities associated with the construction of platforms on the OCS or with facilities related to exploration for or development of OCS oil and gas resources which are conducted in one location for less than three years.

(ggg) "Volatile organic compound (VOC)" means any organic compound which is emitted to the atmosphere as a vapor. The unreactive compounds specified by EPA in Table I of "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314, July 8, 1977), as it may be amended, are exempt from the above definition.

2. Section 250.34-3 is amended by the addition of new paragraphs (a)(4) and (b)(4) which read as follows:

**§ 250.34-3 Environmental reports.**

(a) \* \* \*

(4)(i) For onshore activities directly associated with a proposed OCS facility, the lessee shall provide information on each source of air pollutants, listing: The source; the location of each source; the chemical composition and quantity of air pollutants; and the frequency and duration of emissions.

(ii) For each OCS facility, the lessee shall review the requirements of

§ 250.57, and shall submit only that information, described below, needed to make the findings under § 250.57:

(A)(1) Projected emissions from each proposed or modified facility for each year of operation, and the bases for all calculations, to include: (j) For each source: The source, the amount of the emission by air pollutant expressed in tons per year, and the frequency and duration of emissions; (ii) For each facility: The facility, the total amount of emissions by air pollutant expressed in tons per year, and in addition, for a modified facility only, the incremental amount of total emissions by air pollutant resulting from the new or modified source or sources; (iii) A detailed description of all processes, process equipment, and storage units, including information on fuels to be burned; (iv) A schematic drawing which identifies the location and elevation of each source; and (v) If projected emissions are based on the use of emission reduction control technology, a description of the controls providing the information required by paragraph (a)(4)(ii)(D) of this section. If a mobile drilling vessel has been described in an earlier Environmental Report, the lessee may reference, consistent with the limitations described in paragraph (a) of this section, the information in that report pertaining to paragraphs (a)(4)(ii)(A)(1)(ii), (iv) and (v).

(2) The distance of each proposed facility from the mean high water mark (mean higher high water mark on the Pacific Coast) of any State.

(B)(1) The model or models used to determine the effect on the onshore air quality of emissions from each facility, or from other facilities when required by the Director, and the results obtained through the use of the model or models. The model or models must be approved for use by the Director.

(2) The best available meteorological information and data consistent with the model or models used, stating the basis for the information and data selected.

(C) The air quality status of any onshore area where the air quality is significantly affected by projected emissions from each facility proposed in the plan. The area should be classified as nonattainment, attainment, or unclassifiable, to include: The status of each area by air pollutant; the class of attainment areas; and the air pollution control agency whose jurisdiction covers the area identified.

(D) The emission reduction control technology available to reduce emissions, to include: The source; the emission reduction control technology; the reductions achieved; and the monitoring system the lessee proposes

to use to measure emissions. If applicable, the lessee shall indicate which emission reduction control technology the lessee believes constitutes BACT and the basis for that opinion.

**(b) Environmental Report (Development/Production).** . . .

(4)(i) For onshore activities directly associated with a proposed OCS facility, the lessee shall provide information on each source of air pollutants, listing: The source; the location of each source; the chemical composition and quantity of air pollutants; and the frequency and duration of emissions.

(ii) For each OCS facility the lessee shall review the requirements of § 250.57, and shall submit only that information, described below, needed to make the findings under § 250.57:

(A)(1) Projected emissions from each proposed or modified facility for each year of operation, and the bases for all calculations, to include: (i) For each source: the source, the amount of the emission by air pollutant expressed in tons per year, and the frequency and duration of emissions; (ii) For each proposed facility: The facility, the total amount of emissions by air pollutant expressed in tons per year, the frequency distribution of total emissions by air pollutant expressed in pounds per day, and in addition, for a modified facility only, the incremental amount of total emissions by air pollutant resulting from the new or modified source or sources; (iii) A detailed description of all processes, process equipment, and storage units, including information on fuels to be burned; (iv) A schematic drawing which identifies the location and elevation of each source; and (v) If projected emissions are based on the use of emission reduction control technology, a description of the controls providing the information required by paragraph (b)(4)(ii)(D)(1) of this section.

