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Via regulations.gov and Regular Mail

June 20, 2016

Peter Meffert
Bureau of Ocean Energy Management
Office of Policy, Regulation, and Analysis
U.S. Department of the Interior
45600 Woodland Road, Sterling, Virginia 20166

Re: Comments of Chevron U.S.A. Inc. on the Bureau of Ocean Energy Management Proposed Air Quality Control, Reporting and Compliance Rule, 81 Fed. Reg. 19,718 (Apr. 5, 2016); Docket ID: BOEM-2013-0081.

Dear Mr. Meffert:

Chevron U.S.A. Inc. (Chevron) appreciates the opportunity to submit the attached comments in response to the proposed rule published by the Bureau of Ocean Energy Management (BOEM), entitled, *Air Quality Control, Reporting and Compliance; Proposed Rule*, 81 Fed. Reg. 19,718 (Apr. 5, 2016) (the Proposed Rule).

The Proposed Rule would substantially affect Chevron's interests. Chevron is one of the largest producers of crude oil and natural gas on the Gulf of Mexico Outer Continental Shelf (OCS) and one of the top leaseholders in deepwater areas of the Gulf. Chevron and its affiliated companies hold interests in more than 600 leases in the Gulf, more than 400 of which are located at depths over 1,000 feet below sea level. Chevron has invested billions of dollars in acquiring leases, obtaining necessary approvals, and exploring and developing its leaseholds.

Chevron is a member company of the American Petroleum Institute (API), the Offshore Operators Committee (OOC), the Independent Petroleum Association of America (IPAA), the National Ocean Industries Association (NOIA), and the Offshore Marine Service Association (OMSA). Accordingly, in addition to these comments, Chevron supports and has participated in the development of the comments submitted separately by API, OOC, NOIA, IPAA, the International Association of Drilling Contractors (IADC), and OMSA (collectively, Joint Industry Trades) and incorporates those comments by reference, except as otherwise stated herein or in the appendix.

Chevron looks forward to working with BOEM to develop a rule that is reasonable and consistent with BOEM's authority under the Outer Continental Shelf Lands Act (OCSLA). Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Shellebarger".

Jeff Shellebarger

EXECUTIVE SUMMARY

Chevron would welcome the opportunity to work with BOEM to update its air quality regulations within the bounds of BOEM's statutory authority and in a reasonable manner. Chevron has a history of constructive engagement with BOEM and other regulatory agencies for the advancement of environmentally sound offshore operations.

Chevron is concerned that BOEM lacks the statutory authority to finalize the Proposed Rule, because among other things, BOEM has not determined that activities authorized under OCSLA significantly affect the air quality of any state as it relates to compliance with a National Ambient Air Quality Standard (NAAQS). The following highlights our key legal, policy and technical concerns with the Proposed Rule:

- BOEM lacks statutory authority to promulgate many of the Proposed Rule's provisions.
- In light of its own recent determinations that offshore operations do not impact onshore air quality and the lack of any evidence to call those prior determinations into question, the Proposed Rule lacks evidentiary basis. The Proposed Rule neither acknowledges nor provides a reasoned basis for the reversal.
- If BOEM issues a final rule based on the analysis done for the Proposed Rule, it would violate two Acts of Congress and several executive orders, by failing to conduct a reasoned cost-benefit analysis, including a quantitative weighing of the impact of the Proposed Rule against a statutory mandate for "expeditious" offshore energy development.
- BOEM is violating procedural law and executive orders by unfairly restricting the time provided for meaningful public comment.
- Finally, apart from lacking statutory authority, many of the Proposed Rule's provisions are arbitrary, capricious, and lack a reasoned basis, as detailed below.

For these and other reasons explained below, Chevron respectfully requests that BOEM withdraw the Proposed Rule until it has completed the work necessary to formulate regulations that fall within BOEM's statutory authority and, if appropriate at that time, issue a new proposed rule. At a minimum, BOEM should substantially revise the Proposed Rule to be consistent with its statutory authority, offer significant opportunities for stakeholder engagement prior to re-proposal, and afford the public sufficient time to review and comment on any such future re-proposal.¹

¹ Subject to the following comments, Chevron also provides Appendix A, which sets forth suggested revised regulatory text. Chevron requests that BOEM withdraw the Proposed Rule until it has completed the work necessary to formulate regulations that fall within BOEM's statutory authority. If BOEM nevertheless proceeds to finalize the rule, despite its lack of authority, Chevron asks that BOEM consider the alternative language set forth in Appendix A. By presenting this alternative language, Chevron in no way intends to waive the legal arguments in its comments, nor any other legal argument that could be presented in any future legal proceeding.

DETAILED COMMENTS ON THE PROPOSED RULE

I. BOEM should withdraw the Proposed Rule due to a lack of statutory authority.

The Proposed Rule represents an unworkable solution in search of a problem and authority. Specifically, section 5(a)(8) of OCSLA, provides the Secretary of the Interior (Secretary) authority to establish regulations only:

for compliance with the [NAAQS] pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), to the extent that activities authorized under [OCSLA] significantly affect the air quality of any State.²

This language not only guides but *limits* the actions that BOEM may take.

A. BOEM's regulatory authority over OCS source air emissions resides only in OCSLA section 5(a).

Section 5(a)(8) of OCSLA is the *exclusive* source of BOEM's authority to regulate OCS air emissions.³ As the preamble repeatedly acknowledges, BOEM has no authority to regulate under the Clean Air Act (CAA). Congress purposefully prescribed a narrow, specifically-defined scope of authority within OCSLA for BOEM to regulate OCS air emissions. Congress did so because at the time of enactment in 1978, the country faced an energy crisis that threatened not only the nation's economy, but also national security. On the heels of this crisis, which triggered a global recession, Congress amended OCSLA to accelerate domestic oil and gas production, particularly in the Gulf of Mexico. Previously, OCSLA contained "a variety of technological, economic, environmental, administrative, and legal problems which tend[ed] to retard the development of the oil and natural gas reserves."⁴

Congress replaced those impediments with "policies and procedures . . . intended to result in *expedited* exploration and development of the Outer Continental Shelf."⁵ "The basic purpose of [the amendments was] to promote the *swift, orderly* and *efficient* exploitation of our almost untapped domestic oil and gas resources in the outer continental shelf."⁶ Industry, including Chevron, invested hundreds of billions of dollars in reliance on the government's commitment to a swift, orderly, and efficient process.

Thus, it makes sense that Congress limited BOEM's authority to regulate air emissions associated with offshore development. To be consistent with OCSLA section 5(a)(8), which is the *only* source of BOEM's jurisdiction over emissions, BOEM regulations must be: (1) limited to pollutants for which EPA has issued NAAQS; (2) "for compliance" with the NAAQS; and (3)

² 43 U.S.C. § 1334(a)(8).

³ See 43 U.S.C. § 1334(a)(8).

⁴ 43 U.S.C. § 1801(8) ("Congressional findings").

⁵ 43 U.S.C. § 1802(1) (emphasis added).

⁶ H.R. Rep. 95-590, at 53 (1977), as reprinted in 1978 U.S.C.C.A.N. 1450, 1460 (emphasis added).

limited by the extent to which the regulated activities “*significantly affect*” the air quality *onshore* for the relevant NAAQS.⁷

The Proposed Rule’s assertion that OCSLA authorizes more expansive regulation of air emissions would render section 5(a)(8)’s limitations without meaning or function, and a statute “should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous.”⁸ The Secretary has long acknowledged OCSLA authority as “regulat[ing] OCS activities only if the emissions from the activities have significant effects on *onshore* air quality.”⁹ Nonetheless and contrary to its own longstanding interpretation, BOEM would now regulate air quality miles past the shoreline *and* activities outside OCSLA’s scope.

B. BOEM must limit its Proposed Rule to regulation of emissions that “significantly affect” onshore air quality for NAAQS compliance.

The Proposed Rule exceeds BOEM’s authority under OCSLA because it is not confined to emissions that “significantly affect” onshore air quality.¹⁰ In this rulemaking BOEM has not even attempted to define the meaning of “significantly affect” – the key statutory language defining the scope of BOEM’s limited regulatory authority. BOEM must withdraw the Proposed Rule and any re-proposed rule must clearly define what it means to “significantly affect” air quality and then demonstrate that emissions from OCS facilities do so.

1. BOEM must define what it means for emissions to “significantly affect” onshore air quality for NAAQS compliance and limit its regulations to such emissions.

Without defining this core concept, BOEM cannot show that the Proposed Rule is within its narrow statutory mandate. As discussed below, BOEM appears to have ignored this limitation altogether by proposing to require emission reduction measures for emissions that simply “affect” onshore air quality for NAAQS compliance. Further, even BOEM’s concept of which emissions “affect” air quality and whether they do so is inconsistent. For some emissions

⁷ Indeed, an earlier House version of the legislation included a proposal to authorize regulation of air emissions above the OCS as well. See H. Rep. No. 95-590, at 9 (proposing sections 5(a)(8) and (a)(9) of OCSLA). The House Conference Report on the 1978 OCSLA amendments states that the decision *not* to adopt proposed section 5(a)(9) demonstrates “[t]he conferees’ intent . . . that the regulations promulgated by the secretary *not* generally require that the air mass above the OCS . . . be brought into compliance with . . . air quality standards . . .” See H.R. Conf. Rep. No. 95-1474, at 85-86 (1978), as reprinted in 1978 U.S.C.C.A.N., 1674, 1684-85) (emphasis added). This Conference Report is recognized by courts as “perhaps the strongest evidence of congressional intent outside of the language of [OCSLA] itself.” *California v. Kleppe*, 604 F.2d 1187, 1196 (9th Cir. 1979).

⁸ *Clark v. Rameker*, 134 S. Ct. 2242, 2248 (2014) (quoting *Corley v. United States*, 556 U.S. 303, 314 (2009)); Accordingly, the prefatory language in section 5(a) stating that “[t]he regulations prescribed by the Secretary . . . shall include, but not be limited to” the enumerated requirements in section 5(a)(8) cannot, as a matter of law, be read to trump the specific limitations in section 5(a)(8). See *Whitman v. Am. Trucking Assn’s, Inc.*, 531 U.S. 457, 468 (2001) (“Congress . . . does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions – it does not . . . hide elephants in mouseholes”); *MCI Telecomms. Corp. v. AT&T, Co.*, 512 U.S. 218, 231 (1994) (same).

⁹ 45 Fed. Reg. 15,128, 15,128 (Mar. 7, 1980) (emphasis added) (promulgating current OCS emissions regulations); see also *id.* at 15,136 (declining to extend “onshore area of a State” to three mile territorial limit because “it would conflict with the intent of Congress”).

¹⁰ 43 U.S.C. § 1334(a)(8).

(i.e., volatile organic compounds (VOCs)), BOEM would impose emission controls for simply exceeding an applicable Emission Exemption Threshold (EET). For other pollutants, BOEM would impose emission controls if emissions would cause an exceedance of an applicable significant impact level (SIL). Neither of these concepts limits the Proposed Rule to regulating emissions that “significantly affect” onshore air quality. BOEM has failed to show that activities authorized under OCSLA significantly affect the air quality of a state for NAAQS compliance, and therefore, BOEM lacks jurisdiction.

2. BOEM has failed to demonstrate that emissions from OCS facilities “significantly affect” onshore air quality for NAAQS compliance.

In addition to failing to define the concept of “significantly affect,” BOEM has not presented any evidence that OCS emissions actually have a significant effect on onshore air quality for NAAQS compliance by any definition of that concept. BOEM ignores its recent and repeated conclusions that OCS emissions *do not* have a significant effect on onshore air quality.¹¹ BOEM’s Environmental Assessment of the Proposed Rule itself states, “[o]n the whole, however, OCS operations have a minimal impact on the air quality on shore.”¹² Even if BOEM had new scientific support for additional regulation, which it does not (or has not made available), the Supreme Court has made clear that BOEM cannot reverse course on factual findings affecting policy without (1) acknowledging the course reversal and (2) showing “good reasons” for doing so.¹³ “[W]hen, for example, [an agency’s] new policy rests upon factual findings that contradict those which underlay its prior policy . . . [i]t would be arbitrary or capricious to ignore such matters. In such cases it is not that further justification is demanded by the mere fact of policy change; but that a reasoned explanation is needed for disregarding facts and circumstances that underlay or were engendered by the prior policy.”¹⁴ BOEM’s course reversal in the Proposed Rule, without any explanation, is impermissible.

BOEM is currently conducting a regional study focusing on air quality in the Gulf of Mexico and coastal areas. The purpose of the study is two-fold: to support the EIS for the 2017-2022 Lease Block Sales program and to assess existing (and possibly develop new) EETs.¹⁵

¹¹ The Joint Industry Trades note many examples in their comments, including the EIS for each of the most recent GOM lease sales, and BOEM’s most recent Programmatic Environmental Impact Statement (PEIS), which addressed the 2012-2017 OCS oil and gas leasing program and specifically state that existing regulations are sufficient to prevent adverse onshore air quality impacts and “ensure [pollutant concentrations] stay within the NAAQS. BOEM, *Gulf of Mexico OCS Oil and Gas Lease Sales: 2012-2017, Western Planning Area Lease Sales 229, 233, 238, 246, and 248 Central Planning Area Lease Sales 227, 231, 235, 241, and 247: Final EIS*, § 4.1.1.1.2 at 4-15, OCS EIS/EA BOEM 2012-019 (July 2012).

¹² BOEM, *Oil, Gas, and Sulphur Operations in the Outer Continental Shelf 30 CFR Part 550 – Proposed Subparts A, B, C and J - Environmental Assessment*, § 4.2 – Alternative B: No Action Alternative, at 17 (Mar. 2016), BOEM-2013-0081-0003.

¹³ *FCC v. Fox Television Stations, Inc.*, 556 U. S. 502, 514-15 (2009) (“To be sure, the requirement that an agency provide reasoned explanation for its action would ordinarily demand that it display awareness that it is changing position. An agency may not, for example, depart from a prior policy *sub silentio* And of course the agency must show that there are good reasons for the new policy.”).

¹⁴ *Id.* at 515-16.

¹⁵ See BOEM, *Environmental Studies Program: Ongoing Studies* (GM-14-01), available at <http://www.boem.gov/BOEM-Meteorology-and-Air-Quality-Studies>; see also BOEM, *Environmental Studies Program: Studies Development Plan FY 2017-2019*, available at <http://www.boem.gov/SDP-2017-2019>.

Even if BOEM had completed the modeling studies and those studies demonstrated that offshore sources are significantly impacting onshore air quality, operators cannot assess the true impact to operations of the Proposed Rule and comment on them because the revised EETs, if it is determined that they are warranted, are not included in the Proposed Rule.

Congress required a finding of significant impact as a threshold for regulation, because it understood that many facilities might never be subject to section 5(a)(8):

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 requirements of the regulations under section 5(a)(8) would not apply.¹⁶

In proposing regulations that affect all OCS activities, BOEM ignores Congress' intent and proposes the exact opposite, in clear violation of Congress' explicit limitation on BOEM's authority.¹⁷

Chevron notes that it appears the Department of the Interior did not make the requisite determination that OCS emissions significantly affect onshore air quality when it promulgated the 1980 regulations. However, that the Department failed to satisfy its statutory obligations in that rulemaking does not obviate the need for BOEM to demonstrate that this Proposed Rule is within its authority under OCSLA. BOEM cannot adopt a rule that regulates emissions that do not significantly affect onshore air quality, regardless of whether it did so in 1980.¹⁸

C. BOEM has no authority to move the “shoreline” to the state seaward boundary (SSB).

Chevron supports the Joint Industry Trades' explanations regarding why exercising air quality authority offshore is unlawful, and any re-proposed rule must maintain the point of compliance at the shoreline. Chevron additionally notes that the Proposed Rule lacks a reasoned justification for a change in interpretation. BOEM cannot change existing policies without explanation and sound reasons for doing so. In enacting the 1978 OCSLA amendments, Congress described BOEM's authority as limited to air quality affecting “onshore” areas and made clear that air emissions “standards would not, however, apply to the quality of air above the OCS itself, or to OCS activities located in other parts of the country.”¹⁹

¹⁶ 124 Cong. Rec. H8391 (daily ed. Aug. 10, 1978).

¹⁷ *Adams Fruit Co. v. Barrett*, 494 U.S. 638, 650 (1990) (holding it to be “fundamental ‘that an agency may not bootstrap itself into an area in which it has no jurisdiction.’”) (citations omitted).

¹⁸ Further, even if the Department's failure to make a “significant effect” finding in its 1980 regulations could somehow be interpreted to otherwise foreclose commenters from objecting to that failure now, BOEM has reopened the issue by issuing the Proposed Rule.

¹⁹ H.R. Conf. Rep. No. 95-1474, at 85, *as reprinted in* 1978 U.S.C.C.A.N. at 1684; *see also* 124 Cong. Rec. H415 (daily ed. Jan. 31, 1978) (statement of Rep. Miller) (describing provisions to ensure that the development of the OCS did not interfere with the “air quality of *onshore* areas.”) (emphasis added); *id.* (statement of Rep. Murphy) (noting the concern “about the effects of OCS activities on the quality of air above the adjacent on-shore coastal

The Secretary's 1980 rulemaking followed Congress' directive. Indeed, the Secretary explicitly rejected an interpretation that would have regulated offshore air quality when promulgating the rule: "The Department has not made this change [extending boundary to SSB] because it would conflict with the intent of Congress."²⁰ In referencing OCSLA's authority over air emissions, courts have also described NAAQS compliance as applying only to onshore areas.²¹ Because OCSLA limits BOEM's authority to compliance with the NAAQS, BOEM has no authority to regulate OCS facilities' emissions for the effect at the SSB.²²

D. CAA section 328(b) does not grant authority to regulate OCS air emissions.

To the extent that proposed section 550.301 suggests that CAA section 328(b)²³ provides additional authority to regulate emissions from OCS activities, BOEM misconstrues both OCSLA and the CAA and should remove any such inference from the Proposed Rule. Prior to CAA section 328's enactment in 1990, OCSLA gave the Secretary exclusive authority over the OCS.²⁴ In section 328, Congress granted EPA jurisdiction to regulate air emissions for certain OCS areas, explicitly stating the transfer of authority would "supersede" OCSLA section 5(a)(8) that had placed authority exclusively in the Secretary's hands.²⁵ However, CAA section 328 left OCSLA section 5(a)(8) intact for areas not transferred to EPA. Accordingly, section 328 did not increase BOEM's jurisdiction.

II. BOEM lacks authority to promulgate or enforce requirements respecting the control, monitoring, or reporting of emissions that are unnecessary for NAAQS compliance.

BOEM must align the pollutants regulated in the Proposed Rule with those necessary to regulate for purposes of complying with a NAAQS, and even then, only to the extent such emissions would significantly affect onshore air quality for NAAQS compliance.²⁶

areas"); 124 Cong. Rec. S13994 (daily ed. Aug. 22, 1978) (statement of Sen. Hansen) ("The conferees . . . agreed that offshore operations should not prevent the attainment of onshore ambient air quality standards. The conferees instructed the Secretary of the Interior to promulgate regulations which will control those emissions to the degree specified in the conference report.").

²⁰ 45 Fed. Reg. at 15,136.

²¹ *United States v. Transocean Deepwater Drilling Inc.*, 936 F. Supp. 2d 818, 830 (S.D. Tex. 2013).

²² Moreover, EPA's CAA authority does not allow BOEM to issue these regulations and the SSB line has not traditionally been used for the purposes of attainment determinations.

