

State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: March 16, 2006.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.
[FR Doc. E6-4199 Filed 3-22-06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[OAR-2006-0091; FRL-8048-4]

Outer Continental Shelf Air Regulations Consistency Update for California

AGENCY: Environmental Protection Agency ("EPA").

ACTION: Proposed rule—consistency update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf ("OCS") Air Regulations. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area ("COA"), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 ("the Act"). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources by the Ventura County Air Pollution Control District (Ventura County APCD). The intended effect of approving the OCS requirements for the Ventura County APCD is to regulate emissions from OCS sources in

accordance with the requirements onshore. The change to the existing requirements discussed below is proposed to be incorporated by reference into the Code of Federal Regulations and is listed in the appendix to the OCS air regulations.

DATES: Any comments must arrive by April 24, 2006.

ADDRESSES: Submit comments, identified by docket number OAR-2006-0091, by one of the following methods:

1. Federal eRulemaking Portal:
<http://www.regulations.gov>. Follow the on-line instructions.

2. E-mail: steckel.andrew@epa.gov.

3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail.

www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Cynthia Allen, Air Division (Air-4), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947-4120, allen.cynthia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background Information

A. Why Is EPA Taking This Action?

On September 4, 1992, EPA promulgated 40 CFR part 55,¹ which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of a State's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to § 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent under § 55.4; or (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This proposed action is being taken in response to the submittal of requirements submitted by the Ventura County APCD. Public comments received in writing within 30 days of publication of this document will be considered by EPA before publishing a final rule.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the Act.

Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the

¹ The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. EPA's Evaluation

A. What Criteria Were Used To Evaluate Rules Submitted To Update 40 CFR Part 55?

In updating 40 CFR part 55, EPA reviewed the rules submitted for

inclusion in part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. 40 CFR 55.12 (e). In addition, EPA has excluded administrative or procedural rules,² and requirements that regulate toxics which

are not related to the attainment and maintenance of federal and state ambient air quality standards.

B. What Requirements Were Submitted To Update 40 CFR Part 55?

1. After review of the requirements submitted by the Ventura County APCD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following District requirements applicable to OCS sources:

Rule No.	Name	Adoption or amended date
42	Permit Fees	04/12/05
72	New Source Performance Standards (NSPS)	09/13/05
73	National Emission Standards for Hazardous Air Pollutants (NESHAPS)	09/13/05
74.9	Stationary Internal Combustion Engines	11/08/05

III. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

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

B. Paperwork Reduction Act

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

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act

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

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements

under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

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

² Each COA which has been delegated the authority to implement and enforce part 55, will use its administrative and procedural rules as

onshore. However, in those instances where EPA has not delegated authority to implement and enforce part 55, EPA will use its own administrative

and procedural requirements to implement the substantive requirements. 40 CFR 55.14 (c)(4).

State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

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

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

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

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

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

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

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 3, 2006.

Laura Yoshii, Acting Regional Administrator, Region IX.

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

PART 55—[AMENDED]

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

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401 et seq.) as amended by Public Law 101-549.

2. Section 55.14 is amended by revising paragraph (e)(3)(ii)(H) to read as follows:

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

- (e) * * *
(3) * * *
(ii) * * *

(H) Ventura County Air Pollution Control District Requirements Applicable to OCS Sources.

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Appendix to Part 55—[Amended]

3. Appendix A to CFR Part 55 is amended by revising paragraph (b)(8) under the heading "California" to read as follows:

Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

California

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(b) * * *

(8) The following requirements are contained in Ventura County Air Pollution Control District Requirements Applicable to OCS Sources:

- Rule 2: Definitions (Adopted 4/13/04)
Rule 5: Effective Date (Adopted 4/13/04)
Rule 6: Severability (Adopted 11/21/78)
Rule 7: Zone Boundaries (Adopted 6/14/77)
Rule 10: Permits Required (Adopted 4/13/04)
Rule 11: Definition for Regulation II (Adopted 6/13/95)
Rule 12: Application for Permits (Adopted 6/13/95)
Rule 13: Action on Applications for an Authority to Construct (Adopted 6/13/95)
Rule 14: Action on Applications for a Permit to Operate (Adopted 6/13/95)
Rule 15.1: Sampling and Testing Facilities (Adopted 10/12/93)
Rule 16: BACT Certification (Adopted 6/13/95)
Rule 19: Posting of Permits (Adopted 5/23/72)
Rule 20: Transfer of Permit (Adopted 5/23/72)
Rule 23: Exemptions from Permits (Revised 4/13/04)
Rule 24: Source Recordkeeping, Reporting, and Emission Statements (Adopted 9/15/92)
Rule 26: New Source Review (Adopted 10/22/91)
Rule 26.1: New Source Review—Definitions (Adopted 5/14/02)
Rule 26.2: New Source Review—Requirements (Adopted 5/14/02)
Rule 26.3: New Source Review—Exemptions (Adopted 5/14/02)
Rule 26.6: New Source Review—Calculations (Adopted 5/14/02)
Rule 26.8: New Source Review—Permit To Operate (Adopted 10/22/91)
Rule 26.10: New Source Review—PSD (Adopted 1/13/98)
Rule 26.11: New Source Review—ERC Evaluation At Time of Use (Adopted 5/14/02)
Rule 28: Revocation of Permits (Adopted 7/18/72)
Rule 29: Conditions on Permits (Adopted 10/22/91)
Rule 30: Permit Renewal (Adopted 4/13/04)
Rule 32: Breakdown Conditions: Emergency Variances, A., B.1., and D. only. (Adopted 2/20/79)

Rule 33: Part 70 Permits—General (Adopted 10/12/93)

Rule 33.1: Part 70 Permits—Definitions (Adopted 4/10/01)

Rule 33.2: Part 70 Permits—Application Contents (Adopted 4/10/01)

Rule 33.3: Part 70 Permits—Permit Content (Adopted 4/10/01)

Rule 33.4: Part 70 Permits—Operational Flexibility (Adopted 4/10/01)

Rule 33.5: Part 70 Permits—Time frames for Applications, Review and Issuance (Adopted 10/12/93)

Rule 33.6: Part 70 Permits—Permit Term and Permit Reissuance (Adopted 10/12/93)

Rule 33.7: Part 70 Permits—Notification (Adopted 4/10/01)

Rule 33.8: Part 70 Permits—Reopening of Permits (Adopted 10/12/93)

Rule 33.9: Part 70 Permits—Compliance Provisions (Adopted 4/10/01)

Rule 33.10: Part 70 Permits—General Part 70 Permits (Adopted 10/12/93)

Rule 34: Acid Deposition Control (Adopted 3/14/95)

Rule 35: Elective Emission Limits (Adopted 11/12/96)

Rule 36: New Source Review—Hazardous Air Pollutants (Adopted 10/6/98)

Rule 42: Permit Fees (Adopted 4/12/05)

Rule 44: Exemption Evaluation Fee (Adopted 9/10/96)

Rule 45: Plan Fees (Adopted 6/19/90)

Rule 45.2: Asbestos Removal Fees (Adopted 8/4/92)

Rule 47: Source Test, Emission Monitor, and Call-Back Fees (Adopted 6/22/99)

Rule 50: Opacity (Adopted 4/13/04)

Rule 52: Particulate Matter-Concentration (Adopted 4/13/04)

Rule 53: Particulate Matter-Process Weight (Adopted 4/13/04)

Rule 54: Sulfur Compounds (Adopted 6/14/94)

Rule 56: Open Burning (Revised 11/11/03)

Rule 57: Incinerators (Adopted 1/11/05)

Rule 57.1: Particulate Matter Emissions From Fuel Burning Equipment (Adopted 1/11/05)

Rule 62.7: Asbestos—Demolition and Renovation (Adopted 6/16/92)

Rule 63: Separation and Combination of Emissions (Adopted 11/21/78)

Rule 64: Sulfur Content of Fuels (Adopted 4/13/99)

Rule 67: Vacuum Producing Devices (Adopted 7/5/83)

Rule 68: Carbon Monoxide (Adopted 4/13/04)

Rule 71: Crude Oil and Reactive Organic Compound Liquids (Adopted 12/13/94)

Rule 71.1: Crude Oil Production and Separation (Adopted 6/16/92)

Rule 71.2: Storage of Reactive Organic Compound Liquids (Adopted 9/26/89)

Rule 71.3: Transfer of Reactive Organic Compound Liquids (Adopted 6/16/92)

Rule 71.4: Petroleum Sumps, Pits, Ponds, and Well Cellars (Adopted 6/8/93)

Rule 71.5: Glycol Dehydrators (Adopted 12/13/94)