(2) The distance of each proposed facility from the mean high water mark (mean high water mark on the Pacific Coast) of any State.

(B)(1) The model or models used to determine the effect on the onshore air quality of emissions from each facility, or from other facilities when required by the Director, and the results obtained through the use of the model or models. The model or models must be approved for use by the Director.

(2) The best available meteorological information and data consistent with the model or models used, stating the basis for the information and data selected.

(C) The air quality status of any onshore area where the air quality is

significantly affected by projected emissions from each facility proposed in the plan. The area should be classified as nonattainment, attainment, or unclassifiable, listing: The status of each area by air pollutant; the class of attainment areas; and the air pollution control agency whose jurisdiction covers the area identified.

(D)(1) The emission reduction control technology available to reduce emissions, listing: The source; the emission reduction control technology; the reductions achieved; and the monitoring system the lessee proposes to use to measure emissions. If applicable, the lessee shall indicate which emission reduction control technology the lessee believes constitutes BACT and the basis for that opinion.

(2) The ownership of the offshore and onshore offsetting source or sources, and the reduction obtainable from each offsetting source.

(3) A new § 250.57 Air Quality consisting of §§ 250.57-1 and 250.57-2 is being added to Part 250 which reads as follows:

**§ 250.57 Air Quality.**

**§ 250.57-1 Facilities described in a new or revised exploration plan or development and production plan.**

(a) *New Plans.* All exploration plans and development plans deemed submitted under § 250.34-1(a) or § 250.34-2(a) on or after June 2, 1980, shall include the information required to make the necessary findings under paragraphs (d) through (i) of this section and the lessee shall comply with the requirements of this section as necessary.

(b) *Applicability of this Section to Existing Facilities.* (1) The Director may review any exploration plan or development and production plan deemed submitted or approved prior to June 2, 1980, to determine whether any facility described in the plan should be subject to review under this section and has the potential to significantly affect the air quality of an onshore area. To make these decisions the Director shall consider the following: The distance of the facility from shore; the size of the facility; the number of sources planned for the facility and their operational status; and the air quality status of the onshore area.

(2) For a facility identified by the Director under paragraph (b)(1) of this section, the Director shall require the lessee to refer to the information required under § 250.34-3(a)(4) or § 250.34-3(b)(4) and to submit only that information required to make the

necessary findings under paragraphs (d) through (i) of this section. The lessee shall submit this information within 120 days of the Director's determination or within a longer period of time at the discretion of the Director. The lessee shall comply with the requirements of § 250.57-1 as necessary.

(c) *Revised facilities.* All revised exploration plans and development and production plans which are deemed submitted under § 250.34-1(a) or § 250.34-2(a) on or after June 2, 1980, shall include the information required to make the necessary findings under paragraphs (d) through (i) of this section. The lessee shall comply with the requirements of this section as necessary.

(d) *Exemption Formulas.* 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 § 250.34-3(a)(4)(ii)(A)(1) or § 250.34-3(b)(4)(ii)(A)(1) and compare these emissions to the emission exemption amount "E" for each air pollutant calculated using the following formulas:  $E = 3400D^{2/3}$  for carbon monoxide (CO); and  $E = 33.3D$  for total suspended particulates (TSP), sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), and VOC (where E is the emission exemption amount expressed in 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 amount "E" for the air pollutant, the facility is exempt for that air pollutant from further air quality review required by paragraphs (e) through (i) of this section.

(e) *Significance Levels.* 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 projected emissions of those air pollutants from the facility result in an onshore ambient air concentration above the following significance levels:

Air pollutant	Averaging time (hours)				
	Annual	24	6	3	1
SO <sub>2</sub> .....	11	15			125
TSP .....	11	15			
NO <sub>x</sub> .....	11				
CO .....			1500		12000

<sup>1</sup>µg/m<sup>3</sup>.

(f) **Significance Determinations.** (1) The projected emissions of any air pollutant other than VOC from any facility which result in an onshore ambient air concentration above the significance level determined under paragraph (e) of this section for that air pollutant shall be deemed to significantly affect the air quality of the onshore area for that air pollutant.

(2) 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.