²³ 42 U.S.C. § 7627(b).

²⁴ See *Kleppe*, 604 F.2d at 1193 ("The plain meaning provides no suggestion that such authority is to be shared.").

²⁵ 42 U.S.C. § 7627(a)(1).

²⁶ To the extent BOEM includes precursor pollutants in those regulations, it must limit (1) its list of regulated precursors to those identified by EPA, and (2) regulation of such precursors to those requirements necessary to achieve compliance with the specific NAAQS for which EPA has determined that precursor has an impact. Furthermore, any action must take into account the actual impacts of those precursors that are subject to presumptive or non-presumptive precursor status (*e.g.*, for PM_{2.5}).

A. Because BOEM cannot regulate pollutants for which there is no applicable NAAQS or that have not been designated by EPA as a precursor for a specific criteria pollutant, it should remove such pollutants from the Proposed Rule.

OCSLA section 5(a)(8) is clearly limited to “compliance” with the NAAQS and further limited “to the extent” that the subject activities “significantly” affect the ability of a state to comply with the NAAQS. This balance makes sense in light of OCSLA’s statutory purpose to promote responsible development of resources on the OCS.

The preamble in OCSLA section 5(a) does not expand BOEM’s authority. It provides that the “Secretary may at any time prescribe and amend such rules and regulations as he determines to be *necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the [OCS], and the protection of correlative rights therein.*”²⁷ This general sentence establishes the basic principle that BOEM’s regulations must be “necessary and proper” for waste prevention and natural resource conservation of the OCS. Also, the statutory language providing that regulations “shall include, but not be limited to” the listed provisions, which include subparagraph (8) (“for compliance with [NAAQS] to the extent that activities . . . significantly affect the air quality of any state”),²⁸ does not free BOEM to prescribe whatever air quality regulations it might choose. Rather, all such regulations must be “necessary and proper” for prevention of waste and conservation of OCS natural resources. BOEM has made no such finding and cannot do so here.

Rather than demonstrate that OCS facilities significantly affect compliance with the NAAQS onshore, the Proposed Rule does the opposite: it seeks to regulate numerous types of emissions for which there are no NAAQS at all and to regulate others as precursors for criteria pollutants even though they have not been so designated by EPA. Specifically, the Proposed Rule would establish requirements for: greenhouse gases (GHGs), including methane and nitrous oxide (N₂O); hazardous air pollutants (HAPs); hydrogen sulfide (H₂S); methane; carbon monoxide (CO) *as a precursor for ozone*; and VOCs and ammonia (NH₃) as precursors for fine particulate matter (PM_{2.5}). Including these pollutants in the Proposed Rule clearly exceeds BOEM’s authority. First, there is no H₂S or GHG NAAQS, and they are not even precursor pollutants for other NAAQS. Accordingly, BOEM is without authority to regulate these pollutants.

Further, BOEM lacks authority to define, independently of EPA, “precursor air pollutants.” The CAA defines the term “air pollutant” to include precursors, but only “to the extent the [EPA] Administrator has identified such precursor . . . for the particular purpose for which the term ‘air pollutant’ is used.”²⁹ Nonetheless, the Proposed Rule would identify precursor pollutants that EPA has not identified.³⁰ For example, EPA does not regulate: H₂S as a

²⁷ 43 U.S.C. § 1334(a) (emphasis added).

²⁸ *Id.* at § 1334(a)(8).

²⁹ 42 U.S.C. § 7602(g)(emphasis added).

³⁰ BOEM also distinguishes between “major” and “minor” precursors, *e.g.*, naming H₂S a “minor precursor” to SO₂ formation. These concepts do not exist, and there is no record established for making such designations.

precursor for SO₂; CO as a precursor for ozone;³¹ VOC or ammonia as precursors to PM_{2.5} in attainment areas and is not regulating those pollutants as precursors to PM_{2.5} in nonattainment areas until states complete their state implementation plan (SIP) planning process;³² GHGs as a NAAQS or as precursors; or HAPs as NAAQS or precursors.³³

B. Emission reduction measures for VOCs should not be required unless there is a significant impact to onshore NAAQS compliance.

BOEM should withdraw the requirement in the Proposed Rule that a facility implement emission reduction measures (ERMs) where its projected VOC emissions exceed the applicable EETs without determining whether such emissions “significantly affect” the air quality of a state and interfere with a state’s ability to comply with a NAAQS. Unlike the process for all other applicable emissions, for VOCs BOEM inexplicably proposes that if VOC emissions associated with an OCS facility are anticipated to exceed applicable BOEM-identified EETs, BOEM would simply bypass modeling of these emissions to determine their impact on the air quality of an adjacent state and require the lessee or operator to propose ERMs.³⁴ BOEM would require application potentially of the “best available control technology” (BACT) as BOEM has defined it. Because the proposed VOC evaluation process does not determine either the significance of the effect of the emissions on the “air quality of [a] [s]tate” or the impact of the emissions on onshore attainment or maintenance of a NAAQS, the proposed VOC provisions in section 550.307 contravene the mandate of section 5(a)(8) and exceed BOEM’s authority.

In addition to comments provided by the Joint Industry Trades, Chevron notes that the two-step process proposed for VOCs is particularly troublesome because the scientific evidence does not support any finding that VOCs significantly impact onshore ozone NAAQS compliance. Studies reported in the 2012-2017 Gulf of Mexico (GOM) Multiscale EIS concluded that the ozone impacts from VOC and NO_x emissions from all GOM gulf-wide OCS operations are on the order of 0.4 to 4 ppb, which do not exceed a reasonable estimate of ozone SIL values of 3-4 ppb.³⁵ These photochemical modeling studies show that no control of OCS VOC emissions is needed to address potential ozone NAAQS impacts.³⁶ At the very least, because the ongoing BOEM photochemical modeling EET studies will update the science on this

³¹ Although ozone modeling considers CO emissions from a facility, EPA has not defined it as a regulated precursor for ozone. We also note that BOEM should not regulate carbon black separately, to the extent it seeks to regulate precursors, as it lacks authority to regulate precursor *elements* absent a supporting EPA regulatory record, which is the agency with the expertise to make such a finding.

³² 80 Fed. Reg. 15,340, 15,436 (Mar. 23, 2015).

³³ Congress provided in the 1990 CAA Amendments that HAPs shall not be subject to Prevention of Significant Deterioration (PSD) permitting requirements 42 U.S.C. § 7412(b)(6).

³⁴ See Proposed Rule § 550.307(a).

³⁵ BOEM, *Gulf of Mexico OCS Oil and Gas Lease Sales: 2012-2017; Western Planning Area Lease Sales 229, 233, 238, 246, and 248; Central Planning Area Lease Sales 227, 231, 235, 241, and 247 Final EIS*, OCS EIS/EA 2012-019 (July 2012).

³⁶ *Id.*

issue, it is premature for BOEM to require controls for VOC and NO_x sources until the updated photochemical modeling is completed.³⁷

C. BOEM has no authority to regulate based on Ambient Air Increments (AAIs).

BOEM lacks statutory authority to require an OCS facility to evaluate its emissions against the AAIs and should remove any use of AAIs from the Proposed Rule. AAIs are designed under the CAA to provide states direction in how to balance the need for economic growth with environmental protection, consistent with CAA section 101(b)(1).³⁸ OCSLA provides no such authority, in part, because of the primacy role of states in managing increment consumption consistent with their own economic development priorities. Thus, it is not surprising that Congress did *not* direct BOEM to protect these growth ceilings, but instead directed BOEM to address NAAQS compliance only where onshore air quality would be “significantly affected.” Notably, Congress made no mention of the CAA’s AAI provisions in OCSLA section 5(a)(8), despite having enacted them just one year before in the 1977 CAA Amendments.³⁹

D. Regulating lead emissions is unnecessary to comply with that NAAQS.

Although the Proposed Rule states that “[l]ead is a [criteria pollutant] for which NAAQS have been established,”⁴⁰ regulating under OCSLA requires more than merely asserting that a NAAQS exists. Congress set a higher bar for such regulation by requiring regulations to be “*necessary*” for the purposes prescribed. With respect to subparagraph (8), BOEM must show that regulation is “*necessary*” for NAAQS compliance. As discussed in section I.B, it is highly improbable that OCS activities could significantly impact ambient air quality and affect compliance with the lead NAAQS.

E. OCSLA section 5(a)(8) does not authorize an Air Quality Related Value (AQRV) process.

Inclusion of an AQRV process in the Proposed Rule ignores specific choices Congress made in OCSLA, and BOEM should adhere to Congress’ directives. First, only one National Wilderness Area is provided additional protection by OCSLA.⁴¹ This shows that Congress consciously extended additional protections *only* to this area. Second, BOEM would be going

³⁷ Moreover, because onshore sources could emit up to 250 tons per year (tpy) of VOC emissions before triggering any emission control obligations under the CAA’s New Source Review provisions (*see* 42 U.S.C. §§ 7475, 7479), OCS facilities are being treated more stringently than onshore facilities. There is no rational basis for proceeding in such a manner.

³⁸ 42 U.S.C. § 7401(b)(1); *see also id.* § 7470(3) (purpose of PSD provisions, including increments is “to insure that economic growth will occur in a manner consistent with the preservation of existing clean air resources”).

³⁹ Under the CAA, Congress vested states with the authority to administer AAIs—not BOEM, and certainly not individual OCS facilities. *See* 42 U.S.C. § 7473(c). If, in the process of this analysis, the state identifies OCS facilities as a significant factor affecting the AAI analysis for onshore stationary sources, then section 2(f)(4) of OCSLA (not section 5(a)(8)) provides an avenue towards addressing the issue and a process for the potential remedy that the state and BOEM should follow. *See* 43 U.S.C. § 1331(f)(4).

⁴⁰ 81 Fed. Reg. at 19,759.

⁴¹ OCSLA section 12(h) imposes additional conditions for issuing a lease or permit that would affect the Point Reyes National Seashore. 43 U.S.C. § 1340(h).

beyond the authority granted in the CAA to federal land managers (FLMs) to create a newly defined category of “sensitive class II areas,” by interpreting OCSLA to grant such broad authority. Neither OCSLA nor the CAA affords special protection to such areas, and it is illogical to believe that Congress would have granted the *Secretary* greater authority in this regard than it grants the FLMs.⁴² Third, BOEM should not allow an FLM merely to assert a “view” about additional protections without providing scientifically-based evidence to substantiate that view, or then allow BOEM to request any analysis or information it deems relevant.⁴³ Congress did *not* grant BOEM authority to require facilities to conduct studies for defining AQRVs or identifying impacts where that information is currently lacking.⁴⁴ To the extent BOEM proceeds with an FLM consultation process, it must revise those requirements to state clearly that the FLM bears the burden of demonstrating an impact, and that the applicant is not required to prove absence of impact. BOEM must allow an applicant to present alternative information but cannot mandate an applicant undertake a study to prove or disprove an FLM’s unsubstantiated view.

III. Because the Proposed Rule exceeds authority granted by OCSLA by significantly expanding the scope of the “facility” emissions accounted for in the Air Quality Review sheet and including “attributed emissions” and “proximate activities,” BOEM should remove these expansions in any Final Rule.

A. BOEM lacks the authority to regulate mobile support craft (MSC) emissions, aircraft emissions, or emissions from onshore facilities.

OCSLA limits BOEM’s authority over offshore facilities to “artificial islands[] and [] installations . . . permanently or temporarily attached to the seabed, which may be erected thereon for the purpose of exploring for, developing, or producing resources therefrom.”⁴⁵ MSCs, aircraft, and onshore facilities are clearly not “artificial islands . . . permanently or temporarily attached to the seabed” that are “exploring for, developing, or producing” oil and gas.⁴⁶ The Supreme Court has made clear that “the purpose of [OCSLA] was to define a body of

⁴² This proposal disregards EPA regulations, and EPA’s specialized knowledge to address air quality concerns. While BOEM might argue that it is relying on EPA expertise, that is not the case. BOEM repeatedly borrows concepts from EPA but then applies them contrary to the approach that EPA has taken and in contexts to which they plainly are inapplicable. For example, as discussed below, BOEM appears to borrow the concept of SILs to use as thresholds above which emissions significantly impact onshore air quality and require emission controls, whereas EPA uses SILs as a screening tool to determine whether more fulsome analysis of a source’s impact is necessary.

⁴³ Proposed Rule § 550.303(h)(2).

⁴⁴ OCSLA section 18(g) limits BOEM authority to require lessees to provide information for environmental impacts and other evaluations, requiring “purchase” of such information from private sources. 43 U.S.C. § 1344(g). Congress’ intent is further evidenced in section 20(d) of OCSLA, which authorizes the Secretary to consider “*available* relevant environmental information in making decisions.” 43 U.S.C. § 1346(d) (emphasis added). This statutory provision in no way authorizes BOEM to demand additional creation of information beyond what is available for that decision.

⁴⁵ 43 U.S.C. § 1333(a)(1).

⁴⁶ As particularly relevant here, Congress expressly excluded one type of MSC—vessels—from OCSLA’s purview. See 43 U.S.C. § 1332 (1)-(2) (“the subsoil and seabed of the [OCS] appertain to the United States and are subject to its jurisdiction and control . . . [OCSLA] shall be construed in such a manner that the character of the waters above . . . [are] high seas, and the right to navigation . . . therein shall not be affected”); *id.* § 1333(a)(1) (extending the

law applicable to the seabed, the subsoil, and the fixed structures . . . on the Outer Continental Shelf.”⁴⁷ The Supreme Court has noted that Congress’ approach under OCSLA “was deliberately taken *in lieu of treating the structures as vessels*, to which admiralty law supplemented by the law of the jurisdiction of the vessel’s owner would apply.”⁴⁸ BOEM’s provision contravenes OCSLA and this long-standing case law, and BOEM should remove these emissions sources from the Proposed Rule.

B. The Proposed Rule’s provisions expanding the scope of emissions and emission points to be addressed in the analysis are unlawful.

BOEM should withdraw its proposed scheme to aggregate emissions across multiple facilities and instead regulate emissions only from a facility, whose definition comports with a common-sense notion of a plant. BOEM proposes to modify the current definition of “facility” and to add several definitions to the rule, including “complex total emissions,” “proximate activities,” “projected emissions,” and “attributed emissions.” Through these definitions, BOEM would not only treat as a single facility activities that had previously been separate, but also would require groups of separate facilities to be evaluated together (*e.g.*, if they are located near one another), even though they are in fact separate facilities. If EETs are exceeded based on the emissions of *the facility or the combined facilities*, the Proposed Rule would require the impacts to be addressed for either an existing facility undergoing a plan resubmission or for a new project to go forward. The proposed changes to these definitions should not be adopted because they (1) exceed BOEM’s authority under OCSLA, and (2) unreasonably combine separate facilities, inappropriately broadening the common-sense notion of a facility as historically covered by this rule. In addition, these proposed changes would create tremendous uncertainty regarding how these terms would be interpreted and applied in the field over time.

1. Current and proposed definition of “facility.”

BOEM’s proposal to delete the definition of “facility” in section 550.105 and to revise the “facility” definition in section 550.302 is confusing and arbitrary, because it appears to consolidate various aspects of definitions of “facility” that are currently in the OCSLA regulations without regard for their specific scope and purpose. Although the beginning of the definition seems to establish a somewhat discrete boundary for the facility that a regulated entity would be able to apply in practice and would create replicable results from plan to plan, the additional inclusion of all installations, structures, vessels, vehicles, equipment, or devices “*while dependent on, or affecting the processes of*”⁴⁹ the facility is vague and open to unguided and subjective interpretation. Furthermore, the final sentence expands the scope of a facility well beyond an easily understood boundary. The scope of the facility should be limited to clearly defined boundaries within the scope of BOEM’s authority. Otherwise, companies could be required to account for emissions that are difficult to identify and model and “address” those emissions for ongoing and future operations. The level of uncertainty is simply unworkable in

jurisdiction of the U.S., through OCSLA, to “such installation or other device (*other than a ship or vessel*) [attached to the seabed] for the purpose of transporting [oil and gas] resources”) (emphasis added).

⁴⁷ *Rodrigue v. Aetna Cas. & Sur. Co.*, 395 U.S. 352, 355 (2014).

⁴⁸ *Id.* (emphasis added).

⁴⁹ Proposed Rule § 550.302 (definition of “facility”).

the context of drilling operations and places companies at the mercy of *ad hoc* and potentially inconsistent determinations by BOEM, which could evolve over time.

2. The Proposed Rule would inappropriately broaden the practical scope of the facility subject to evaluation and potential emissions reduction.

Proposed sections 550.302 and 550.303 would require operators to include “attributed emissions” and “proximate activities” in the “complex total emissions” and complete an analysis to confirm whether, based on these total emissions, EETs are exceeded and further review is required. However, this consolidation could include multiple facilities in which operators may have only an *investment interest*. This language appears to be aimed at preventing circumvention of the air analysis requirements by focusing on partial ownership and using a large, one-nautical-mile distance. But the ultimate effect of all of these changes is to include in the emissions evaluation, emissions that should be considered part of “background.” Moreover, BOEM has failed to address how companies would obtain the information to determine the level of emissions from these extraneous activities, even if it were permissible to include them.

For the rule to be at all workable, BOEM needs to create a proper definition of the facility to be evaluated for potential regulation, apply it consistently, and eliminate the concept of potentially combining facilities. Accordingly, BOEM should not include these additional emissions in “complex total emissions” and should delete references to “facilities” (plural) throughout these definitions. Moreover, we note that the use of “construction,” “installation” (as a verb), and “implementation” is inappropriate. Construction of platforms is already encompassed in the “development” definition and any other OCSLA references to construction are narrow, indicating that BOEM does not have authority to expand the construction activities that are to be regulated such that the proposed regulation of emissions from the laying of pipelines is impermissible. The purpose of “installation” is unclear as it relates to construction and should be deleted. Finally, the term “implementation” is included without explanation and therefore needs to be deleted since it is not possible to comment on what BOEM is attempting to accomplish with that language. Accordingly, only a “facility” (properly defined as discussed above) emissions should be included in the analysis.

