

listed above at **ADDRESSES**. A written summary of each public meeting will be made part of the Administrative Record.

If you are disabled and have need for a special accommodation to attend a public hearing, please contact the person listed above at **FOR FURTHER INFORMATION CONTACT**.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based

upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determinations as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 19, 1999.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc 99-13335 Filed 5-26-99; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 287

Defense Information Systems Agency (DISA) Freedom of Information Act (FOIA) Program

AGENCY: Department of Defense.

ACTION: Proposed rule.

SUMMARY: This proposed rule provides guidance on the implementation of the FOIA program within the Defense Information and the Office of the Manager National Communications System. It was written to comply with the Electronic FOIA Amendments of 1996.

DATES: Comments must be received by July 26, 1999.

ADDRESSES: Forward comments to the Defense Information Systems Agency, Attention: RGC (FOIA Officer), 701 South Courthouse Road, Arlington, VA 22204.

FOR FURTHER INFORMATION CONTACT: Ms. Robin M. Berger, 703-607-6515.

SUPPLEMENTARY INFORMATION:

Executive Order 12866, "Regulatory Planning and Review"

It has been determined that 32 CFR part 287 is not a significant regulatory action. The rule does not:

(1) Have an annual effect of the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

This part would provide guidance on the implementation of the Freedom of Information Act Program within the Defense Information Systems Agency and the Office of the Manager, National Communications System (OMNCS). It was written to comply with the Freedom of Information Act, as amended by the Electric Freedom of Information Act amendments of 1996.

Public Law 96-51 1, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been certified that this part does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 32 CFR Part 287

Freedom of information.

Accordingly, 32 CFR part 287 is revised to read as follows:

PART 287—DEFENSE INFORMATION SYSTEMS AGENCY (DISA) FREEDOM OF INFORMATION ACT PROGRAM

Sec.

287.1 Purpose.

287.2 Applicability.

287.3 Authority.

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287.6 Duties of the DITCO and the DTIC FOIA officers.

287.7 Fees.

287.8 Appeal rights.

287.9 Reports.

287.10 Questions.

287.11 "For Official Use Only" records.

Authority: 5 U.S.C. 552.

§ 287.1 Purpose.

This part assigns responsibilities for the Freedom of Information Act (FOIA) Program for DISA.

§ 287.2 Applicability.

This part applies to DISA and the Office of the Manager, National Communications System (OMNCS).

§ 287.3 Authority.

This part is published in accordance with the authority contained in 32 CFR part 286. It supplements 32 CFR part 286 to accommodate specific requirements of the DISA FOIA Program. However, 32 CFR part 286 takes precedence and shall be used for all issues not covered by this part.

§ 287.4 Duties of the FOIA officer.

The DISA FOIA Officer, located at DISA Headquarters, 701 S. Courthouse Road, Arlington, Virginia, is vested with the authority, within DISA, to release documentation for all requests of Agency records received by DISA directorates and field activities. The DISA FOIA Officer will:

(a) Make the materials described in paragraph C2.1. of DoD 5400.7-R available for public inspection and reproduction. A current index of this material will be maintained in accordance with paragraph C2.2 of DoD 5400.7-R.

(b) Establish education and training programs for all DISA employees who contribute to the DISA FOIA Program.

(c) Respond to all requests for records from private persons IAW DoD 5400.7-R whether the requests are received directly by DISA Headquarters or by DISA field activities. Coordinate proposed releases with the General Counsel in any case in which the release is, or may be, controversial. Coordinate all proposed denials with the General Counsel.

(d) Be the DISA principal point of contact for coordination with the Directorate for Freedom of Information and Security Review (DFOISR), Washington Headquarters Services reference FOIA issues.

(e) Ensure the cooperation of DISA with DFOISR in fulfilling the responsibilities of monitoring the FOIA Program.

(f) Coordinate cases of significance with DFOISR, after coordination with the General Counsel and with the approval of the Chief of Staff, when the issues raised are unusual, precedent

setting, or otherwise require special attention or guidance.

(g) Advise DFOISR prior to the denial of a request or prior to an appeal when two or more DOD components are affected by the request for a particular record or when circumstances suggest a potential public controversy.

(h) Ensure completion of the annual reporting requirement contained in DoD 5400.7-R.

287.5 Responsibilities.

(a) *Deputy Directors, Headquarters DISA; Commanders and Chiefs of DISA Field Activities; and the Deputy Manager, NCS.* These individuals will furnish the FOIA Officer, when requested, with DISA documentary material, which qualifies as a record IAW DoD 5400.7-R, for the purpose of responding to FOIA requests.

(b) *Chief of Staff.* The Chief of Staff will, on behalf of the Director, DISA, respond to the corrective or disciplinary action recommended by the Merit Systems Protection Board for arbitrary or capricious withholding of records requested, pursuant to the Freedom of Information Act, by military members or civilian employees of DISA. (This will be coordinated with the General Counsel.)