(g) **Controls required.** (1) The projected emissions of any air pollutant other than VOC from any facility, except a temporary facility, which significantly affect the quality of a nonattainment area shall be fully reduced. This shall be done through the application of BACT and, if additional reductions are necessary, through the application of additional emission controls or through the acquisition of offshore or onshore offsets.

(2) The projected emissions of any air pollutant other than VOC from any facility which significantly affect the air quality of an attainment or unclassifiable area shall be reduced through the application of BACT.

(i) Except for temporary facilities, the lessee also shall use an approved air quality model to determine whether the emissions of TSP or SO<sub>2</sub> that remain after the application of BACT cause the following maximum allowable increases over the baseline concentrations established in 40 CFR 52.21 to be exceeded in the attainment or unclassifiable area:

Air pollutant	Annual mean <sup>1</sup>	Maximum allowable increases (averaging times)	
		24-hour maximum	3-hour maximum
<b>Class I:</b>			
TSP.....	15	110	.....
SO <sub>2</sub> .....	12	15	125
<b>Class II:</b>			
TSP.....	19	37	.....
SO <sub>2</sub> .....	20	91	512
<b>Class III:</b>			
TSP.....	37	75	.....
SO <sub>2</sub> .....	40	182	700

<sup>1</sup>For TSP—geometric. For SO<sub>2</sub>—arithmetic.  
<sup>2</sup>µg/m<sup>3</sup>.

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. For any period other than the annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one onshore location.

(ii) If the maximum allowable increases are exceeded, the lessee shall apply whatever additional emission controls are necessary to reduce or offset the remaining emissions of TSP or SO<sub>2</sub> so that concentrations in the onshore ambient air of an attainment or unclassifiable area do not exceed the maximum allowable increases.

(3)(i) The projected emissions of VOC from any facility, except a temporary facility, which significantly affect the onshore air quality of a nonattainment area shall be fully reduced. This shall be done through the application of BACT and, if additional reductions are necessary, through the application of additional emission controls or through the acquisition of offshore or onshore offsets.

(ii) The projected emissions of VOC from any facility which significantly affect the onshore air quality of an attainment area shall be reduced through the application of BACT.

(4)(i) If projected emissions from a facility significantly affect the onshore air quality of both a nonattainment and an attainment or unclassifiable area, the regulatory requirements applicable to projected emissions significantly affecting a nonattainment area shall apply.

(ii) If projected emissions from a facility significantly affect the onshore air quality of more than one class of attainment area, the lessee must reduce projected emissions to meet the maximum allowable increases specified for each class in paragraph (g)(2)(i) of this section.

(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 affect the air quality of an onshore area of a State.

(i) **Emission Offsets.** When emission offsets are to be obtained, the lessee must demonstrate that: The offsets are equivalent in nature and quantity to the projected emissions that must be reduced after the application of BACT; a binding commitment exists between the lessee and the owner or owners of the source or sources; the appropriate air quality control jurisdiction has been notified of the need to revise the State Implementation Plan to include the information regarding the offsets; and the required offsets come from sources which affect the air quality of the area significantly affected by the lessee's OCS operations.

(j) **Review of Facilities with Emissions Below the Exemption Amount.** If, during the review of a new, modified, or revised exploration plan or development and production plan, the Director determines or an affected State submits information to the Director which demonstrates, in the judgment of the Director, that projected emissions from an otherwise exempt facility will, either individually or in combination with other facilities in the area, significantly affect the air quality of an onshore area, then the Director shall require the lessee to submit additional information to determine whether emission control measures are necessary. The lessee shall be given the opportunity to present information to the Director which demonstrates that the exempt facility is not significantly affecting the air quality of an onshore area of the State.

(k) **Emission monitoring requirements.** The lessee shall monitor, in a manner approved or prescribed by the Director, emissions from the facility. The lessee shall submit this information, in a manner and form approved or prescribed by the Director, with the monthly report of operations prescribed under section 250.93 of this Part.

(l) **Collection of meteorological data.** The Director may require the lessee to collect, for a period of time and in a manner approved or prescribed by the Director, and submit meteorological data from a facility.