3. BOEM should adopt a definition of “facility” that comports with a common-sense notion of a plant.

Based on the above, BOEM should define facility as shown below (underline/strikeout compared with proposal) and include section 550.303(j), which has been proposed for deletion, with appropriate revisions as follows (underline/strikeout compared with existing rule provision):

Facility means, any installation, structure, ~~vessel, vehicle,~~ equipment, or device that is temporarily or permanently attached to the seabed of the OCS for the purpose of exploring for, developing, or producing oil or gas or sulphur therefrom, and which emits a regulated criteria or precursor pollutant, including but not limited to a dynamically positioned ship, gravity-based structure, manmade island, or bottom-sitting structure, ~~whether used for the exploration, development, production or transportation of oil, gas, or sulphur.~~ ~~All installations, structures, vessels, vehicles~~ equipment, or devices directly

~~associated with the construction, installation, and implementation of a the facility are a part of a facility only while located at the same site, attached, or interconnected by one or more bridges or walkways, or while dependent on, or affecting the processes of, the facility, including any ROV attached to the facility. One facility may include multiple drill rigs, drilling units, vessels, platforms, installations, devices, and pieces of equipment. Facilities include Mobile Offshore Drilling Unit(s) (MODU), even while operating in the “tender assist” mode (i.e., with skid-off drilling units), or any other vessel engaged in drilling or downhole operations, including well-stimulation vessels, while temporarily or permanently attached to the seabed and exploring for, developing, or producing oil and gas or sulphur resources. Facilities also include all Floating Production Systems (FPSs), including Column-Stabilized-Units (CSUs), Floating Production, Storage and Offloading facilities (FPSOs), Tension-Leg Platforms (TLPs), and spars, while temporarily or permanently attached to the seabed. Any vessel used to transfer production from an offshore facility is part of the facility while physically attached to it. ~~Facilities also include all DOI-regulated pipelines and any installation, structure, vessel, equipment, or device connected to such a pipeline, whether temporarily or permanently, while so connected.~~~~

Should BOEM have a concern based on information from an affected State that any particular facility, as defined above, will alone or in combination with separate facilities in the area, significantly affect the air quality of an onshore area, BOEM already has the ability to seek information to evaluate whether control measures may be necessary. To provide further clarity as to which facilities BOEM will consider, the following proposed change to existing section 550.303(j) would provide BOEM with the ability to gather information necessary to determine whether OCS activities it approves will significantly impact the air quality of a state such that emission control measures may be necessary for compliance with the NAAQS:

(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 Regional Supervisor determines~~ or an affected State submits information to the Regional Supervisor which demonstrates, in the judgment of the Regional Supervisor, 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 Regional Supervisor shall require the lessee to submit additional emissions information to determine whether emission control measures are necessary and appropriate for NAAQS compliance. Additional emissions information requested shall be limited to information relating to facilities for which the lessee is the designated Operator and that are within the 500 meter USCG Safety Zone of the otherwise exempt facility (measured from the center of the equipment on the surface site) that share any of the following production equipment including but not limited to, amine gas sweetening units, phase separators, natural gas dehydrators, or emissions control devices. The lessee also shall be given the opportunity to present information to the Regional Supervisor which demonstrates that the exempt facility is not significantly affecting the air quality of an onshore area of the State for NAAQS compliance.

IV. BOEM should withdraw the Proposed Rule’s provisions requiring reconsideration of previously approved plans and imposing ten-year review periods for approved plans because these provisions exceed BOEM’s authority.

A. The requirement to resubmit and obtain re-approval of a previously approved plan constitutes a breach of contract without any evidence of changes in conditions.

As the Joint Industry Trades’ comments explain, OCSLA section 25(h)(3) provides BOEM authority to review previously approved development plans based only on “*changes in available* information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan.”⁵⁰ Unless and until new information indicates a significant effect on onshore NAAQS compliance, BOEM has no authority to require re-submission and re-approval, presumably based on new and more onerous terms, of existing plans. Otherwise, BOEM’s proposed regulatory reopener provision would constitute a breach of contract.⁵¹

B. The proposal to treat new and existing leases alike is unreasonable and inconsistent with OCSLA and fundamental principles of administrative law.

BOEM should revise the Proposed Rule to account for the differences between new and existing OCS facilities. The Proposed Rule would treat a new facility being authorized and an existing facility seeking plan renewal as if they are both new facilities, notwithstanding the fact that companies have invested billions of dollars in existing leaseholds on the OCS. Congress intended to create a stable environment that would induce investments in offshore development, while balancing appropriate environmental protections.⁵² Given the more limited scope of authority under OCSLA, there is no basis for BOEM to exceed approaches adopted onshore under the CAA that specifically treat existing sources differently from new ones for purposes of frequency and stringency of regulation. For example, the CAA recognizes that investment in existing facilities and ongoing operations should not generally be disrupted by new regulatory requirements absent a facility initiating a change.⁵³ It is unreasonable for BOEM to treat

⁵⁰ 43 U.S.C. § 1351(h)(3) (emphasis added).

⁵¹ See *Mobil Oil Expl. & Producing Se., Inc. v. United States*, 530 U.S. 604 (2000); *Amber Res. Co. v. United States*, 68 Fed. Cl. 535 (Fed. Cl. 2005).

⁵² 43 U.S.C. § 1802.

⁵³ For example, under the New Source Review programs only new facilities or those that undertake a modification that increases emissions are subject to “new source” requirements. 42 U.S.C. §§ 7475, 7479. Existing facilities are not subject to “renewal” of their permits under these programs. Under the NSPS, only new or modified sources that increase emissions are subject to the new source standards, while less stringent standards developed by states and that take into account the remaining useful life of an operating unit are developed and implemented by states under section 111(d). 42 U.S.C. § 7411. Under section 112 for hazardous air pollutants, EPA promulgates a very stringent new source standard but is directed to set a separate standard for existing sources taking into account cost and other factors. 42 U.S.C. § 7412. Under section 172, Congress prescribes existing source standards but directs that the controls be “reasonably available” rather than the “best,” and the D.C. Circuit has held that these controls need not even be applied if the NAAQS would otherwise be achieved by controls already in place because such controls would not be necessary. 42 U.S.C. § 7502; *NRDC v. EPA*, 571 F.3d 1245, 1253 (D.C. Cir. 2009) (“To the extent an area is already achieving attainment as expeditiously as possible, imposition of additional control technologies

renewals of plans that have existed for many years as if they constitute construction of a new OCS facility.

C. BOEM has not proposed a workable re-authorization program.

BOEM must withdraw its proposed re-authorization program and propose a workable process that is consistent with its authority under OCSLA. BOEM proposes to require that lessees re-submit plans when EPA revises a NAAQS.⁵⁴ But BOEM has not integrated its proposed requirements with the SIP planning process, which is an essential step before BOEM can reasonably determine whether an OCS facility significantly affects NAAQS compliance. Once EPA revises a NAAQS, the CAA provides up to two years to designate areas under the new standard. Thus, it may not even be known whether an area is in attainment or nonattainment when a NAAQS is issued. States then have three years to develop and submit SIPs. Accordingly, it may be five years before a state identifies (1) causes of nonattainment, (2) cost-effective emission reductions, and (3) whether any OCS facility might significantly contribute to NAAQS exceedances. Under this regulatory scheme, if existing onshore sources face additional emissions reduction requirements, it would occur only after a thorough state review of the NAAQS, and several years after a NAAQS revision. Surely, this is the type of *available* information Congress intended BOEM to consider in determining whether to reopen an existing approval—not a revision to the NAAQS with unknown implications for the onshore area. BOEM’s proposal treats existing OCS facilities differently from onshore facilities by potentially subjecting OCS facilities to immediate control, before a State determines how best to address NAAQS compliance concerns. BOEM has not acknowledged, discussed or justified this disparate treatment of existing OCS facilities.

Moreover, the Proposed Rule points only to the process for initial authorization, requiring lessees to repeat that process, without any streamlining or recognition that many of the requirements are not meaningful for facilities that are already operating and authorized. For example, the Proposed Rule would define the background concentration to include the concentration of pollutants transported into an area. But by this definition, the existing OCS facility’s own emissions would be *part of the background concentration* at the time of its re-evaluation. The Proposed Rule lacks a plan for addressing this issue on re-evaluation to assure that the facility’s emissions are not double-counted in a modeling analysis.

Finally, the Proposed Rule also fails to explain how BOEM will require an operating facility to install new emissions controls consistent with the limitations on its authority in OCSLA section 5(a)(1). Under the statute, an operating facility may be required to suspend or temporarily prohibit operations only “if there is a threat of serious, irreparable, or immediate harm, or damage to life (including fish and other aquatic life).”⁵⁵ In many cases, an OCS facility will need to cease operations to install emissions controls. Further, because of limits on

would not hasten achievement of the NAAQS. In such a situation, the EPA may reasonably conclude that no control technologies are reasonably available and the area need not implement further technologies to satisfy the RACT requirement.”).

⁵⁴ Proposed § 550.310.

⁵⁵ 43 U.S.C. § 1334(a)(1).

facilities' available space and weight-bearing capacity, extensive changes to those facilities may be required to apply emission controls, if installing those controls is even feasible at all.⁵⁶

V. BOEM should revise specific provisions in the Proposed Rule that are arbitrary and unreasonable.

A. BOEM must determine the program's applicability to OCS facilities based on their actual emissions, not a "potential to emit" approach.

A critical element of the emissions definitions is how emissions levels are determined. BOEM is again inappropriately borrowing an outdated concept from EPA, specifically, potential to emit (PTE). BOEM is authorized to establish regulations for compliance with the NAAQS to the extent that activities authorized under OCSLA "significantly affect the air quality of any State,"⁵⁷ not to the extent that activities *may affect* air quality. OCSLA speaks to actual activities as they will occur. Given this limitation, the definition of facility emissions, which looks at what might occur without regard to a facility's design and expected operation, is unauthorized and unreasonable.⁵⁸ It is also unreasonable to require facilities to compute and compare emissions to the applicable EETs on both an annual (tons per year or tpy) and a 12-month rolling sum basis. While a 12-month rolling sum concept may have applicability in evaluating whether a source is complying with an annual tpy limit, it makes no sense in the context of determining *applicability*. Ironically, the proposal would actually impose more stringent requirements on offshore sources than those on land, even though the likelihood of impact on attainment with the NAAQS is far more attenuated for the OCS than for an onshore source.

B. The ERM standards should not be adopted.

The Proposed Rule exceeds BOEM's authority to regulate "for compliance" with NAAQS by requiring some facilities to install BACT simply for exceeding SILs (or, in the case of VOCs, exceeding an EET). BOEM has not explained why installation of emissions control is necessary to administer OCSLA section 5(a)(8). Notably, Congress passed OCSLA in September 1978, just after Congress revised the Clean Air Act in 1977 to add prescriptive emissions control requirements for major stationary sources that construct or undertake modifications that increase emissions. Among these CAA requirements, Congress directed sources to reduce emissions to control-technology-based levels – best available control technology (BACT) and lowest achievable emissions rate (LAER) – without regard to whether emissions from that source significantly affect the ambient air quality of any State. It did so quite explicitly. In contrast to the CAA, Congress expressly directed BOEM to regulate only for

⁵⁶ BOEM's failure to propose an effective date that provides sufficient time after publication of a final rule for OCS facilities to make these and any other mandated changes compounds BOEM's unreasonable approach.

⁵⁷ *Id.* at § 1334(a)(8).

⁵⁸ The D.C. Circuit has interpreted similar language to mean that an actual emissions approach is not only permissible but is required. *See New York v. EPA*, 413 F.3d 3 (D.C. Cir 2005).

NAAQS compliance.⁵⁹ This does not mean that if a SIL or EET is exceeded, controls can be required regardless of whether they are necessary for compliance with the NAAQS.

The proposed definition of BACT would require reduction of emissions “to the maximum extent practicable,” using a “physical or mechanical system or device,” considering “energy, environmental, and economic impacts.”⁶⁰ The definition of ERM would extend to any “process, method or technique” that would reduce emissions.⁶¹ None of this relates to whether BOEM is providing for compliance with the NAAQS. Such an approach is clearly beyond the authority granted to the Secretary. Further, the Proposed Rule would require control technologies even where emissions from a facility do not have the potential to significantly affect air quality in any attainment or nonattainment area.⁶² While BOEM might argue that the EETs and SILs⁶³ define significant impact, these screening tools do not establish that a significant impact on air quality will occur.⁶⁴

Equally troubling is the Proposed Rule’s intent to rely on EPA’s process for determining BACT, including cost-effectiveness determinations. This is entirely inappropriate and well outside BOEM’s statutory authority. Under OCSLA, BOEM’s authority is narrowly circumscribed and includes only those measures necessary for compliance with the NAAQS. EPA’s BACT determination process is completely independent of any consideration of effects on air quality. EPA’s so-called “top-down” BACT determination process unavoidably leads to implementation of costly emission reduction measures that are not limited to attainment of a NAAQS.

⁵⁹ Congress’s focus on NAAQS compliance only is not unprecedented, even under the CAA. In section 325(a) of the CAA, Congress allows Governors of certain U.S. territories to petition for an exemption from applying CAA requirements, including BACT and LAER requirements, if the territory continues to comply with requirements to attain and maintain compliance with the primary NAAQS. 42 U.S.C. § 7625-1(a). And, State and local air pollution control agencies, or Tribes, with an approved tribal implementation plan, need only regulate minor stationary sources as necessary to assure that they do not cause or contribute to a NAAQS violation. See 42 U.S.C. § 7410(a)(2)(C).

⁶⁰ See proposed § 550.302(b) (definition of BACT).

⁶¹ *Id.* (definition of Emission Reduction Measures and Operational Controls).

⁶² See, e.g., proposed § 550.307(a)(1) and (b)(1)). See also proposed § 550.306(a)(5), requiring application of “the most effective [] controls” for short-term facilities. See also proposed §§ 550.307(a)(2) and 550.307(b)(2)), requiring BACT (and thus reduction of emissions “to the maximum extent practicable”) for long-term facilities.

⁶³ It is important to recognize that the name “significant impact level” does not actually mean that a source will have a significant impact. Moreover, SILs are established based on land-based emissions, whereas OCS sources are many miles away and application of a SIL as a determination of “significant impact on air quality” is simply inappropriate even with a “distance factor.” Considering OCS facilities and the variability in meteorology and other factors that come into play, BOEM has not explained why such a linear relationship would exist or remain valid even if it exists at short distances on land.

⁶⁴ Because it also requires potentially costly reductions in emissions beyond the level necessary to ensure that the emissions would not significantly affect air quality, this concern is not merely theoretical. See, e.g., proposed § 550.306(a)(5) (requiring application of “the most effective [] controls” for short-term facilities); proposed §§ 550.307(a)(2) and 550.307(b)(2) (requiring BACT (and thus reduction of emissions) “to the maximum extent practicable” for long-term facilities); see also *In re World Color Press, Inc.*, PSD Appeal No. 88-4, 3 E.A.D. 474, 1990 WL 324095 (EAB Dec. 13, 1990) (rejecting elimination of more stringent emissions controls as BACT because of a negligible improvement in air quality); Mem. from Nancy L. Tommelleo, Office of Reg’l Counsel, EPA Region IV, to Winston A. Smith, Dir., Air, Pesticides & Toxics Mgmt. Div., EPA Region IV. (Oct. 15, 1995) (stating as a matter of law that air quality considerations are not relevant to the BACT determination).

Because BOEM has no statutory authority to implement emissions control or emissions reduction requirements independent of NAAQS impacts, neither EPA’s decision-making process for determining BACT, its historic decisions regarding required control technologies and other emission reduction measures, nor the cost-effectiveness of those requirements should in any way inform the requirements for emissions controls under the air quality rules applicable on the OCS. Achieving the “best” or “maximum extent” of emissions reductions possible is not necessary for NAAQS compliance.

C. The Proposed Rule’s requirement for recordkeeping and reporting is unduly excessive and should be reduced.

A ten-year record keeping requirement is unprecedented. BOEM did not explain its basis for selecting a ten-year period or why a source must keep copies of submitted information, and thus, its decision appears arbitrary and capricious.⁶⁵

VI. BOEM should delete the numerous proposed provisions granting unfettered discretion and failing to apprise regulated entities of what is required to continue or begin operations.

Numerous provisions in the Proposed Rule appear to give BOEM unfettered discretion to impose costly and highly disruptive requirements, and even more troubling, these requirements would be imposed with little to no justification. For example, under the Proposed Rule, BOEM could:

- Request additional information from potential lessees after consultation with the FLM any time that “BOEM believes that your proposed activities may affect a Class I or a Sensitive Class II area.”⁶⁶
- Require sources to “provide the information required . . . in a manner and on a schedule determined by the Regional Supervisor” and require an OCS facility operating under an approved plan “to provide any other information within your possession.”⁶⁷
- Disapprove use of a model if BOEM determines it is not appropriate for the OCS.⁶⁸
- Forbid the use of certain emission control measures if BOEM so chooses.⁶⁹
- Require additional control measures even after plan approval, regardless of whether the OCS facility has demonstrated compliance with the applicable requirements.⁷⁰

⁶⁵ BOEM also did not address its requirements to pay lessees a reasonable cost of reproducing data and information that BOEM requests. Under section 26(a)(1) of OCSLA, Congress provided BOEM authority to request data and information obtained from an authorized activity, but it specifically indicates that BOEM must pay the lessee for reproduction of this information. 43 U.S.C. § 1352(a)(1). BOEM must re-propose its recordkeeping and reporting requirements to acknowledge this obligation and set forth a process for determining reasonable costs.

⁶⁶ Proposed Rule § 550.303(h).

⁶⁷ *Id.* at §§ 550.311(b)(5), 550.312(d).

⁶⁸ *Id.* at § 550.304(a)(iv).

⁶⁹ *Id.* at § 550.306(a)(6)(ii).

⁷⁰ *Id.* at § 550.308(a). These requirements would inappropriately allow BOEM to decide the scope, content, frequency, duration, and format for reporting on a case-by-case basis, for each facility, outside the rulemaking

Moreover, BOEM proposes to allow Regional Supervisors to impose additional emissions regulations at their discretion, regardless of whether the section 5(a)(8) threshold has been exceeded. If finalized as written, the Proposed Rule leaves so much to BOEM's discretion that affected parties cannot predict what requirements BOEM will enforce against them or what they must do to conform their conduct to the regulatory requirements.⁷¹ Neither OCSLA nor the Paperwork Reduction Act provides BOEM with such unfettered discretion to regulate. To the contrary, OCSLA fundamentally limits BOEM's regulatory authority to only such actions as are "necessary and proper" to provide for waste prevention and natural resource conservation.⁷² Likewise, any regulations promulgated under OCSLA section 5(a)(8) must be necessary for onshore NAAQS compliance and limited to OCS facilities that significantly impact a state's air quality.⁷³

Nothing in OCSLA suggests that BOEM is not otherwise required to comply with the Administrative Procedure Act and fundamental concepts of due process and fair notice. Without additional language to guide their implementation, these provisions as proposed purport to allow BOEM to impose harsh economic consequences on regulated sources without fair notice of what conduct could trigger such consequences. The constitutional principle that an agency must give fair notice of a regulation's applicability and consequences is "basic hornbook law in the administrative context."⁷⁴ "Due process requires that parties receive fair notice before being deprived of property,"⁷⁵ including by requiring actions that "entail[] the expenditure of significant amounts of money."⁷⁶ This fundamental notion embodies the principle that individuals should be able to ascertain the meaning of the law—and the consequences that flow from their conduct—before they engage in that conduct, so they can avoid triggering those consequences. Thus, a regulated entity "cannot be found to be out of compliance with a standard if [the agency] has failed to give fair notice of what is required by the standard."⁷⁷

Not only is it unnecessary, it is also improper for BOEM to issue a rule that ignores OCSLA's limitations on its regulatory authority or allows it to consider other factors besides the enumerated statutory requirements when imposing requirements on OCS facilities. At the very least, BOEM must define the criteria by which it makes the determinations or takes the actions contemplated in these discretionary provisions. Those criteria must reflect OCSLA's basic

process and without procedural safeguards. There is no statutory authority for such a provision, and any required reporting must be no more than is "necessary and proper." It would be unnecessary and improper to require reporting of information unrelated to onshore compliance with the NAAQS, e.g., GHG or HAP emissions.

⁷¹ See *Gen. Elec. Co. v. EPA*, 53 F.3d 1324, 1329 (D.C. Cir. 1995) (finding that the agency did not provide the company with fair warning of its interpretation of its unclear regulations and could not, therefore, hold the company responsible for the actions charged); Notices to Lessees (NTLs) in particular have the further limitation that they cannot impose substantive requirements. See, e.g., *Ensco Offshore Co. v. Salazar*, No. 10-1941, 2010 WL 4116892, at *5 (E.D. La. Oct. 19, 2010) (requiring notice and comment procedures and rejecting use of a NTL. Moreover, none of the conditions under which the Proposed Rule directs Regional Supervisors to issue NTLs and other guidance bear any relationship to section 5(a)(8)'s criteria.