(c) *General Counsel.* The General Counsel or, in his or her absence, the Deputy General Counsel, is vested with the authority to deny, in whole or in part, a FOIA request received by DISA. The General Counsel will:

(1) Make the decision to deny a record in whole or in part; to deny a fee category claim; to deny a request for waiver or reduction in fees; to deny a request to review an initial fee estimate; to deny a request for expedited processing; or to confirm that no records were located during the initial search IAW 5 U.S.C. 552, as supplemented by the guidance provided in DoD 5400.7-R.

(2) Inform the person denied the basis for the denial of the request and of his or her right to appeal the decision to the Director, DISA, via written correspondence.

(3) Review any appeal the public may consider adverse in nature and ensure that the basis for the determination by the Director, DISA, be in writing, state the reasons for the denial, and inform the requester of his or her right to a judicial review in the appropriate U.S. District Court.

(4) Arrange for the publication of this part in the **Federal Register**.

(d) Chief, Legal Counsel, Defense Information Technology Contracting Organization (DITCO). The Chief Legal Counsel, DITCO, or, in his or her

absence, the Deputy Legal Counsel, DITCO, is vested with same authority and responsibilities, for DITCO, as stated in paragraph (c) of this section.

(e) Administrator, Defense Technical Information Center (DTIC). The Administrator, DTIC, is vested with the same authority and responsibilities, for DTIC, as stated in paragraph (c) of this section.

§ 287.6 Duties of the DITCO and the DTIC FOIA officers.

(a) DITCO FOIA officer. The DITCO FOIA Officer, located at 2300 East Drive, Scott AFB, IL 62225, is vested with the authority, within DITCO, to release documentation for all requests of records received by DITCO and its field activities, as stated in § 287.4(a), (b), and (c) and assist the DISA FOIA officer in carrying out the duties stated in § 287.4 (d) and (h).

(b) DTIC FOIA officer. The DTIC FOIA Officer, located at 8725 John J. Kingman Road, Suite 0944, Ft. Belvoir, VA 22060, is vested with the authority, within DTIC, to release documentation for all requests of records within DTIC, as stated in § 287.4 (a), (b), and (c) and assist the DISA FOIA officer in carrying out the duties stated in § 287.4 (d) and (h).

§ 287.7 Fees.

Fees charged to the requester are contained in DoD 5400.7-R.

§ 287.8 Appeal rights.

All appeals should be addressed to the Director, DISA, and be postmarked no later than 60 days after the date of the initial denial letter.

§ 287.8 Appeal rights.

All appeals should be addressed to the Director, DISA, and be postmarked no later than 60 days after the date of the initial denial letter.

§ 287.9 Reports.

An annual report will be furnished to the FOIA officer by the field activities by 15 October IAW DoD 5400.7-R.

§ 287.10 Questions.

Questions on both the substance and procedures of FOIA and the DISA implementation thereof should be addressed to the FOIA Officer by the most expeditious means possible, including telephone calls, faxes, and electronic mail. FOIA requests should be addressed as follows: Defense Information Systems Agency, 701 S. Courthouse Road, Arlington, VA 22204-2199, Attn: RGC. Calls should be made to (703) 607-6515. Faxed requests should be addressed to the FOIA Officer at (703) 607-4344. Electronic mail

requests should be addressed to
bergerr@ncr.disa.mil.

§ 287.11 "For Official Use Only" records.

The designation "For Official Use Only" will be applied to documents and other material only as authorized by DoD 5400.7-R and DoD 5200.1-R, Information Security Program.

Dated: May 21, 1999.

L.M. Bynum,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

[FR Doc. 99-13442 Filed 5-26-99; 8:45 am]

BILLING CODE 5001-10-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL-6350-8]

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 for which the Santa Barbara County Air Pollution Control District (Santa Barbara County APCD) and Ventura County Air Pollution Control District (Ventura County APCD) are the designated COAs. The intended effect of approving the OCS requirements for the above Districts, contained in the Technical Support Document, is to regulate emissions from OCS sources in accordance with the requirements onshore. The changes to the existing requirements discussed below are proposed to be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

DATES: Comments on the proposed rule must be received on or before June 28, 1999.

ADDRESSES: Comments must be mailed (in duplicate if possible) to: EPA Air Docket (Air-4), Attn: Docket No. A-93-

16 Section XVII, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

Docket: Supporting information used in developing the rule and copies of the documents EPA is proposing to incorporate by reference are contained in Docket No. A-93-16 Section XVI. This docket is available for public inspection and copying Monday-Friday during regular business hours at the following locations:

EPA Air Docket (Air-4), Attn: Docket No. A-93-16 Section XVII, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.
EPA Air Docket (LE-131), Attn: Air Docket No. A-93-16 Section XVII, Environmental Protection Agency, 401 M Street SW, Room M-1500, Washington, DC 20460.

A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT:
Christine Vineyard, Air Division (Air-4), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1197.

SUPPLEMENTARY INFORMATION:

I. Background

On September 4, 1992, EPA promulgated 40 CFR part 55¹, 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 rules by a local air pollution control agency and receipt of Notices of Intent under § 55.4. 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 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 Evaluation and Proposed Action

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.

A. After review of the rule submitted by Santa Barbara County APCD against

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.

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).