Rule 72: New Source Performance Standards (NSPS) (Adopted 9/13/05)

Rule 73: National Emission Standards for Hazardous Air Pollutants (NESHAPS) (Adopted 9/13/05)

Rule 74: Specific Source Standards (Adopted 7/6/76)

Rule 74.1: Abrasive Blasting (Adopted 11/12/91)

Rule 74.2: Architectural Coatings (Adopted 11/13/01)

Rule 74.6: Surface Cleaning and Degreasing (Revised 11/11/03—effective 7/1/04)

Rule 74.6.1: Batch Loaded Vapor Degreasers (Adopted 11/11/03—effective 7/1/04)

Rule 74.7: Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants (Adopted 10/10/95)

Rule 74.8: Refinery Vacuum Producing Systems, Waste-water Separators and Process Turnarounds (Adopted 7/5/83)

Rule 74.9: Stationary Internal Combustion Engines (Adopted 11/8/05)

Rule 74.10: Components at Crude Oil Production Facilities and Natural Gas Production and Processing Facilities (Adopted 3/10/98)

Rule 74.11: Natural Gas-Fired Residential Water Heaters—Control of NO_x (Adopted 4/9/85)

Rule 74.11.1: Large Water Heaters and Small Boilers (Adopted 9/14/99)

Rule 74.12: Surface Coating of Metal Parts and Products (Adopted 11/11/03)

Rule 74.15: Boilers, Steam Generators and Process Heaters (Adopted 11/8/94)

Rule 74.15.1: Boilers, Steam Generators and Process Heaters (Adopted 6/13/00)

Rule 74.16: Oil Field Drilling Operations (Adopted 1/8/91)

Rule 74.20: Adhesives and Sealants (Adopted 1/11/05)

Rule 74.23: Stationary Gas Turbines (Adopted 1/08/02)

Rule 74.24: Marine Coating Operations (Revised 11/11/03)

Rule 74.24.1: Pleasure Craft Coating and Commercial Boatyard Operations (Adopted 1/08/02)

Rule 74.26: Crude Oil Storage Tank Degassing Operations (Adopted 11/8/94)

Rule 74.27: Gasoline and ROC Liquid Storage Tank Degassing Operations (Adopted 11/8/94)

Rule 74.28: Asphalt Roofing Operations (Adopted 5/10/94)

Rule 74.30: Wood Products Coatings (Revised 11/11/03)

Rule 75: Circumvention (Adopted 11/27/78)

Rule 101: Sampling and Testing Facilities (Adopted 5/23/72)

Rule 102: Source Tests (Adopted 4/13/04)

Rule 103: Continuous Monitoring Systems (Adopted 2/9/99)

Rule 154: Stage 1 Episode Actions (Adopted 9/17/91)

Rule 155: Stage 2 Episode Actions (Adopted 9/17/91)

Rule 156: Stage 3 Episode Actions (Adopted 9/17/91)

Rule 158: Source Abatement Plans (Adopted 9/17/91)

Rule 159: Traffic Abatement Procedures (Adopted 9/17/91)

Rule 220: General Conformity (Adopted 5/9/95)

Rule 230: Notice to Comply (Adopted 11/9/99)

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[FR Doc. E6-4204 Filed 3-22-06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2004-0022; FRL-8047-6]

RIN 2050-AG29

NESHAP: National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On October 12, 2005, EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for new and existing hazardous waste combustors. Subsequently, the Administrator received four petitions for reconsideration of the final rule. In this proposed rule, EPA is granting reconsideration of one issue in the petitions submitted by Ash Grove Cement Company and the Cement Kiln Recycling Coalition: The new source standard for particulate matter (PM) for cement kilns that burn hazardous waste. We are requesting comment on a revised new source particulate matter standard for cement kilns. We are also requesting comment on corresponding changes to the new source particulate matter standards for incinerators and liquid fuel boilers.

DATES: Comments. Written comments must be received by April 24, 2006, unless a public hearing is requested by April 3, 2006. If a hearing is requested, written comments must be received by May 8, 2006.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by April 3, 2006, we will hold a public hearing on April 7, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2004-0022, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- E-mail: a-and-r-docket@epa.gov.
- Fax: 202-566-1741.
- Mail: U.S. Postal Service, send comments to: HQ EPA Docket Center (6102T), Attention Docket ID No. EPA-HQ-OAR-2004-0022, 1200