⁷² 43 U.S.C. § 1334(a).

⁷³ *Id.* at § 1334(a)(8).

⁷⁴ *Gen. Elec. Co.*, 53 F.3d at 1329 (quoting *Rollins Envtl. Servs. (NJ) Inc. v. EPA*, 937 F.2d 649, 654 n.1, 655 (D.C. Cir. 1991) (Edwards, J., dissenting in part and concurring in part)).

⁷⁵ *Id.* at 1328 (citing *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)).

⁷⁶ *United States v. Chrysler Corp.*, 158 F.3d 1350, 1354-55 (D.C. Cir. 1998).

⁷⁷ *Id.* at 1354.

instruction that BOEM may only regulate as is “necessary and proper” for OCSLA’s purposes, and it may only regulate OCS emissions to the extent necessary to address significant effects on onshore NAAQS compliance and also must provide fair notice of the requirements that regulated entities must meet.

VII. BOEM should withdraw the Proposed Rule because it violates the notice and comment requirements of the Administrative Procedure Act.

BOEM must re-propose the rule, identifying the data on which it bases a proposal to provide affected operators the required meaningful opportunity for comment⁷⁸ and to ensure that any final rule is a logical outgrowth of the proposal.⁷⁹

A. The Proposed Rule is incomplete and has significant information gaps.

Much of the Proposed Rule reads more like an advance notice of proposed rulemaking than a fully-formed proposal for agency action, and accordingly, BOEM has not given sufficient notice of its proposed action to afford adequate public comment. The preamble contains more than forty requests for “data,” i.e., assistance with writing the rule, and several places in proposed rule text clearly acknowledge uncertainty. The Joint Industry Trades’ comments list many proposed provisions that are incomplete. Yet these issues are critical components of the air quality regulatory program and could have significant impact on offshore operators. These examples also include: (1) intent to use a “performance-based approach” but requesting comment on a vast array of aspects BOEM might use to determine ERM;⁸⁰ and (2) alternative monitoring and reporting approaches.⁸¹

B. BOEM’s approach to incorporating guidance, reference material, and regulations by reference is flawed and must be corrected.

Rather than incorporate documents by reference, the Proposed Rule needs to include all of the text necessary to understand and apply the regulation. BOEM has not properly incorporated by reference material it included in its Proposed Rule because it failed to meet the procedural requirements contained in 1 C.F.R. section 51.⁸² Further, BOEM proposes to incorporate by reference a number of documents but provides conflicting information as to the

⁷⁸ In agency rulemaking “notice and the opportunity to be heard are an essential component of ‘fairness to affected parties.’” *Small Refiner Lead Phase-Down Task Force v. EPA*, 705 F.2d 506, 547 (D.C. Cir. 1983) (citation omitted).

⁷⁹ If a final rule “deviates too sharply from the proposal, affected parties will be deprived of notice and an opportunity to respond to the proposal.” *Id.*; See also *CSX Transp., Inc. v. Surface Transp. Bd.*, 584 F.3d 1076, 1079-80 (D.C. Cir. 2009) (citing *Ne. Md. Waste Disposal Auth. v. EPA*, 358 F.3d 936, 952 (D.C. Cir. 2004)); see *Envtl. Integrity Project v. EPA*, 425 F.3d 992, 996 (D.C. Cir. 2005) (refusing to permit the agency to “pull a surprise switcheroo on regulated entities” where the final rule deviated from the proposed rule).

⁸⁰ 81 Fed. Reg. at 19,743.

⁸¹ *Id.* at 19,784.

⁸² Under section 51.1, an incorporation by reference must meet APA requirements and material incorporated by reference, has the effect of a binding regulation such that it may only be changed using APA procedures. 1 C.F.R. § 51.1. The *Federal Register* regulations reflect this requirement in 1 C.F.R. § 51.11, which states the only way to change or remove an approved incorporation is to publish a notice in the *Federal Register* and amend the Code of Federal Regulations

regulatory status of that information.⁸³ The regulations governing incorporation by reference also do not provide for self-updating references or incorporation of material that is not yet in existence.

C. The time permitted by BOEM for public comment is inadequate as a matter of law.

The proposal violates both the APA⁸⁴ and Executive Order (E.O.) 13563⁸⁵ by denying stakeholders a reasonable time to provide meaningful comments on the highly complex, technical features of the Proposed Rule.⁸⁶ Given the Proposed Rule's scope and complexity, the 76-day comment period is inadequate,⁸⁷ particularly where it omits required economic impact analysis under E.O. 12866⁸⁸ and an Energy Effects statement under E.O. 13211.⁸⁹

VIII. BOEM has not completed the modeling studies necessary to determine whether offshore sources are significantly impacting onshore NAAQS compliance.

BOEM's proposal to finalize EET ranges prior to completing its studies renders the Proposed Rule without scientific basis. There are several research efforts being undertaken to improve our understanding of atmospheric dispersion in the Arctic Ocean and the Gulf of Mexico and to improve our ability to predict air quality consequences of OCS activity. First, the only approved dispersion model is more than 20 years old and has many deficiencies, so it is currently being revised. Second, the scientific community's understanding of coastal wind fields (and, therefore, pollutant dispersion) is inadequate and warrants field studies using atmospheric tracers. Third, a comprehensive emissions analysis and photochemical modeling study of the Arctic Ocean and the central and western Gulf of Mexico is currently underway to determine the extent that offshore emissions affect onshore air quality and to develop EETs to be used in Plan approvals. BOEM should postpone promulgation given the inadequate information on hand.

Relying on SILs as thresholds for requiring ERM exceeds statutory authority by going beyond those facilities that would "significantly affect" onshore air quality for NAAQS compliance. Notwithstanding the limited statutory authority discussed above, proposed sections 550.306 and 550.307 would require OCS facilities to install ERM even if their emissions merely "affect" onshore air quality.⁹⁰ These provisions ignore the fundamental limits on BOEM's

⁸³ For example, proposed section 550.198(a)(3) states that the effect of incorporation by reference is that the document becomes a regulatory requirement, but then proposed section 550.141 states that a facility may comply with later versions of the document. The proposal appears to create a pathway to avoid the necessary step of amending the regulations when reference documents are revised.

⁸⁴ 5 U.S.C. § 553,

⁸⁵ Exec. Order No. 13563, § 2, 76 Fed. Reg. 3821, 3821 (Jan. 21, 2011).

⁸⁶ See, e.g., *Forester v. Consumer Prod. Safety Comm'n*, 559 F.2d 774, 787 (D.C. Cir. 1977) (requiring a "reasonable opportunity to participate in the rulemaking process"). See also 5 U.S.C. § 553(c) (requiring regulatory process to allow meaningful submission of written "data, views, or arguments").

⁸⁷ Accordingly, Chevron's comments are provided without prejudice to amendment once BOEM provides a fully-formed proposal and Chevron has sufficient time to review it.

⁸⁸ Exec. Order No. 12866, § 1, 58 Fed. Reg. 51,735, 51,735 (Oct. 4, 1993).

⁸⁹ Exec. Order No. 13211, § 2, 66 Fed. Reg. 28,355, 28,355 (May 22, 2001).

⁹⁰ See Proposed Rule § 550.307(b)(1) (describing ERM required for long-term facility where "all State areas *affected* by your emissions are designated as attainment areas") (emphasis added); *id.* § 550.307(b)(2) (describing ERM required for long-term facility where "your emissions *affect* any area designated as a non-attainment area")

jurisdiction. ERM are only required where emissions “significantly affect” onshore air quality and prevent achievement of a NAAQS.

In proposed sections 550.306 and 550.307, BOEM suggests that air quality is affected if the analysis of modeling results conducted pursuant to proposed section 550.305 indicates an exceedance of a SIL for any criteria pollutant, since exceeding a SIL is the trigger for ERM requirements under proposed sections 550.306 and 550.307.⁹¹ However, exceeding a SIL does not demonstrate that emissions from an OCS facility would “significantly affect” onshore air quality or compliance with a NAAQS. SILs are a screening tool for EPA, an early off-ramp to eliminate the need for detailed, cumulative modeling in the PSD permitting process. A modeling result below a SIL establishes lack of an impact concern, but the opposite does not establish that there is an impact to be addressed.

For the same reason, EETs cannot be used to identify significant effect. The Proposed Rule states that “[c]onsistent with the current rule, the proposed rule would define EETs as the maximum allowable rate of projected emissions, calculated for each air pollutant, above which facilities would be subject to the requirements to perform modeling.”⁹² In fact, the current regulation contains no such definition, stating: “If the amount of these projected emissions is less than or equal to the emission exemption amount . . . the facility is exempt from further air quality review”⁹³ In the preamble to the proposal for the current rule, the U.S. Geological Service explained:

The Department agrees with those commenters who asserted that the lessee cannot be required to control emissions from activities authorized under the Act unless these emissions will significantly affect the air quality of any State.⁹⁴

The final rule went on to explain that the 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.”⁹⁵ In other words, to the extent that the existing rule gives meaning to the term EET, it does so by using it as a *de minimis*-based screening level, not a regulatory applicability threshold. The “Department’s legislative mandate [is] not to impose a regulatory burden on an activity which does not significantly affect the air quality of a State.”⁹⁶ BOEM cannot simultaneously use EETs as a *de minimis* threshold *and* the threshold that defines “significantly.”

(emphasis added); *id.* § 550.306(a)(6) (describing ERM required for short-term facility depending on whether it “affect[s]” attainment or non-attainment areas).

⁹¹ If an OCS facility’s emissions would exceed an applicable EET, the applicant would need to perform dispersion modeling and photochemical modeling to estimate the projected peak incremental concentrations of criteria pollutants from the OCS facility in neighboring states. Proposed Rule § 550.304.

⁹² 81 Fed. Reg. at 19,740 (emphasis added).

⁹³ 30 C.F.R. § 550.303(d).

⁹⁴ 44 Fed. Reg. 27,449, 27,449 (May 10, 1979). Chevron cites this text only in support of showing what BOEM cannot control, not what it can.

⁹⁵ 45 Fed. Reg. at 15,130.

⁹⁶ 44 Fed. Reg. at 27,453.

IX. BOEM’s economic analysis violates OCSLA and applicable executive orders, requiring the Proposed Rule to be withdrawn.

In addition to restricting the scope of air emissions regulations to those impacting *onshore* NAAQS (among other limitations), Congress required the Secretary to weigh the impact of otherwise authorized regulations against a need for “expeditious” development of OCS resources. OCSLA mandates that the Gulf Outer Continental Shelf, which Congress deemed to be “a vital national resource,” be “made available for expeditious and orderly development, subject to environmental safeguards . . .”⁹⁷ OCSLA thus restricts BOEM from acting when it is unable show that the benefits of environmental restrictions outweigh their costs and respective impact on “expeditious and orderly” development of offshore resources. Yet the only set of costs BOEM was able to measure in its proposed rule showed *negative* net benefits over the time period analyzed, and its estimates of other costs were found to be “tremendously uncertain.”⁹⁸ These conclusions fail to satisfy OCSLA’s balancing requirement.

In addition to violating its statutory obligation, BOEM violates two executive orders requiring a cost-benefit analysis. E.O. 12866 requires that where any of the costs of a proposed rule are uncertain, “[a]ppropriate statistical techniques should be used to combine uncertainties about separate factors into an overall probability distribution for a risk.”⁹⁹ E.O. 12866 also requires BOEM to “provide a qualitative *and quantitative* assessment of the anticipated costs and benefits of a Federal mandate resulting in annual expenditures of \$100 million or more, including the costs and benefits to State, local, and tribal governments or the private sector.”¹⁰⁰ Although BOEM labeled the costs of the rule as “tremendously uncertain,” when it came to compliance with E.O. 12866, it inexplicably determines that the proposed “rule would not have an effect of \$100 million or more per year on the economy.”¹⁰¹ This finding is indefensible in light of BOEM’s admission that it did not measure the costs, and it cannot be sustained in light of the evidence in the record submitted by the Joint Industry Trades showing a ten-year cost of more than \$3.4 billion.

The public is also unable to comment on a “Statement of Energy Effects” mandated by E.O. 13211, which requires BOEM to publish with the NPRM a Statement of Energy Effects for matters identified as “significant energy actions.”¹⁰² In a Statement of Energy Effects, BOEM was required to publish for public comment a “detailed statement” relating to (1) “any adverse effects on energy supply,” including “increased use of foreign supplies,” and (2) “reasonable alternatives to the action” and “the expected effects of such alternatives on energy supply.”¹⁰³ Again, although BOEM labeled the costs of the rule tremendously uncertain, when it came to compliance with E.O. 13211, BOEM determined that the Proposed Rule “is not a significant

⁹⁷ 43 U.S.C. § 1332(3).

⁹⁸ BOEM, *Air Quality Control, Reporting, and Compliance Initial Regulatory Impact Analysis* RIN: 1010-AD82 at 5, 17 (Mar. 3, 2016), BOEM-2013-0081-0002 (RIA).

⁹⁹ OMB, *Economic Analysis of Federal Regulations Under Executive Order 12866* (Jan. 11, 1996) available at https://www.whitehouse.gov/omb/inforeg_riaguide/.

¹⁰⁰ *Id.* (emphasis added).

¹⁰¹ 81 Fed. Reg. at 19,793.

¹⁰² Exec. Order No. 13211, §§ 2, 3, 66 Fed. Reg. at 28,355.

¹⁰³ *Id.* at § 2, 66 Fed. Reg. at 28,355.

energy action.”¹⁰⁴ This additional finding also cannot be sustained given evidence in the record. BOEM’s failure to conduct a quantitative cost-benefit assessment under E.O. 12866, and failure to prepare a Statement of Energy Effects under E.O. 13211, exacerbates BOEM’s violation of Congress’ mandate to weigh the effects of the Proposed Rule on expeditious offshore development under OCSLA.

For all the reasons explained in these comments, Chevron requests that BOEM withdraw the Proposed Rule and take further action as outlined above.

¹⁰⁴ 81 Fed. Reg. at 19,795.

Appendix A

New Rule Section Title	New Rule Reference	New Rule Text	Chevron Comments	Proposed Alternate Language
Definitions	550.105	<i>Air pollutant</i> means any of the following: (1) Any criteria pollutant for which the U.S. Environmental Protection Agency (USEPA) has established primary or secondary National Ambient Air Quality Standards (NAAQS), in 40 CFR part 50, pursuant to section 109 of the Clean Air Act (CAA); (2) Any precursor air pollutant identified by the USEPA that contributes to the formation of a criteria pollutant through a photochemical or other reaction, including, but not limited to, Volatile Organic Compounds (VOCs), ammonia (NH3), and those criteria pollutants (CPs) that are also precursors for other CPs (such as sulphur dioxide (SO2)); 3) any USEPA-defined Greenhouse Gas (GHG), as defined at 40 CFR 98.6, pursuant to section 111 of the CAA; and (4) Any USEPA-defined Hazardous Air Pollutant, as defined at 40 CFR 63.2, pursuant to section 112 of the CAA	As explained in the Joint Industry Trades’ comments, BOEM’s mandate under OCSLA is to ensure that OCS operations do not adversely affect NAAQS onshore. NAAQS are based on levels of criteria pollutants and precursor air pollutants. Therefore, it is not appropriate to include hazardous air pollutants and greenhouse gases in the definition of “air pollutant” as these are not covered by the NAAQS. See the Joint Industry Trades’ comments for additional discussions on this issue. Additionally, BOEM states at 81 Fed. Reg. at 19748 the “definitions related to air quality terms are currently located in three places in § 550: §§ 550.105, 550.200, and 550.302.” However, several definitions of air quality terms (air pollutant, attainment area, BACT, emission offsets, existing facility, minerals, non-attainment area, projected emissions) are also contained in §250.105. If BOEM were to proceed with modifying or removing the 30 CFR 550.105 & 550.302 definitions, it would introduce regulatory disconnect between the use of the terms under BOEM’s & BSEE’s regulation. Such a disconnect creates unnecessary regulatory complexity. It is our request that BOEM revise or delete those definitions from § 250.105. BOEM proposes a definition of air pollutant that would be self-updating each time EPA defines a new NAAQS or identifies a new precursor to a NAAQS. OCSLA does not provide BOEM discretion to include an amorphous list of pollutants subject to regulation under Part 330 that can change based on actions of another agency. OCSLA requires that BOEM demonstrate it is necessary to regulate a specific air pollutant for NAAQS compliance before imposing such regulation. This is because Congress specifically directed BOEM to identify affected states based on a “substantial probability of significant impact” and to regulate for NAAQS compliance only when OCS activities significantly impact the ambient air quality of a state. If BOEM cannot demonstrate NAAQS compliance issues related to an OCS activity that significantly impact the ambient air quality of a State, then it has no authority to regulate that air pollutant, even if EPA has identified that pollutant as a NAAQS or NAAQS precursor. Accordingly, BOEM’s definition of air pollutant should include a concrete list of precursor air pollutants in the re-proposed rule which BOEM may update in the future after justifying a need to regulate that specific pollutant.	<i>Air pollutant</i> means any of the following: (1) Any criteria pollutant for which the U.S. Environmental Protection Agency (USEPA) has established primary or secondary National Ambient Air Quality Standards (NAAQS), in 40 CFR part 50, pursuant to section 109 of the Clean Air Act (CAA); and for which BOEM has determined it is necessary to regulate such criteria pollutant for NAAQS compliance under Section 5(a)(8) of OCSLA. (2) Any precursor air pollutant identified by the USEPA that contributes to the formation of a criteria pollutant through a photochemical or other reaction, including, but not limited to, Volatile Organic Compounds (VOCs), ammonia (NH3), and those criteria pollutants (CPs) that are also precursors for other CPs (such as sulphur dioxide (SO2)); 3) any USEPA-defined Greenhouse Gas (GHG), as defined at 40 CFR 98.6, pursuant to section 111 of the CAA; and (4) Any USEPA-defined Hazardous Air Pollutant, as defined at 40 CFR 63.2, pursuant to section 112 of the CAA
	550.105	<i>Emissions source</i> means a device or substance that emits air pollutant(s) in connection with any authorized activity described in your plan. Several emissions sources may exist on a single facility, aircraft, vessel, or vehicle. Anything that: produces or results in the release of one or more air pollutant(s), including the flashing, flaring or venting of natural gas, involves burning any oil or well test fluids, or generates fugitive emissions, is an emissions source. Examples include, but are not limited to: boilers/heaters/burners, diesel engines, drilling rigs, combustion flares, cold vents, glycol dehydrators, natural gas engines, natural gas turbines, pneumatic pumps, pressure/level controllers, amine units, tanks, dual fuel turbines, sources involved in mud degassing, storage tanks, well testing equipment, vessels (including support vessels, pipeline lay barges, pipeline bury barges, derrick barges), and any other equipment that could cause fugitive emissions, venting, losses from flashing, or loading losses.	The proposed definition of emissions source attempts to list any and all types of equipment and activities that may result in emissions to the atmosphere. This creates a definition that is overly prescriptive and complex. Attempting to list all potential equipment and processes that generate regulated air emissions is not needed to fully define applicable emission sources. It is suggested to simplify the definition as shown to the right. The proposed alternate definition would be inclusive of emission sources listed in the draft definition. However, it is important that text is added (in red) to clarify that an emissions source releases pollutants to the atmosphere and does not include equipment where emissions are recovered and utilized in a beneficial manner as well as limiting the term pollutant to criteria and precursor pollutants in accordance with the NAAQS. As discussed at length in the Joint Industry Trades’ comments, BOEM’s mandate under OCSLA is to ensure that OCS operations do not adversely affect NAAQS onshore. NAAQS are only based on levels of criteria pollutants and	<i>Emissions source</i> means one or more parts of a facility, or an activity or a device or substance that emits criteria or precursor air pollutant(s) to the atmosphere in connection with any authorized activity described in your plan. Several emissions sources may exist on a single facility, aircraft, or vessel, or vehicle. Anything that: produces or results in the release of one or more air pollutant(s), including the flashing, flaring or venting of natural gas, involves burning any oil or well test fluids, or generates fugitive emissions, is an emissions source. Examples include, but are not limited to: boilers/heaters/burners, diesel engines, drilling rigs, combustion flares, cold vents, glycol dehydrators, natural gas engines, natural gas turbines, pneumatic pumps, pressure/level controllers, amine units, tanks, dual fuel turbines, sources involved in mud degassing, storage tanks, well testing equipment, vessels (including support vessels, pipeline lay barges, pipeline bury barges, derrick barges), and any other equipment that could cause fugitive emissions, venting, losses from flashing, or loading losses. Equipment and activities listed as “insignificant activities” are not considered emissions sources for purposes of these regulations.