#### § 250.57-2 Existing facilities.

(a) **Process leading to review of an existing facility.** (1) An affected State may request that the Director supply basic emission data from existing

facilities when such data are needed for the updating of the State's emission inventory. In submitting the request, the State must demonstrate that similar offshore and onshore facilities in areas under the State's jurisdiction are included also in the emission inventory.

(2) The Director may require lessees of existing facilities to submit basic emission data to a State submitting a request under paragraph (a)(1) of this section.

(3) The State submitting a request under paragraph (a)(1) of this section may submit information from its emission inventory which indicates that emissions from existing facilities may be significantly affecting the air quality of the onshore area of the State. The lessee shall be given the opportunity to present information to the Director which demonstrates that the facility is not significantly affecting the air quality of the State.

(4) The Director shall evaluate the information submitted under paragraph (a)(3) of this section and shall determine, based on the basic emission data, available meteorological data, and the distance of the facility or facilities from the onshore area, whether any existing facility has the potential to significantly affect the air quality of the onshore area of the State.

(5) If the Director determines that no existing facility has the potential to significantly affect the air quality of the onshore area of the State submitting information under paragraph (a)(3) of this section, the Director shall notify the State of, and explain the reasons for, this finding.

(6) If the Director determines that an existing facility has the potential to significantly affect the air quality of an onshore area of the State submitting information under paragraph (a)(3) of this section, the Director shall require the lessee to refer to the information requirements under § 250.34-3(a)(4) or § 250.34-3(b)(4) and to submit only that information required to make the necessary findings under paragraphs (b) through (e) of this section. The lessee shall submit this information within 120 days of the Director's determination or within a longer period of time at the discretion of the Director. The lessee shall comply with the requirements of § 250.57-2 as necessary.

(b) *Exemption formulas.* To determine whether an existing facility 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 § 250.34-3(a)(4)(ii)(A)(1) or § 250.34-3(b)(4)(ii)(A)(1) and compare these emissions to the emission exemption

amount "E" for each air pollutant calculated using the following formulas:  $E=3400D^{3/4}$  for CO; and  $E=33.3D$  for TSP, SO<sub>x</sub>, NO<sub>x</sub>, and VOC (where E is the emission exemption amount expressed in tons per year and D is the distance of the facility from the closest onshore area of a State expressed in statute miles). If the amount of projected emissions are less than or equal to the emission exemption amount "E" for the air pollutant, the facility is exempt for that air pollutant from further air quality review required under paragraphs (c) through (e) of this section.

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

Air pollutant	Averaging time (hours)				
	Annual	24	8	3	1
SO <sub>x</sub> .....	'1	'5			'25
TSP.....	'1	'5			
NO <sub>x</sub> .....	'1				
CO.....			'500		'2,000

<sup>1</sup>µg/m<sup>3</sup>

(d) *Significance determinations.* (1) The projected emissions of any air pollutant other than VOC from any facility which result in an onshore ambient air concentration above the significance level determined under paragraph (c) of this section for that air pollutant shall be deemed to significantly affect the air quality of the onshore area for that air pollutant.

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

(e) *Controls required.* (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.

(2) The lessee shall submit a compliance schedule for the application of BACT. If it is necessary to cease operations to allow for the installation of emission controls, the lessee may apply for a suspension of operations under the provisions of § 250.12.

(f) *Review of facilities with emissions below the exemption amount.* If, during the review of the information required under paragraph (a)(6) of this section, the Director determines or an affected State submits information to the Director which demonstrates, in the

judgment of the Director, that projected emissions from an otherwise exempt facility will, either individually or in combination with other facilities in the area, significantly affect the air quality of an onshore area, then the Director shall require the lessee to submit additional information to determine whether control measures are necessary. The lessee shall be given the opportunity to present information to the Director which demonstrates that the exempt facility is not significantly affecting the air quality of an onshore area of the State.

(g) *Emission monitoring requirements.* The lessee shall monitor, in a manner approved or prescribed by the Director, emissions from the facility following the installation of emission controls. The lessee shall submit this information, in a manner and form approved or prescribed by the Director, with the monthly report of operations prescribed under § 250.93.

(h) *Collection of meteorological data.* The Director may require the lessee to collect, for a period of time and in a manner approved or prescribed by the Director, and submit meteorological data from a facility.

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