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			precursor air pollutants. BOEM proposes that all emissions sources be included when estimating projected emissions. This could conceivably include insignificant sources, such as welding and painting maintenance activities, rescue boats, small storage tanks, or fugitive emissions (flanges, valves, etc.) on support vessels or mobile offshore drilling units (MODU). There is no reasonable rationale for requiring the collection of this level of detail for small sources on the OCS, and the burden of collection of this information in terms of cost and time would far outweigh any nominal benefit of collecting it. As such we are proposing to introduce the concept of creating an “insignificant activities” definition, similar to what most states have included in their air quality rules. Hence, a statement has been added to the definition of emissions source to clarify that insignificant activities are not considered emissions sources. Most state environmental regulatory agencies that have authority from the USEPA to implement and enforce the Part 70/Title V Federal Operating Permit Program and the New Source Review program under the Clean Air Act include “Insignificant Activities” lists in the air permitting rules. A few examples of State agencies that include Insignificant Activities include Louisiana Department of Environmental Quality, Mississippi Department of Environmental Quality, Alabama Department of Environmental Management and the Texas Commission on Environmental Quality. Furthermore, the USEPA under its Clean Air Act Title V Operating permits program allows the use of “Insignificant Activities” to exempt certain emission sources. Under 40 CFR 70.5(c), the EPA may approve as part of a State program a list of insignificant activities and emissions levels which need not be included in permit applications. Finally, BOEM’s reference to “substance” creates implementation concerns relative to BOEM’s proposed BACT definition, since it is likely impossible to install an add-on control device to a substance. BOEM’s definition is also too narrow as BOEM uses the terms in its regulation in the context of emission credits which are not associated with the plan. Chevron suggests an alternative definition.	
	550.105	<i>Federal Land Manager (FLM)</i> means the Secretary of the Department with authority over any federal Class I area or sensitive Class II area (or the Secretary’s designee).	Congress has not recognized “sensitive Class II areas” as warranting air pollution protection, and that phrase should therefore be deleted from the proposed definition. Chevron suggests an alternative definition.	<i>Federal Land Manager (FLM)</i> means the Secretary of the Department (or the Secretary’s designee) with authority over any federal Class I area or sensitive Class II area (or the Secretary’s designee).
	550.105	<i>Flaring</i> means the burning of natural gas or other hydrocarbons and the release of the associated emissions into the atmosphere. The term “flaring” is equivalent to combustion flaring (i.e., burning of the gases), but is distinct from cold venting, which involves the discharge of raw pollutants into the air without burning.	The proposed definition contains language that is unnecessary. Furthermore, Chevron requests that the current definition of <i>flaring</i> in § 250.105 be updated to be consistent with the final definition promulgated under § 550.105. If BOEM were to proceed with changing the 30 CFR 550.105 definition of flaring, but not change the definition in § 250.105, it would introduce regulatory disconnect between the uses of the term under BSEE’s regulation. Such a disconnect creates unnecessary regulatory complexity. Finally, we are proposing to further simplify the definition by replacing the terms “natural gas or other hydrocarbons” with the general term “gas”. This change is more inclusive and will eliminate unneeded text.	<i>Flaring</i> means the burning of natural gas or other hydrocarbons and the release of the associated emissions as it is released into the atmosphere. The term “flaring” is equivalent to combustion flaring (i.e., burning of the gases), but is distinct from cold venting, which involves the discharge of raw pollutants into the air without burning
	550.105	Proposed new definition.	The level of detail required for emissions sources described in plans is a significant concern in this proposed rule. It is appropriate to include significant sources of emissions (e.g. large stationary engines) that account for the majority of OCS air emissions. However, as discussed in the Joint Industry Trades’ comments it is not practicable to include small, insignificant sources that do not make significant contributions	<u>Proposed New Definition</u> <i>Insignificant Activities</i> means activities with emissions levels which have been determined to be at levels that need not be further assessed for the purposes of this part. Emissions sources identified below as “insignificant activities” are exempt from all air quality requirements in 30 CFR 550: Insignificant Activities List

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		to overall facility emissions. Due to the lack of environmental benefit compared to the significant effort required to collect information about insignificant sources we request that insignificant activity emission sources not be required for inclusion in plan submittals or associated emission inventories. The proposed definition and list of insignificant activities (see right) include equipment and activities that do not significantly contribute to emissions at an OCS facility, much less create an adverse impact onshore. It is strongly requested that BOEM consider inclusion of this list of insignificant activities to ease the planning and reporting burden associated with the proposed rule, as well as ensure that the proper focus is applied to comparatively larger emissions sources.	<table><tr><td>1.</td><td>external combustion equipment with a design rate less than or equal to 10 million btu per hour;</td></tr><tr><td>2.</td><td>storage tanks, except those storing crude oil and condensate;</td></tr><tr><td>3.</td><td>any engine with a maximum horsepower rating less than or equal to 100 hp;</td></tr><tr><td>4.</td><td>emissions from laboratory equipment/vents used exclusively for routine chemical or physical analysis for quality control or environmental monitoring purposes;</td></tr><tr><td>5.</td><td>noncommercial water washing operations of empty drums less than or equal to 55 gallons;</td></tr><tr><td>6.</td><td>portable fuel tanks used on a temporary basis in maintenance and construction activities;</td></tr><tr><td>7.</td><td>emissions from process stream or process vent analyzers;</td></tr><tr><td>8.</td><td>storage tanks containing soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, molasses, corn syrup, aqueous salt solutions, or aqueous caustic solutions;</td></tr><tr><td>9.</td><td>catalyst charging operations;</td></tr><tr><td>10.</td><td>mud degassing operations;</td></tr><tr><td>11.</td><td>activities which occur strictly for maintenance of buildings, grinding, cutting, welding, woodworking, general repairs, janitorial activities, steam cleaning, and water washing activities;</td></tr><tr><td>12.</td><td>surface-coating of equipment during miscellaneous maintenance and construction activities, including spray painting, roll-coating and painting with aerosol spray cans.</td></tr><tr><td>13.</td><td>miscellaneous equipment maintenance or construction unless otherwise regulated by state or federal regulation, which may include, but is not limited to, such activities as: welding, steam cleaning, equipment used for hydraulic or hydrostatic testing, miscellaneous solvent use, miscellaneous sandblasting, sweeping, insulation removal, acid washing, caustic washing, water blasting, application of refractory and insulation, brazing, soldering, the use of adhesives, grinding, and cutting;</td></tr><tr><td>14.</td><td>refueling emissions from forklifts, cranes, carts, maintenance trucks, helicopters, marine vessels, and other similar sources.</td></tr><tr><td>15.</td><td>office activities such as photocopying, blueprint copying, and photographic processes;</td></tr><tr><td>16.</td><td>emissions form pipeline pigging and repair operations;</td></tr><tr><td>17.</td><td>fugitive dust emissions from mud, cement, or dry chemical transfers, storage and use;</td></tr><tr><td>18.</td><td>emissions from storage or use of water-treating chemicals;</td></tr><tr><td>19.</td><td>miscellaneous additions or upgrades of instrumentation or control systems;</td></tr><tr><td>20.</td><td>emissions from food preparation in kitchens, cafeterias, and facilities where food is consumed on-site;</td></tr><tr><td>21.</td><td>emissions from air contaminant detectors, air contaminant recorders, combustion controllers, or combustion shutoff devices;</td></tr><tr><td>22.</td><td>buildings, cabinets, and facilities used for storage of chemicals in closed containers;</td></tr><tr><td>23.</td><td>use of products for the purpose of maintaining air conditioning or refrigeration units;</td></tr></table>	1.	external combustion equipment with a design rate less than or equal to 10 million btu per hour;	2.	storage tanks, except those storing crude oil and condensate;	3.	any engine with a maximum horsepower rating less than or equal to 100 hp;	4.	emissions from laboratory equipment/vents used exclusively for routine chemical or physical analysis for quality control or environmental monitoring purposes;	5.	noncommercial water washing operations of empty drums less than or equal to 55 gallons;	6.	portable fuel tanks used on a temporary basis in maintenance and construction activities;	7.	emissions from process stream or process vent analyzers;	8.	storage tanks containing soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, molasses, corn syrup, aqueous salt solutions, or aqueous caustic solutions;	9.	catalyst charging operations;	10.	mud degassing operations;	11.	activities which occur strictly for maintenance of buildings, grinding, cutting, welding, woodworking, general repairs, janitorial activities, steam cleaning, and water washing activities;	12.	surface-coating of equipment during miscellaneous maintenance and construction activities, including spray painting, roll-coating and painting with aerosol spray cans.	13.	miscellaneous equipment maintenance or construction unless otherwise regulated by state or federal regulation, which may include, but is not limited to, such activities as: welding, steam cleaning, equipment used for hydraulic or hydrostatic testing, miscellaneous solvent use, miscellaneous sandblasting, sweeping, insulation removal, acid washing, caustic washing, water blasting, application of refractory and insulation, brazing, soldering, the use of adhesives, grinding, and cutting;	14.	refueling emissions from forklifts, cranes, carts, maintenance trucks, helicopters, marine vessels, and other similar sources.	15.	office activities such as photocopying, blueprint copying, and photographic processes;	16.	emissions form pipeline pigging and repair operations;	17.	fugitive dust emissions from mud, cement, or dry chemical transfers, storage and use;	18.	emissions from storage or use of water-treating chemicals;	19.	miscellaneous additions or upgrades of instrumentation or control systems;	20.	emissions from food preparation in kitchens, cafeterias, and facilities where food is consumed on-site;	21.	emissions from air contaminant detectors, air contaminant recorders, combustion controllers, or combustion shutoff devices;	22.	buildings, cabinets, and facilities used for storage of chemicals in closed containers;	23.	use of products for the purpose of maintaining air conditioning or refrigeration units;
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11.	activities which occur strictly for maintenance of buildings, grinding, cutting, welding, woodworking, general repairs, janitorial activities, steam cleaning, and water washing activities;																																																
12.	surface-coating of equipment during miscellaneous maintenance and construction activities, including spray painting, roll-coating and painting with aerosol spray cans.																																																
13.	miscellaneous equipment maintenance or construction unless otherwise regulated by state or federal regulation, which may include, but is not limited to, such activities as: welding, steam cleaning, equipment used for hydraulic or hydrostatic testing, miscellaneous solvent use, miscellaneous sandblasting, sweeping, insulation removal, acid washing, caustic washing, water blasting, application of refractory and insulation, brazing, soldering, the use of adhesives, grinding, and cutting;																																																
14.	refueling emissions from forklifts, cranes, carts, maintenance trucks, helicopters, marine vessels, and other similar sources.																																																
15.	office activities such as photocopying, blueprint copying, and photographic processes;																																																
16.	emissions form pipeline pigging and repair operations;																																																
17.	fugitive dust emissions from mud, cement, or dry chemical transfers, storage and use;																																																
18.	emissions from storage or use of water-treating chemicals;																																																
19.	miscellaneous additions or upgrades of instrumentation or control systems;																																																
20.	emissions from food preparation in kitchens, cafeterias, and facilities where food is consumed on-site;																																																
21.	emissions from air contaminant detectors, air contaminant recorders, combustion controllers, or combustion shutoff devices;																																																
22.	buildings, cabinets, and facilities used for storage of chemicals in closed containers;																																																
23.	use of products for the purpose of maintaining air conditioning or refrigeration units;																																																

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					24. stacks or vents to prevent escape of sanitary sewer gases through plumbing traps and marine sanitation devices; 25. emissions from equipment lubricating systems (i.e., oil mist); 26. potable water treatment systems and sewage treatment systems 27. instrument air systems, excluding fuel-fired compressors; 28. air vents from air compressors; 29. periodic use of air for cleanup; 30. solid waste dumpsters; 31. emissions from pneumatic starters on reciprocating engines, turbines, or other equipment, pneumatic pumps, and pneumatic pressure level controllers; 32. emissions from engine crackcase vents; 33. generators, boilers, or other fuel burning equipment that is of equal or smaller capacity than the primary operating unit, that cannot be used in conjunction with the primary operating unit [except for short durations when shutting down the primary operating unit (maximum of 24 hours) and when starting up the primary operating unit until it reaches steady-state operation (maximum of 72 hours)], and that does not increase emissions of any criteria or precursor air pollutant; 34. lifeboats and fast rescue boats; 35. emissions from firefighting training or testing; 36. produced water treatment units (e.g., Wemco units) on crude oil and natural gas production platforms; 37. emergency electrical power generators used only during power outages or periodic testing; 38. emissions associated with an oil spill or emergency response action, exercise or drill; 39. emissions associated with laundry operations, including but not limited to the operation of washers, extractors, dryers; 40. Emissions associated normal use of consumer-type cleaning or disinfecting products or medical products such as furniture polish, spray disinfectants, cleansers, hand sanitizers, asthma inhalers, etc.; 41. refuse incinerators; 42. temporary sources that operate less than 60 days; 43. other similar sources that the Regional Supervisor determines are insignificant activities; 44. Emission units that emit no more than 5 tpy of any criteria or precursor air pollutant.	
	550.105	<i>Minerals</i> includes oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals that are authorized by an Act of Congress to be produced from public lands.	No comments regarding this definition.	N/A		
	550.105	<i>Mobile support craft</i> (MSC) means any offshore supply vessel (OSV) as defined by the USCG in accordance with 46 U.S.C. 2101, and any ship, tanker, tug or tow boat, pipeline barge, anchor handling vessel, facility installation vessel, refueling or ice management vessel, oil-spill response vessel, or any other offshore vessel, remotely operated vehicle (ROV), or any offshore vehicle used by, or in the support of, the offshore operations described in a plan. For the purpose of evaluating air emissions, an MSC is considered a facility while temporarily attached to the seabed or connected to another facility.	More clarity is needed in determining what is meant by “connected to another facility.” It is requested that the phrase “by a walkway” be added. This addition will eliminate confusion and inconsistent application when the rule is applied. For example, a supply vessel may be temporarily servicing a facility by supplying potable water or diesel fuel via a transfer hose. This type of operations should not be considered as “connected to another facility.” This clarification would not change how air emissions are accounted for under § 550.205(d).	<i>Mobile support craft</i> (MSC) means any offshore supply vessel (OSV) as defined by the USCG in accordance with 46 U.S.C. 2101, and any ship, tanker, tug or tow boat, pipeline barge, anchor handling vessel, facility installation vessel, refueling or ice management vessel, oil-spill response vessel, or any other offshore vessel, remotely operated vehicle (ROV), or any offshore vehicle used by, or in the support of, the offshore operations described in a plan. For the purpose of evaluating air emissions, an MSC is considered a facility while temporarily attached to the seabed or connected by a walkway to another facility.		

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	550.105	<i>Offshore vehicle</i> means a type of MSC that is capable of being driven on ice and which provides support services or personnel to your facility or facilities.	No comments regarding this definition.	N/A
	550.105	<i>Right-of-use and easement (RUE)</i> means seabed use authorization, other than an OCS lease, that BOEM may grant at an OCS site pursuant to §§ 550.160 through 550.166 of this part.	To maintain consistency with BSEE definitions found in § 250.105 it is requested to align the definitions of “right of use” and “easement” as two separate terms.	<i>Right-of-use and easement (RUE)</i> means seabed use authorization, other than an OCS lease, that BOEM may grant at an OCS site pursuant to §§ 550.160 through 550.166 of this part. <i>Right-of-use</i> means any authorization issued under 30 CFR Part 550 to use OCS lands. <i>Easement</i> means an authorization for a nonpossessory, nonexclusive interest in a portion of the OCS, whether leased or unleased, which specifies the rights of the holder to use the area embraced in the easement in a manner consistent with the terms and conditions of the granting authority.
	550.105	<i>State</i> means any State of the United States (U.S.) extending to the limit of the State seaward boundary (SSB), as defined in 43 U.S.C. 1301(b).	See comments to §§ 550.205(i) and 550.302 below	N/A
	550.105	<i>Venting</i> means the release of gas into the atmosphere, including though a stack without igniting it, whereby relief flows of natural gas or other hydrocarbons are directed to an unignited flare or which are otherwise discharged directly to the atmosphere. This includes gas that is released underwater and bubbles to the atmosphere.	To maintain consistency with BSEE definitions found in § 250.105, we are requesting that BOEM adopt the BSEE definition of <i>venting</i> , with the clarification that the gas must pass through a stack. Note this definition is consistent with the current definition contained in in § 550.105.	<i>Venting</i> means the release of gas into the atmosphere, including though through a stack into the atmosphere without igniting it., whereby relief flows of natural gas or other hydrocarbons are directed to an unignited flare or which are otherwise discharged directly to the atmosphere. This includes gas that is released underwater and bubbles to the atmosphere.
<i>May I use or be required to use alternate procedures or equipment?</i>	550.141(d)	In order to protect public health, you may be required or allowed by the Regional Supervisor to temporarily suspend the use of equipment that emits air pollutants, or to implement operational control(s) on the use of such equipment, when an adjacent State or locality declares an air quality episode or emergency, provided that any such suspension or operational control(s) would not cause an immediate threat to safety or the environment.	In § 550.141(d), the proposed rule provides BOEM authority to temporarily suspend operations or install emissions controls when an adjacent State or locality declares an “air quality episode or emergency.” This provision is inconsistent with the scope of BOEM’s authority under Section 5(a)(1) of OCSLA, which allows BOEM to suspend or temporary prohibit operations only if “there is a threat of serious, irreparable, or immediate harm or damage to life, to property... or to the marine, coastal or human environment....” [43 U.S.C. 1334]. The proposed rule would allow BOEM to suspend operations without making this showing. Moreover, even if there is an onshore emergency, that emergency must be related to the NAAQS, and an OCS facility must be significantly impacting the ambient air quality of that State. Proposed § 550.141(d) does not condition BOEM’s authority in such a manner and should therefore be deleted. As BOEM itself acknowledges, an “adjacent” State may not experience the greatest impact from an OCS facility, because “prevailing wind patterns are often not from sea to shore” and “the point at which air emissions released from a facility would have the greatest effect ... may be much further along the State’s boundary than the closest point on that boundary.” Given this, reducing an OCS facility’s emissions may not provide any benefit in mitigating the State emergency. Accordingly, BOEM must not finalize the rule as proposed.	In order to protect public health, you may be required or allowed by the Regional Supervisor to temporarily suspend the use of equipment that emits criteria or precursor air pollutants, or to implement operational control(s) on the use of such equipment, when an adjacent State or locality declares an air quality episode or emergency for criteria or precursor pollutants, provided that any such suspension or operational control(s) would not cause an immediate threat to safety or the environment, and it can be determined that your OCS source is contributing to the State or local air quality episode or emergency.
	550.141(e)	With respect to published documents cited in these regulations, including those incorporated by reference in § 550.198, the following provisions apply: (1) In each instance, the applicable document is the one specifically referred to, including any referenced supplement or addendum, and not any other version, supplement or addendum, even if by the same author, agency or publisher. You may comply with a later edition of a specific document incorporated by reference, provided you show that complying with the later edition provides a degree of scientific or technical accuracy, environmental protection, or performance equal to or better than would be achieved by compliance with the listed edition; and you obtain the prior written approval for alternative compliance from the authorized BOEM official. (2) In the case of USEPA documents, you may always use the most recent version approved by the USEPA.	As an initial matter, incorporating a list of guidance documents without explaining exactly how and when they apply to which operations is a failure of notice and comment as to the documents as they currently exist. Even if that was not a problem, as technical knowledge and scientific evaluation evolves, it is imperative that BOEM’s rules incorporate the most recent, state-of-the-art science. As noted in our below comments to § 550.198, there is no need for the documents to be incorporated by reference. If BOEM elects to proceed with the listing of published documents, it is imperative that the language be changed to allow the use of the most recent, state-of-the-art science. Therefore, it is requested that bullet item 1) in this paragraph be changed to say that the most recent version of any supplemental technical document may be used as a standard and the Regional Supervisor may request any sufficiency determinations from the publishing body rather than from the individual designated operators. If the language is not altered, BOEM may be forced into largely unworkable situations whereby BOEM will be inundated with	With respect to published guidance documents cited in these regulations, including those incorporated by reference in § 550.198, the following provisions apply: (1) In each instance, you may comply with a later edition of a specific document incorporated by reference. the applicable document is the one specifically referred to, including any referenced supplement or addendum, and not any other version, supplement or addendum, even if by the same author, agency or publisher. You may comply with a later edition of a specific document incorporated by reference, provided you show that complying with the later edition provides a degree of scientific or technical accuracy, environmental protection, or performance equal to or better than would be achieved by compliance with the listed edition; and you obtain the prior written approval for alternative compliance from the authorized BOEM official. (2) In the case of USEPA documents, you may always use the most recent version approved by the USEPA.

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			“alternative compliance” requests from a number of designated operators each time the incorporated by reference documents undergo the typical processes by which they are updated. Such an administrative burden is not anticipated under the IC burden hours included in the preamble.	
<i>When will BOEM grant me a right-of-use and easement, and what requirements must I meet?</i>	550.160(f)	If you apply for a RUE with a facility as defined in § 550.302 or you hold a RUE with such a facility, then you must submit the information required by § 550.205, except that the ten-year periodic review requirement in § 550.310(c) may be waived by the Regional Supervisor. For the purposes of this section, any provisions of those sections applicable to a lessee or operator should be read to refer equally to any RUE applicant or any holder thereof. If the RUE is approved or held as part of an existing or proposed plan, no additional air quality requirements would apply to the plan.	No comment regarding this requirement.	N/A
<i>What region-wide offshore air emissions data must I provide?</i>	550.187(a)	<i>OCS emissions inventory.</i> You, as a lessee, an operator, or a holder of a RUE or pipeline ROW (whether or not that ROW includes an accessory structure), must collect and maintain information regarding all air pollutant emissions from all emissions sources associated with your operations. You must retain this information for a period of no less than 10 years. You must submit this information to the appropriate regional office on an ongoing basis according to a schedule corresponding to the schedule for the National Emissions Inventory as established by the USEPA. If you have an emissions source that generates facility emissions that have a potential to emit (PTE) such that it would qualify as a Type A source according to USEPA’s regulations in table 1 of appendix A of subpart A (“Emission Thresholds by Pollutant for Treatment as Point Source”) of 40 CFR 51.50, then, beginning in either 2017 or the next reporting period after [EFFECTIVE DATE OF THE FINAL RULE], you must report this information according to the timeframes specified in 40 CFR 51.30(b).	Throughout the proposed the terms “lessee” and “operator” appear to be used interchangeably. It is requested that where these terms appear that the term “designated operator” be used to ensure that it is clear that the designated operator of any OCS facility is the responsible party. This approach is consistent with implementation of other OCS requirements. As noted in other comments, specificity should be added to this paragraph that clarifies the pollutants required for the inventory are criteria and precursor air pollutants. 81 Fed. Reg. at 19751 acknowledges that USEPA also estimates mobile source emissions of commercial marine vessels, which makes the inclusion of marine support craft into the OCS emission inventory unnecessary. Furthermore, as discussed in the Joint Industry Trades’ comments BOEM does not have the authority to regulate MSCs. As such, we request that MSCs be excluded from emission inventory requirements as well as all provisions of this regulation. In addition, a record retention period of 5 years or the life of the plan, whichever is shorter, aligns with similar USEPA and State air quality programs. We are not aware of any other air quality programs that require a 10-year record retention schedule. BOEM is the lead agency for air quality in the Western and Central Gulf of Mexico, and the Arctic OCS regions. Therefore, we request the deletion of any references to USEPA requirements for the National Emissions Inventory. It is incumbent on BOEM to coordinate with USEPA to ensure that emission inventories for OCS operations is coordinated with USEPA’s schedule for the National Emissions Inventory. BOEM may elect to continue its current process by which it communicates upcoming agency collection activities via the NTL mechanism (e.g., BOEM 2014-G01). Finally, as explained in Section 2.8, of the Joint Industry Trades’ comments the changes proposed in this rulemaking are significant and will require time for designated operators and BOEM staff to understand and implement. Therefore, it is critical that a phase-in period be incorporated into the implementation of the final rule. It is requested that additional time be provided to allow the regulated community and BOEM staff to develop compliance programs to meet the requirements of the final rule. This additional time is justified since the new requirements were not published as an Advanced Notice of	<i>OCS emissions inventory.</i> You, as a lessee, an designated operator, or a holder of a RUE or pipeline ROW (whether or not that ROW includes an accessory structure), must collect and maintain information regarding all criteria and precursor air pollutant emissions from all emissions sources as identified in your plan associated with your operations, excluding MSCs. You must retain this information for a period of no less than 5 years or the life of the plan, whichever is shorter.10 years. You must submit this information to the appropriate regional office on an ongoing basis according to a schedule established by BOEM.corresponding to the schedule for the National Emissions Inventory as established by the USEPA. If you have an emissions source that generates facility emissions that have a potential to emit (PTE) such that it would qualify as a Type A source according to USEPA’s regulations in table 1 of appendix A of subpart A (“Emission Thresholds by Pollutant for Treatment as Point Source”) of 40 CFR 51.50, then, beginning in either 2017 or the next reporting period after [EFFECTIVE DATE OF THE FINAL RULE], you must report this information according to the timeframes specified in 40 CFR 51.30(b).

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			Proposed Rulemaking which would have allowed more time for public comment, and allowed for more time for the development of compliance programs. As this opportunity was not provided via ANPRR, Chevron requests that the rule be re-proposed in a complete form to allow stakeholders to comment on the rule in its entirety. Absent a re-proposed rule, a phase-in period is absolutely critical to the success of the implementation of the rule.	
	550.187(b)	The information provided must include the emissions of or the activity data necessary to calculate the emissions of stationary emissions sources, including all facilities, and all non-stationary sources, including MSC(s) and any other non-stationary emissions source(s) of air pollutants above the OCS or above State submerged lands that operate in support of your facility or facilities, as determined by the Regional Supervisor. You may request that the owner of such non-stationary emissions source(s) provide the information to BOEM or a BOEM-designated agent, but if the owner does not provide the information, the lessee, operator, or RUE or pipeline ROW holder is still responsible for submitting the required information.	The terms “stationary source” and “non-stationary source” are not defined in the proposed rule and do not align with the remainder of the proposed regulatory language, which primarily uses the term emission source. Deleting the use of terms “stationary source” and “non-stationary source” will provide further clarity and eliminate unnecessary regulatory text. As discussed in the Joint Industry Trades’ comments, BOEM lacks the authority to regulate MSCs. As such, we proposed the removal of the requirement for the operator to provide information or emissions on the MSCs.	The information provided must include the emissions of or the activity data necessary to calculate the emissions of stationary emissions sources described in your plan, excluding MSCs, including all facilities, and all non-stationary sources, including MSC(s) and any other non-stationary emissions source(s) of air pollutants above the OCS or above State submerged lands that operate in support of your facility or facilities, as determined by the Regional Supervisor. You may request that the owner of such non-stationary emissions source(s) provide the information to BOEM or a BOEM-designated agent, but if the owner does not provide the information, the lessee, operator, or RUE or pipeline ROW holder is still responsible for submitting the required information.
	550.187(c)	As part of the information required in this section, you must submit, in a form and manner as specified by the Regional Supervisor: (1) Your facility and equipment usage, including hours of operation at each percent of capacity for each emissions source; and/or (2) Your monthly and annual fuel consumption showing the quantity, type, and sulphur content of fuel used for each emissions source that generates air pollutants in connection with operations on the OCS. (3) The information provided should be at a sufficient level of detail so as to facilitate BOEM’s compilation of a comprehensive OCS emissions inventory of air pollutants. (4) You must classify the emissions according to the appropriate Source Classification Codes (SCCs) as defined by the USEPA in FIRE Version 5.0: Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants, incorporated by reference in § 550.198(b)(1)(iv).	To be consistent with the proposed approach that each operator will be required to specify the specific monitoring requirements as part of their plan submittal, we are requesting that the detailed items identified in § 550.187(c)(1-4) be deleted as they may conflict with the approved plan. As discussed in the Joint Industry Trades’ comments, BOEM will have the opportunity to review and approve all proposed emission source monitoring requirements prior to plan approval. See additional comments below under § 550.311.	As part of the information required in this section, you must submit, in a form and manner as specified by the Regional Supervisor: (1) Your facility and equipment usage as described in your approved plan, including hours of operation at each percent of capacity for each emissions source; and/or (2) Your monthly and annual fuel consumption showing the quantity, type, and sulphur content of fuel used for each emissions source that generates air pollutants in connection with operations on the OCS. (3) The information provided should be at a sufficient level of detail so as to facilitate BOEM’s compilation of a comprehensive OCS emissions inventory of air pollutants. (4) You must classify the emissions according to the appropriate Source Classification Codes (SCCs) as defined by the USEPA in FIRE Version 5.0: Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants, incorporated by reference in § 550.198(b)(1)(iv).
	550.187(d)	(d) The Regional Director may waive or permit delay in compliance with the requirements of this section on a region-wide basis.	No comment regarding this requirement.	N/A
Documents incorporated by reference.	550.198(a)	(1) Certain material is incorporated by reference into this part with the approval of the Director of the <i>Federal Register</i> under 5 U.S.C. 552(a) and 1 CFR part 51. In each instance, the applicable document is the one specifically referred to, including any referenced supplement or addendum, and not any other version, supplement or addendum, even if by the same author, agency or publisher. To enforce any edition other than that specified in this section, BOEM will publish a document in the <i>Federal Register</i> and the material will be available to the public. All approved material is available for inspection at the Bureau of Ocean Energy Management, Office of Policy, Regulation and Analysis, 45600 Woodland Road, Sterling, Virginia 20166 or by phone at (703)787-1610, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or refer to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html . (2) The effect of incorporation by reference of a document into the regulations in this part is that the incorporated document is a regulatory requirement. When a section in this part incorporates all of a document, you are responsible for complying with the provisions of that entire document, except to the extent that the section which incorporates the document by reference provides otherwise. When a section in this part incorporates part of a document, you are responsible for complying with that part of the document as provided in that section. BOEM incorporated	The documents proposed for incorporation by reference under this paragraph are either reference documents that do not contain compliance requirements (e.g. USEPA AP-42), or the documents are standards that are required by other regulatory requirements (e.g. MARPOL Annex VI). It is not necessary to incorporate these documents by reference as compliance requirements. These documents are either existing compliance requirements, or are not “compliance documents” at all, such as the USEPA AP-42 or the MOVES Users Guide. These documents were developed as guidance documents not regulatory requirements and should remain so. Therefore, it is requested that BOEM remove § 550.198(a)-(d) in their entirety. Finally, a review of various state agency air permit regulations was conducted and there were no similar instances by which guidance documents have been incorporated by reference as compliance requirements. A similar review was conducted for the EPA’s Part 55 regulations (Outer Continental Shelf Air Regulations). Again, there were no instances in those air quality regulations by which a reference material or guidance document was incorporated by reference that rendered such material as a compliance requirement.	(1) Certain material is incorporated by reference into this part with the approval of the Director of the <i>Federal Register</i> under 5 U.S.C. 552(a) and 1 CFR part 51. In each instance, the applicable document is the one specifically referred to, including any referenced supplement or addendum, and not any other version, supplement or addendum, even if by the same author, agency or publisher. To enforce any edition other than that specified in this section, BOEM will publish a document in the <i>Federal Register</i> and the material will be available to the public. All approved material is available for inspection at the Bureau of Ocean Energy Management, Office of Policy, Regulation and Analysis, 45600 Woodland Road, Sterling, Virginia 20166 or by phone at (703)787-1610, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or refer to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. (2) The effect of incorporation by reference of a document into the regulations in this part is that the incorporated document is a regulatory requirement. When a section in this part incorporates all of a document, you are responsible for complying with the provisions of that entire document, except to the extent that the section which incorporates the document by reference provides otherwise. When a section in this part incorporates part of a document, you are responsible for complying with that part of the document as provided in that section. BOEM incorporated each document or specific portion by reference in the sections noted. The entire document is incorporated by reference, unless the text of the corresponding sections in this part calls for compliance with specific portions of the listed documents. In each instance, the applicable document is the specific edition or specific edition and supplement or addendum cited in this section.

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		each document or specific portion by reference in the sections noted. The entire document is incorporated by reference, unless the text of the corresponding sections in this part calls for compliance with specific portions of the listed documents. In each instance, the applicable document is the specific edition or specific edition and supplement or addendum cited in this section.		
	550.198(b)	Environmental Protection Agency, Office of Air and Radiation, 1200 Pennsylvania Ave, NW, MS6101A, Washington, DC 20460. (1) AP 42, Fifth Edition, Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources, January 1995, incorporated by reference at § 550.205(b). (2) Motor Vehicle Emission Simulator (MOVES), User Guide, Assessment and Standards Division, Office of Transportation and Air Quality, EPA-420-B-14-055, July 2014, incorporated by reference at § 550.205(b). (3) User’s Guide for the Final NONROAD2005 Model, EPA420-R-05-013, December 2005 incorporated by reference at § 550.205(b). (4) FIRE (Factor Information Retrieval System) Version 5.0: Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants, EPA 454/R-95-012, August 1995, incorporated by reference at § 550.187(c).	See comment under § 550.198(a).	Environmental Protection Agency, Office of Air and Radiation, 1200 Pennsylvania Ave, NW, MS6101A, Washington, DC 20460. (1) AP 42, Fifth Edition, Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources, January 1995, incorporated by reference at § 550.205(b). (2) 40 CFR 94 Motor Vehicle Emission Simulator (MOVES), User Guide, Assessment and Standards Division, Office of Transportation and Air Quality, EPA-420-B-14-055, July 2014, incorporated by reference at § 550.205(b). (3) User’s Guide for the Final NONROAD2005 Model, EPA420-R-05-013, December 2005 incorporated by reference at § 550.205(b). (4) FIRE (Factor Information Retrieval System) Version 5.0: Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants, EPA 454/R-95-012, August 1995, incorporated by reference at § 550.187(c).
	550.198(c)	Federal Aviation Administration (FAA), Office of Environment and Energy, (AEE-100), 800 Independence Avenue, SW, Washington, DC 20591. (1) Aviation Environmental Design Tool (AEDT) User’s Guide, Version 2B, July 2015 (as amended) incorporated by reference at § 550.205(b). (2) Aviation Environmental Design Tool (AEDT), Version 2B, AEDT Standard Input File (ASIF) Reference Guide, May 2015 (as amended) incorporated by reference at § 550.205(b).	See comment under § 550.198(a).	Federal Aviation Administration (FAA), Office of Environment and Energy, (AEE-100), 800 Independence Avenue, SW, Washington, DC 20591. (1) Aviation Environmental Design Tool (AEDT) User’s Guide, Version 2B, July 2015 (as amended) incorporated by reference at § 550.205(b). (2) Aviation Environmental Design Tool (AEDT), Version 2B, AEDT Standard Input File (ASIF) Reference Guide, May 2015 (as amended) incorporated by reference at § 550.205(b).
	550.198(d)	International Maritime Organization, 4 Albert Embankment, London SE1 7SR, United Kingdom, or http://www.imo.org , or 44-(0)20-7735-7611. (1) Revised MARPOL (Marine Pollution) Annex VI, Regulations for the Prevention of Air Pollution from Ships, and NOX Technical Code [NTC] 2008, 2009 edition, incorporated by reference at § 550.205(b). (2) Revised MARPOL Annex VI, Regulations for the Prevention of Pollution from Ships (“2008 Annex VI”), incorporated by reference at § 550.205(b). (3) NOX Technical Code 2008, incorporated by reference at § 550.205(b).	See comment under § 550.198(a).	International Maritime Organization, 4 Albert Embankment, London SE1 7SR, United Kingdom, or http://www.imo.org, or 44-(0)20-7735-7611. (1) Revised MARPOL (Marine Pollution) Annex VI, Regulations for the Prevention of Air Pollution from Ships, and NOX Technical Code [NTC] 2008, 2009 edition, incorporated by reference at § 550.205(b). (2) Revised MARPOL Annex VI, Regulations for the Prevention of Pollution from Ships (“2008 Annex VI”), incorporated by reference at § 550.205(b). (3) NOX Technical Code 2008, incorporated by reference at § 550.205(b).
	550.200(b) ⁹	Remove the definition of “Offshore vehicle”	No comment regarding this requirement.	N/A
<i>What air emissions information must be submitted with my Plan (EPs, DPPs, DOCDs, or application for a RUE, pipeline ROW, or lease term pipeline)?</i>	550.205	All of the terms used in this section have the meaning described in § 550.302, unless defined in § 550.105. Except if excluded from the Air Quality Regulatory Program (AQRP) by paragraph (o) of this section, the requirements in this section apply to all plans, RUE, pipeline ROW, and lease term pipeline applications submitted in any area of the OCS in which the Secretary of the Interior has authority to regulate air quality on the OCS. Your plan must contain the following criteria air pollutant and major precursor air pollutant emissions information:	As explained in the Joint Industry Trades’ comments, the changes proposed in this rulemaking are significant and will require time for designated operators and BOEM staff to understand and implement. Therefore, it is critical that a phase-in period be incorporated into the implementation of the final rule. It is requested that additional time be provided to allow the regulated community and BOEM staff to develop compliance programs to meet the requirements of the final rule. This additional time is justified since the new requirements were not published as an Advanced Notice of Proposed Rulemaking which would have allowed more time for public comment, and allowed for more time for the development of compliance programs.	All of the terms used in this section have the meaning described in § 550.302, unless defined in § 550.105. Except if excluded from the Air Quality Regulatory Program (AQRP) by paragraph (o) of this section, the requirements in this section apply to all plans, RUE, pipeline ROW, and lease term pipeline applications submitted in any area of the OCS in which the Secretary of the Interior has authority to regulate air quality on the OCS. Your plan must contain the following criteria air pollutant and major precursor air pollutant emissions information:

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	550.205(a)	<i>Emissions sources.</i> You must list and describe every emissions source on or associated with any facility or facilities and MSC(s) described in your plan. This includes each emissions source used during the construction, installation (including well protection structure installation), and operation of any exploration, testing, drilling (including well test flaring), development, or production equipment or facility or facilities (including every platform or manmade island included in your plan). You must account for the air pollutant emissions sources associated with all drilling operations, including workovers and recompletions, sidetracking and from pipeline construction. You must include emissions sources associated with your use of oil or gas produced from your lease. The list of emissions sources must cover the duration of the plan’s proposed activities.	The level of detail required for emissions sources described in plans is a significant concern in this proposed rule. It is appropriate to include significant sources of emissions (e.g. large stationary engines) that account for the majority of OCS air emissions. However, as discussed above in our proposed addition of insignificant activity definition in § 550.105 and in the Joint Industry Trades’ comments it is not practicable to include small, insignificant sources that do not make significant contributions to overall facility emissions. As such we request that insignificant activities be excluded from the definition of emission sources. As discussed previously and in the Joint Industry Trades’ comments, BOEM does not have the legal authority to regulate MSCs. Therefore, MSCs are requested to be removed from this provision. Inclusion of the sentence, “You must include emissions sources associated with your use of oil or gas produced from your lease” raises additional concerns. The proposed wording makes this requirement potentially limitless. It is possible that this sentence could be interpreted to include onshore sources such as refineries and chemical plants which are unrelated to OCS operations, and over which BOEM has no jurisdiction. If the intent of this language is to capture how oil or natural gas may be used on an OCS facility for fuel or other purposes, emissions estimates for these activities would already be captured by as part of normal emission estimation practices, therefore the sentence is unnecessary. Finally, as discussed in the Joint Industry Trades’ comments the proposed draft "AQR" spreadsheet contain material deficiencies to estimate emissions as defined in BOEM’s proposed definition. As such, Chevron requests additional time to review the proposed revisions to the AQR sheets to enable well-reasoned and complete comments. At a minimum, BOEM should update the draft AQR sheets to align with the redline/strikeout proposed rule changes as part of the re-proposed rule.	<i>Emissions sources.</i> You must list and describe every emissions source on or associated with any facility or facilities and MSC(s) described in your plan, to the extent practicable. This includes each emissions source used during the construction, installation (including well protection structure installation), and operation of any exploration, testing, drilling (including well test flaring), development, or production equipment or facility or facilities (including every platform or manmade island included in your plan). You must account for the criteria air pollutant emissions sources associated with all drilling operations, including workovers and recompletions, sidetracking and from pipeline construction associated with exploration, development, and production activities. You must include emissions sources associated with your use of oil or gas produced from your lease. The list of emissions sources must cover the duration of the plan’s proposed activities. Emission sources deemed as insignificant activities as defined in § 550.105 are exempt from all air quality requirements in 30 CFR 550.
	550.205(a)(1)	For each emissions source, you must identify, to the extent practicable: (i) Equipment type and number, manufacturer, make and model, location, purpose (i.e., the intended function of the equipment and how it would be used in connection with the proposed activities covered by the plan), and physical characteristics; (ii) The type and sulphur content of fuel stored and/or used to power the emissions source; and (iii) The frequency and duration of the proposed use.	BOEM proposes to require identification of MSCs and their annual, rolling 12-month, and hourly emissions, and to identify what other facilities would be served by a given MSC. With the exception of vessels engaged in geological and geophysical exploration (<i>see</i> 43 U.S.C. §1340(a)), BOEM’s regulatory authority under OCSLA is limited to “artificial islands[] and []installations...permanently or temporarily attached to the seabed, which may be erected thereon for the purpose of exploring for, developing, or producing resources therefrom.” [43 U.S.C. § 1333(a)]. This does not include vessels (except perhaps those attached to such artificial islands and installations for the purpose of exploring for, developing, or producing OCS resources). Nevertheless, BOEM’s attempt to impose such MSC regulatory requirements demonstrates a lack of understanding of the support vessel operations in the GOM. OCS designated operators contract for services, but cannot be certain which vessel a contractor will assign – certainly not at the point exploration or development plans are being submitted. Likewise, identification of other offshore facilities to be served by a given MSC is unknown. Furthermore, BOEM asks that applicants identify the emissions per trip and multiply those emissions by the number of trips per year to identify annual emissions; this is impossible to project because there is no way to anticipate what route a support vessel will take years in advance of the trip. Nor is it practicable for an OCS designated operator to predict the types of support vessel activities that may be necessary over a 10-year span. Given these uncertainties, a designated operator cannot know what fraction of the trip emissions should be attributed to its facility. Furthermore as discussed the Joint Industry Trades’	For each emissions source, excluding MSCs and insignificant activities, you must identify, to the extent practicable: (i) Equipment type and number, manufacturer, make and model, location, purpose (i.e., the intended function of the equipment and how it would be used in connection with the proposed activities covered by the plan), and physical characteristics; (ii) The type and sulphur content of fuel stored and/or used to power the emissions source; and (iii) The frequency and duration of the proposed use.

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			comments BOEM does not have the legal authority to regulate MSCs. As such, we request that MSCs be specifically excluded from this provision. Finally, as discussed in comments to § 550.205(a) above, insignificant activities should be exempt from data collection activities. In addition, the AQR spreadsheets that accompany the proposed rule are not constructed such that this information can be collected. See the Joint Industry Trades’ comments for list of items BOEM should address. The proposed reporting forms are incomplete and do not align with the proposed rule requirements which has not provided the public a meaningful opportunity to comment on missing elements.	
	550.205(a)(2)	For every engine on each facility, including non-road engines, marine propulsion engines, or marine auxiliary engines, in addition to the information specified under paragraph (a)(1) of this section, you must identify and provide the engine manufacturer, engine type, and engine identification, and the maximum rated capacity of the engine (given in kilowatts (kW)), if available. If you have not yet determined what specific engine will be available for you to use, you must provide analogous information for an engine with the greatest maximum rated capacity for the type of engine which you will use. If the engine has any physical design or operational limitations and you choose to base your emissions calculations on these limitations, then you must provide documentation of these physical design or operational limitations.	See comments under § 550.205(a)(1) above.	For every engine on each facility, except those emissions sources excluded as insignificant activities, including non-road engines, marine propulsion engines, or marine auxiliary engines, in addition to the information specified under paragraph (a)(1) of this section, you must identify and provide the engine manufacturer, engine type, and engine identification, and the maximum rated capacity of the engine (given in kilowatts (kW)), if available. If you have not yet determined what specific engine will be available for you to use, you must provide analogous information for an engine with the greatest emissions for the type of engine which you will plan to use. If the engine has any physical design or operational limitations and you choose to base your emissions calculations on these limitations, then you must provide documentation of these physical design or operational limitations.
	550.205(a)(3)	For engines on MSCs, including marine propulsion and marine auxiliary engines, in addition to the information specified under paragraph (a)(1) and (2) of this section, you must provide the engine displacement and maximum speed in revolutions per minute (rpm). If the specific rpm information is not available, indicate whether the rpm would be less than 130 rpm, equal to or greater than 130 rpm but less than 2,000 rpm, or equal to or greater than 2,000 rpm, based on best available information. If the actual MSC engine types needed for calculating emissions are unknown or cannot be verified, assume an MSC possessing the maximum potential emissions for the type of MSC you would typically use for your planned operations.	As discussed in the Joint Industry Trades’ comments, BOEM does not have the legal authority to regulate MSCs. As such, we request that this provision be deleted from the regulation.	For engines on MSCs, including marine propulsion and marine auxiliary engines, in addition to the information specified under paragraph (a)(1) and (2) of this section, you must provide the engine displacement and maximum speed in revolutions per minute (rpm). If the specific rpm information is not available, indicate whether the rpm would be less than 130 rpm, equal to or greater than 130 rpm but less than 2,000 rpm, or equal to or greater than 2,000 rpm, based on best available information. If the actual MSC engine types needed for calculating emissions are unknown or cannot be verified, assume an MSC possessing the maximum potential emissions for the type of MSC you would typically use for your planned operations.
	550.205(a)(4)	For offshore vehicles, you must provide the information specified under paragraph (a)(1) of this section. If the actual offshore vehicle engine types needed for calculating emissions are unknown or cannot be verified, assume an offshore vehicle possessing the maximum emissions for the types of offshore vehicles you would typically use for your planned operations.	As discussed in the Joint Industry Trades’ comments, BOEM does not have the legal authority to regulate MSCs. As such, we request that this provision be deleted from the regulation.	For offshore vehicles, you must provide the information specified under paragraph (a)(1) of this section. If the actual offshore vehicle engine types needed for calculating emissions are unknown or cannot be verified, assume an offshore vehicle possessing the maximum emissions for the types of offshore vehicles you would typically use for your planned operations.
	550.205(a)(5)	For any emissions source not described above, you must provide all information needed to calculate and verify the associated emissions, such as volumes vented, volumes flared, size of tank, and number of components.	See comments under § 550.205(a) above.	For any emissions source, excluding insignificant activities , not described above, you must provide all information needed to calculate and verify the associated emissions, such as volumes vented, volumes flared, size of tank, and number of components.
	550.205(b)	<i>Emissions factors.</i> For each emissions source identified under paragraph (a) of this section, you must identify the most appropriate emissions factors used to calculate the emissions for every criteria air pollutant and major precursor air pollutant emitted by that source.	Manufacturer engine certifications and performance guarantees are designed to meet pollutant-specific emissions criteria. Additionally, other non-engine emissions source factors are typically pollutant specific, and therefore we request changes to clarify that this evaluation is done on a pollutant basis. This would alleviate concerns that engine certifications or emissions testing that do not address all pollutants could be used in conjunction with other types of emission factors (i.e., AQR default factors). Furthermore, some emission calculations do not lend themselves to a “published” emission factor. The emission factor can be derived for the site specific source information. This would include glycol dehydrators, crude oil/condensate storage tanks, amine gas sweetening units. We request that BOEM clarify that model/software used to calculate emissions from glycol dehydrators, crude oil/condensate storage tanks,	<i>Emissions factors.</i> For each emissions source identified under paragraph (a) of this section, you must identify for each criteria and precursor pollutant the most appropriate emissions factors used to calculate the emissions for every criteria air pollutant and major precursor air pollutant emitted by that source.

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			amine gas sweetening units are allowed under (b)(2)(iii). Examples include but not limited to GLYCALC, E&P Tanks, etc.). As noted in other comments, specificity should be added to this paragraph that clarifies the pollutants subject to this provision are criteria and precursor pollutants.	
	550.205(b)(1)	<i>Emissions testing.</i> You may use actual emissions amounts as measured from emissions testing conducted on a specific emissions source, in lieu of the standards or emissions factors for that source which are described in paragraph (b)(2) of this section. However, if none of the methods in paragraph (b)(2) of this section are applicable, you must conduct stack testing on the emissions source to determine the appropriate emissions factor. The data from stack testing may be used only for the engine for which the stack testing was conducted. When determining the emission factors through testing, you must consider: (i) Test points and procedures. (A) In general, test points should be devised based on actual operations as opposed to using the test points and engine loads contained in one of the various marine duty cycles. If, based on the unique circumstances of the proposed project, this is impracticable, an alternative approach for defining test points may be implemented with the approval of the Regional Supervisor. It cannot be assumed that emissions per hour or emissions per kW hour or horse-power hour from large main engines on drill ships and platforms are highest during full load or near-full load operation. The emissions factor and emission per hour or emissions per kW hour or horse-power hour for the operation that is actually expected should be determined, and the emissions under 90% load should be used only if emissions at this load are the highest and thus conservative. (B) Testing should be done consistent with the procedures outlined in 40 CFR part 53 to the maximum extent practicable. Where the unique circumstances or requirements of the proposed operations make such procedures impracticable, alternative procedures may be implemented with the approval of the Regional Supervisor. As appropriate, you must use the General Provisions for Determining Standards of Performance for New Stationary Sources, at 40 CFR 60.8. (ii) Fuel. You must ensure that the fuel used in the testing to generate the emission factors reflects the type of fuel that will be used by the engine in actual operation and that the sulphur content of the fuel is the same as that which will be used in the engine.	We support using actual emissions as measured by emissions testing as one mechanism to estimate emissions in the plan. This subsection presents conflicting language whereby in some places, the focus is on emissions source and in other places the focus is on engines. It is requested that a consistent use of the term emission source be used in this subsection. The inclusion of specific language on test points and procedures is unnecessarily specific and since the basis for the emission factor will have to be identified in the plan submittal, BOEM will have the opportunity to review and comment on the acceptability of the emissions test data, including test points and procedures as part of the plan approval process. We request that BOEM include language that allows for adjustments of measured SO₂ emissions (if warranted) based on the sulphur fuel contents which would be identified as required in § 550.205(a). Inclusion of such language will alleviate the need for re-testing if the sulphur levels in fuel differ from what was measured during the emissions test. Alternatively, BOEM could elect to offer the use of a mass-balance approach to estimate SO₂ emissions based on the sulphur levels in the fuel types. Many state and federal agencies accept a similar methodology Furthermore, many designated operators have multiple versions of the same equipment across their portfolio. It would be beneficial to the OCS designated operators if the BOEM would allow for the use of emissions test results on similar equipment (i.e., same make and model). Finally, it should be noted that 40 CFR part 53 refers to Ambient Air Monitoring Reference and Equivalent Methods. These methods are not used for stack testing. The reference should be for applicable test methods in 40 CFR Part 60, Appendix A. Chevron requests that the reference to 40 CFR 60.8 be removed from the provisions of the re-proposed rule. This section includes numerous performance testing requirements, beyond the test methods included in Appendix A. While we agree that some of the test methods included in 40 CFR 60 Appendix A may be practicable in some offshore applications, incorporation of all requirements of 40 CFR 60.8 is inappropriate as USEPA regulations are not relevant in geographical areas where BOEM has air quality jurisdiction. If BOEM deems it appropriate to incorporate certain provisions of 40 CFR 60.8, Chevron requests that these specific requirements be included in the re-proposed regulation.	<i>Emissions testing.</i> You may use actual emissions amounts as measured from emissions testing conducted on a specific emissions source, in lieu of the standards or emissions factors for that source which are described in paragraph (b)(2) of this section. However, if none of the methods in paragraph (b)(2) of this section are applicable, you must conduct stack testing on the emissions source to determine the appropriate emissions factor. The data from stack testing may be used only for the engine-emission source for which the stack testing was conducted. When determining the emission factors through testing, you must consider: (i) Test points and procedures. (A) In general, test points should be devised based on actual operations as opposed to using the test points and engine loads contained in one of the various marine duty cycles. If, based on the unique circumstances of the proposed project, this is impracticable, an alternative approach for defining test points may be implemented with the approval of the Regional Supervisor. It cannot be assumed that emissions per hour or emissions per kW-hour or horse-power hour from large main engines on drill ships and platforms are highest during full load or near-full load operation. The emissions factor and emission per hour or emissions per kW-hour or horse-power hour for the operation that is actually expected should be determined, and the emissions under 90% load should be used only if emissions at this load are the highest and thus conservative. (BA) Testing should be done consistent with the procedures outlined in 40 CFR part 60, Appendix A53 to the maximum extent practicable. Where the unique circumstances or requirements of the proposed operations make such procedures impracticable, alternative procedures may be implemented with the approval of the Regional Supervisor. As appropriate, you must use the General Provisions for Determining Standards of Performance for New Stationary Sources, at 40 CFR 60.8. (ii) Fuel. You must ensure that the fuel used in the testing to generate the emission factors reflects the type of fuel that will be used by the engine in actual operation and that the sulphur content of the fuel is the same as that which will be used in the engine. may adjust your measured SO2 emissions to account for the sulphur levels identified for the relevant emission source identified in 550.205(a)
	550.205(b)(2)(i)	In the event that you elect not to measure the actual emissions for any given emissions source, select an emissions factor from one of the following references (references are listed in priority order; you may use a method only if all the methods identified above it are not available): (i) You may use the emissions factor(s) that are vendor-guaranteed or provided by the manufacturer of the specific emissions source, if available; where a manufacturer has not provided an emissions factor for the emissions source you propose to use, you may use a manufacturer’s emissions factor for a similar source only if you can demonstrate to the satisfaction of the Regional Supervisor that the emissions generated by your emissions source are the same as or lower than that for which a manufacturer’s emissions factor is available. If you elect to use vendor-guaranteed or manufacturer data, you	Rather than restricting designated operators to a priority list of emission factors, the list included in § 550.205(b)(2)(i)-(vi) should be presented as a list of emission estimation methodology options, either within the rule text or as a separate guidance document. In reviewing various state and federal agency permitting programs, the process by which an emission factor is selected is at the discretion of the permit owner. Onshore facilities are typically not restricted to a hierarchy priority of emission estimation methodologies. In light of all the possible emission estimation methodologies, and to account for advancements in such methodologies, BOEM should leave selection of the methodology to the OCS designated operators. Also, by including such a detailed list of emission estimation	In the event that you elect not to measure the actual emissions for any given emissions source, you may select an emissions factor from one of the following references subject to agency approval.(references are listed in priority order; you may use a method only if all the methods identified above it are not available): (i) You may use the emissions factor(s) that are vendor-guaranteed or provided by the manufacturer of the specific emissions source, if available; where a manufacturer has not provided an emissions factor for the emissions source you propose to use, you may use a manufacturer’s emissions factor for a similar source only if you can demonstrate to the satisfaction of the Regional Supervisor that the emissions generated by your emissions source are the same as or lower than that for which a manufacturer’s emissions factor is available. If you elect to use vendor-guaranteed or manufacturer data, you must demonstrate that: (A) The fuel used by the manufacturer to generate the emission factors reflects the type of fuel that will be used by the engine in actual operation; and, (B) The actual engine has not been modified outside the configuration used to generate the emission factors; thus, the emission factors used in the plan must represent the actual pattern of use for that equipment in operations.

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		must demonstrate that: (A) The fuel used by the manufacturer to generate the emission factors reflects the type of fuel that will be used by the engine in actual operation; and, (B) The actual engine has not been modified outside the configuration used to generate the emission factors; thus, the emission factors used in the plan must represent the actual pattern of use for that equipment in operations.	methodologies as part of the rule text, BOEM is limiting their ability to make changes to the list without triggering the rulemaking process. It is requested that BOEM remove this very prescriptive and limiting process. As per § 550.205(b)(3), BOEM retains the ability to review the selected emission factor and require the use of a different emission factor or to require emissions testing if a more appropriate factor is not available.	
	550.205(b)(2)(ii)	You may use emissions factors generated from source tests required by the USEPA OCS permits as BOEM emission estimates for a specific rig. If emissions factors were not generated through testing for a particular engine, emissions factors generated from a recent and similar permit engine may be used. Data from a rig from the same manufacturer, having an engine of the same model and year is generally allowed, unless the Regional Supervisor has a reason to believe that such data may not be accurate or reliable.	As discussed in the comments to § 550.205(b)(2)(i), we request the removal of the overly prescriptive emission factor selection process. As such, we request that this subsection be eliminated. If BOEM elects not to remove this section, we seek to clarify that the relevant manufacturer should be the engine manufacturer and not the rig manufacturer. Where the term <i>rig</i> appears in this subsection, we would request the term <i>engine</i> be used. Furthermore, if BOEM elects not to remove this section, it should address the mechanism by which the various designated operators will have knowledge of which engines may have had source tests conducted pursuant to an USEPA OCS permit. This information is not readily available to all designated operators.	You may use emissions factors generated from source tests required by the USEPA OCS permits as BOEM emission estimates for a specific rig. If emissions factors were not generated through testing for a particular engine, emissions factors generated from a recent and similar permit engine may be used. Data from a rig from the same manufacturer, having an engine of the same model and year is generally allowed, unless the Regional Supervisor has a reason to believe that such data may not be accurate or reliable.
	550.205(b)(2)(iii)	You may use a model or table, as appropriate, developed by the USEPA or FAA, if available and appropriate to the emissions source, and you may use the emissions factors from that model or table. (A) For commercial marine engines operating aboard MSC, excluding vehicles and aircraft, apply emission factors based on the classification of the engine (i.e., category 1, category 2, and category 3), the year the engine was manufactured, and the maximum engine power expressed in kW. Some category 3 engine emission factors are based on rpm rather than maximum engine power. Engine category, year, model, and emission factors, by kW power rating, are given in 40 CFR 1042.101 for category 1 and category 2 commercial engines and consider the useful life provisions of each engine category. Engine category, year, model, and emission factors, by rpm rating, are given in 40 CFR 1042.104 for category 3 commercial marine engines, and also consider the useful life provisions for each engine category. (B) For non-road equipment used on the drill ships or platforms, non-road emission factors, rather than marine engine emission factors may be used. The primary source for these emission factors is the NONROAD portion of the Motor Vehicle Emission Simulator (MOVES) model (http://www.epa.gov/otaq/models/moves/index.htm), as incorporated by reference at § 550.198. Depending on the type of engine, the NONROAD2008A Model may also be used, as incorporated by reference at § 550.198. That model is available at http://www.epa.gov/otaq/nonrdmdl.htm. (C) For storage tanks, use the USEPA’s TANKS model, or the most recent USEPA-recommended update or replacement, to generate emission factors, such as the AP 42 Compilation of Emissions Factors, Chapter VII, incorporated by reference at § 550.198. (D) In the event that you are required to report emissions data from aircraft, use emissions factors generated by the AEDT, incorporated by reference at § 550.198, or from another appropriate model, or set of models, approved by the FAA, in the event that the AEDT does not contain emissions factors for the relevant aircraft proposed in your plan. AEDT emissions factors are available at: http://www.faa.gov/about/office_org/headquarters_offices/apl/research/models/aedt/	As discussed in the comments to § 550.205(b)(2)(i), we request the removal of the overly prescriptive emission factor selection process. As such, it is requested that this subsection be eliminated. If BOEM elects not to remove this section, we offer the following comments: - We request BOEM to allow the use of process modeling to estimate emissions, specifically for storage containers for which the USEPA TANKS 4.0 program is a poor emissions estimation tool; - The USEPA TANKS program is a useful tool for regularly (i.e., cylindrical) shaped storage containers. Storage containers on OCS facilities may come in various sizes that will not easily be represented in the TANKS program. Given the minimal nature of most OCS storage containers, we request the use of default emission factor similar to that employed in the current AQR emission spreadsheet. Note that many storage containers may fit within the proposed insignificant activity list (see comments to 550.205(a)) and therefore, emissions estimation may not be warranted. - We request BOEM to allow models or tables approved by USEPA or FAA. “You may use a model or table, as appropriate, developed or approved by the USEPA or FAA, if available and appropriate to the emissions source, and you may use the emissions factors from that model or table.” - The referenced MOVES model cited in the proposed rule may be not a user friendly model to use for designated operators and we request that the use of a default emission factor similar to that employed in the current AQR spreadsheet. - Some designated operators may have diesel engines that are certified to meet the requirements in 40 CFR 60 Subpart IIII and operated in a certified manner. We request the use of applicable emission factors in 40 CFR 60 Subpart IIII, Tables 1 – 4. This could affect backup and emergency diesel engine drivers for generators, pumps, air compressors. - Various sections of the proposed rule discuss emissions from “Flashing”. The documents incorporated by reference (e.g., EPA TANKS model and AP-42) do not calculate “flash” emissions from crude oil/condensate or produced water; however, there are multiple other generally accepted mechanisms (e.g., Peng-Robinson equation of state models - PROMAX, HYSIS, PROsim, VMGSim) or API 4697 E&P Tanks Ver 3 program for flashing calculations. These	You may use a model or table, as appropriate, developed by the USEPA or FAA, if available and appropriate to the emissions source, and you may use the emissions factors from that model or table. (A) For commercial marine engines operating aboard MSC, excluding vehicles and aircraft, apply emission factors based on the classification of the engine (i.e., category 1, category 2, and category 3), the year the engine was manufactured, and the maximum engine power expressed in kW. Some category 3 engine emission factors are based on rpm rather than maximum engine power. Engine category, year, model, and emission factors, by kW power rating, are given in 40 CFR 1042.101 for category 1 and category 2 commercial engines and consider the useful life provisions of each engine category. Engine category, year, model, and emission factors, by rpm rating, are given in 40 CFR 1042.104 for category 3 commercial marine engines, and also consider the useful life provisions for each engine category. (B) For non-road equipment used on the drill ships or platforms, non-road emission factors, rather than marine engine emission factors may be used. The primary source for these emission factors is the NONROAD portion of the Motor Vehicle Emission Simulator (MOVES) model (http://www.epa.gov/otaq/models/moves/index.htm), as incorporated by reference at § 550.198. Depending on the type of engine, the NONROAD2008A Model may also be used, as incorporated by reference at § 550.198. That model is available at http://www.epa.gov/otaq/nonrdmdl.htm. (C) For storage tanks, use the USEPA’s TANKS model, or the most recent USEPA-recommended update or replacement, to generate emission factors, such as the AP 42 Compilation of Emissions Factors, Chapter VII, incorporated by reference at § 550.198. (D) In the event that you are required to report emissions data from aircraft, use emissions factors generated by the AEDT, incorporated by reference at § 550.198, or from another appropriate model, or set of models, approved by the FAA, in the event that the AEDT does not contain emissions factors for the relevant aircraft proposed in your plan. AEDT emissions factors are available at: http://www.faa.gov/about/office_org/headquarters_offices/apl/research/models/aedt/

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			models are approved by USEPA for 40 CFR 98 Subpart W calculations (40 CFR 98.233(j)(1)) and for NSPS OOOO in 40 CFR 60 Subpart OOOO (40 CFR 60.5365(e)). For GOADS, BOEM used the Vasquez-Beggs equations for flash calculations for crude oil and condensate. - Similarly to the “flashing” discussion above, the proposed rule does not include a reference document that is capable of estimating glycol dehydration unit still column vent and flash tank (gas-condensate-glycol separator) emissions. GRI-GLYCalc model is an USEPA approved model for glycol dehydration unit emission calculations – 40 CFR 63 Subparts HH and HHH. Also, GLYCalc is the model used for GOADS emission calculations since 2000. - We request that BOEM allow for use of operations and engineering judgment (in lieu of an emission factor) to estimate the volume of gas expected to be combusted in a flare or vented from an atmospheric vent. This would cover such sources as compressor blowdowns, miscellaneous sources (pneumatic devices in natural gas service) routed to flare or vent.	
	550.205(b)(2)(iv)	You may use an emission factor from a published study conducted by a reputable source, such as the California Air Resources Board, a university, or research agency, if such source yields reliable emission factors or formula(s) to calculate emissions factors for certain types of engines and equipment other than for the large main engines on drilling ships and drill platforms and for locomotive-sized engines powering cranes. If an emission study is used, the study must cover representative engines, fuels, and duty cycles.	As discussed in the comments to § 550.205(b)(2)(i), we request the removal of the overly prescriptive emission factor selection process. As such, it is requested that this subsection be eliminated. If BOEM elects not to remove this section, we offer the following comments on this subsection. - BOEM should provide a specific size threshold instead of using terms such as “large” or “locomotive size” engines. In other sections of the proposed rule, BOEM utilizes the 900 kW threshold.	You may use an emission factor from a published study conducted by a reputable source, such as the California Air Resources Board, a university, or research agency, if such source yields reliable emission factors or formula(s) to calculate emissions factors for certain types of engines and equipment other than for the large main engines on drilling ships and drill platforms and for locomotive-sized engines powering cranes. If an emission study is used, the study must cover representative engines, fuels, and duty cycles.
	550.205(b)(2)(v)	For non-U.S. flagged vessels having non-USEPA-certified, MARPOL-certified marine engines, you may use the MARPOL Annex VI standards, available from the International Maritime Organization, incorporated by reference at § 550.198, or the Revised MARPOL Annex VI, Regulations for the Prevention of Pollution from Ships, incorporated by reference at § 550.198, as appropriate taking vessel flag as well as engine size into account when determining the emission factor that should apply to an engine. With respect to calculations specifically for NO_x emissions or emissions factors, any reporting must comply with the NO_x Technical Code [NTC] 2008 incorporated by reference at § 550.198. If this method is used, the plan must account for any differences in the sulphur limits of the fuel being used and the sulphur limit of the fuel used for emission testing. All fuel used by the subject drilling ships and offshore platforms must either be purchased in the U.S. or comply with applicable CAA fuel emissions requirements, unless the lessee or operator can demonstrate that it has properly accounted for any differences in emissions that may result from the use of non-U.S. fuel.	As discussed in the comments to § 550.205(b)(2)(i), we request the removal of the overly prescriptive emission factor selection process. As such, it is requested that this subsection be eliminated. If BOEM elects not to remove this section, we request the following comments be considered on this subsection. EIAPP certificates would be issued based on test results for a parent engine. These EIAPP certificates identify the parent engine emission test result as well as the relevant Annex VI standard. The proposed rule allows for use of the Annex VI standards but is silent on the acceptability of the listed parent engine emission factor identified in the EIAPP certificate. We request BOEM allow the use of the emission factors as stated on EIAPP certificates.	For non-U.S. flagged vessels having non-USEPA-certified, MARPOL-certified marine engines, you may use the MARPOL Annex VI standards, available from the International Maritime Organization, incorporated by reference at § 550.198, or the Revised MARPOL Annex VI, Regulations for the Prevention of Pollution from Ships, incorporated by reference at § 550.198, as appropriate taking vessel flag as well as engine size into account when determining the emission factor that should apply to an engine. With respect to calculations specifically for NO_x emissions or emissions factors, any reporting must comply with the NO_x Technical Code [NTC] 2008 incorporated by reference at § 550.198. If this method is used, the plan must account for any differences in the sulphur limits of the fuel being used and the sulphur limit of the fuel used for emission testing. All fuel used by the subject drilling ships and offshore platforms must either be purchased in the U.S. or comply with applicable CAA fuel emissions requirements, unless the lessee or operator can demonstrate that it has properly accounted for any differences in emissions that may result from the use of non-U.S. fuel.
	550.205(b)(2)(vi)	For a natural gas-powered engine of any rated capacity, or for a non-road diesel-powered engine with a maximum rated capacity less than 900 kW, or for a non-engine emissions source, you may use the appropriate emissions factor from the Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Emissions Sources, or any update thereto, incorporated by reference at § 550.198; or,	As discussed in the comments to § 550.205(b)(2)(i), we request the removal of the overly prescriptive emission factor selection process. As such, it is requested that this subsection be eliminated. If BOEM elects not to remove this section, we offer the following comments on this subsection. There is no explanation in the proposed rule that addresses the proposed restriction by which non-road diesel engine on a platform greater than 900 kw cannot use AP-42. We request that the rating threshold be removed and the option to use AP-42 emission factors be retained for all non-road diesel engines.	For a natural gas-powered engine of any rated capacity, or for a non-road diesel-powered engine with a maximum rated capacity less than 900 kW, or for a non-engine emissions source, you may use the appropriate emissions factor from the Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Emissions Sources, or any update thereto, incorporated by reference at § 550.198; or,
	550.205(b)(2)(vii)	If you elect to use the methods described in paragraph (b)(2)(v) or (vi) of this section, you must take appropriate account of the deterioration in the performance of the equipment based on its age and the potential variation of the actual emissions from the standard to account for the maximum potential emissions that the emissions source may emit. Given that equipment tends to operate less efficiently over time, you should make an appropriate upward adjustment in the emissions estimates for	As discussed in the comments to § 550.205(b)(2)(i), we request the removal of the overly prescriptive emission factor selection process. As such, it is requested that this subsection be eliminated. If BOEM elects not to remove this section, we offer the following comments on this subsection. Appropriately adjusting emission factors to account for engine	If you elect to use the methods described in paragraph (b)(2)(v) or (vi) of this section, you must take appropriate account of the deterioration in the performance of the equipment based on its age and the potential variation of the actual emissions from the standard to account for the maximum potential emissions that the emissions source may emit. Given that equipment tends to operate less efficiently over time, you should make an appropriate upward adjustment in the emissions estimates for older equipment. At any time you revise your plan, including resubmissions every ten years, you must consider the age of the equipment, adjust for any change in operating efficiency, and provide the associated emissions factors in your revised or resubmitted plan, as applicable.

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		older equipment. At any time you revise your plan, including resubmissions every ten years, you must consider the age of the equipment, adjust for any change in operating efficiency, and provide the associated emissions factors in your revised or resubmitted plan, as applicable.	age is challenging as there are no widely accepted methodologies for doing so, and would most likely require multiple iterations stack testing. Emissions of a completely overhauled engine may match that of a relatively new engine so an engine’s age may not necessarily result in deterioration of an engine’s emissions performance. Furthermore, there is little to no actual emissions test data that supports BOEM’s assertion that emissions increase on older equipment. The USEPA’s compilation of emission factors for various emissions sources (AP-42) does not provide for age-based deterioration adjustments to emission factors. In addition, this is not a typically required practice for onshore engine owners/designated operators, and thus it is not reasonable for BOEM to require offshore designated operators to develop a technically sound process for doing so. We request BOEM to remove language related to age-based adjustments to emission factors. If BOEM requires an age-based adjustment of emission factors, we request BOEM to only require the use of deterioration factors when they have been developed by the manufacturer. For example, 40 CFR 1042.245 requires manufacturers to develop deterioration factors for certain categories of engines. Consistent with EPA’s approach, the requirement to develop such factors should be placed on the engine manufacturers, not the engine purchaser.	
	550.205(b)(3)	If the Regional Supervisor has reason to believe that any air emissions factor used in your plan is inappropriate, or new or updated information on emissions factors becomes available, the Regional Supervisor may require you to use a different emissions factor for any emissions source for any air pollutant. The Regional Supervisor may require you to perform stack testing, in accordance with paragraph (b)(1) of this section, or some other form of validation to verify the accuracy of an emissions factor.	Case law demonstrates that regulated entities and the public need sufficient criteria in a regulation to be on notice of what is proposed (so that they can comment on it) and what is required. The “fair notice” or “fair warning” doctrine prohibits an agency from imposing penalties, requirements, or liability where the agency’s policy or interpretation does not provide regulated parties with prior notice of what is required. Case law also indicates that a regulator (such as the Regional Supervisor here) cannot have discretion to create a new substantive requirement that would be subject to notice and comment (just as the law prevents regulation by NTL, the law prevents regulation by email/phone call). Because the decisions of the Regional Supervisor would “have the force and effect of law,” they cannot be exempt from notice-and-comment requirements.	If the Regional Supervisor has reason to believe that any air emissions factor used in your plan is inappropriate during the review of the plan. , or new or updated information on emissions factors becomes available, the Regional Supervisor may require you to use a different emissions factor for any emissions source for any air pollutant. The Regional Supervisor may require you to perform stack testing, in accordance with paragraph (b)(1) of this section, or some other form of validation to verify the accuracy of an emissions factor during the review of the plan.
	550.205(b)(4)	If you propose to utilize an engine or equipment that is not certified by the USEPA for use in the U.S., you may not use a USEPA emissions factor intended to apply to a certified engine or equipment. If you propose to utilize an engine or equipment that is USEPA-certified, then you must submit documentation of its certification.	As discussed in the comments to § 550.205(b)(2)(i), we request the removal of the overly prescriptive emission factor selection process. As such, it is requested that this subsection be eliminated.	If you propose to utilize an engine or equipment that is not certified by the USEPA for use in the U.S., you may not use a USEPA emissions factor intended to apply to a certified engine or equipment. If you propose to utilize an engine or equipment that is USEPA-certified, then you must submit documentation of its certification.
	550.205(b)(5)	If your projected emissions include emissions for a U.S. flagged vessel, you must submit documentation of the USEPA-issued Certificate of Conformity for each engine on the vessel.	As discussed in the comments to § 550.205(b)(2)(i), we request the removal of the overly prescriptive emission factor selection process. As such, it is requested that this subsection be eliminated. Furthermore, the proposed language is an example of overly prescriptive regulatory program whereby BOEM is requesting demonstration of compliance with another federal agency. This requirement is wholly unnecessary component of the plan submittal.	If your projected emissions include emissions for a U.S. flagged vessel, you must submit documentation of the USEPA-issued Certificate of Conformity for each engine on the vessel.
	550.205(b)(6)	If you propose to use any non-U.S. engine or equipment on a non-U.S. flag vessel that is not MARPOL-compliant, you may not use an emissions factor intended to apply to a MARPOL-compliant engine or equipment.	As discussed in the comments to § 550.205(b)(2)(i), we request the removal of the overly prescriptive emission factor selection process. As such, it is requested that this subsection be eliminated.	If you propose to use any non-U.S. engine or equipment on a non-U.S. flag vessel that is not MARPOL-compliant, you may not use an emissions factor intended to apply to a MARPOL-compliant engine or equipment.
	550.205(c)	<i>Facility emissions.</i> For each criteria and major precursor air pollutant, calculate the projected annual emissions for each of your facilities, the maximum 12 month rolling sum of facility emissions and the maximum projected peak hourly emissions using the following procedures:	We have reviewed multiple state agency permitting programs and EPA’s permitting program for the Eastern Gulf of Mexico and have not identified an analogue for the calculation of maximum 12 month rolling sum of facility emissions as part of the application process that BOEM has proposed. Typically, a permit application for an onshore facility would provide estimates of the potential to emit for the worst case calendar-year. Furthermore, as discussed in the Joint Industry Trades’ comments, EPA assesses compliance with NAAQS using	<i>Facility emissions.</i> For each criteria and major precursor air pollutant, calculate the annual projected annual -emissions for each of your facilities, the maximum 12-month rolling sum of facility emissions and the maximum peak hourly projected peak -hourly emissions using the following procedures:

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			calendar block averages, not running or rolling averages. Therefore, it is requested that BOEM remove the requirement to quantify emissions for a maximum 12 month period.	
	550.205(c)(1)	Calculate total emissions generated annually by each emissions source on or physically connected to each of the facilities described in your plan that would result from the construction, installation, operation, or decommissioning of the facility. Such calculations should be done for each year that the plan states that the operator proposes to engage in operating activities, up to ten years. This calculation should be based on the maximum rated capacity of each emissions source associated with the facility, or the capacity that generates the highest rate of emissions, and the facility’s maximum potential projected annual emissions, using the methods and procedures specified under paragraphs (a) and (b) of this section.	We request changes to this provision to improve clarity and to ensure emissions from OCS operations are not over estimated. Based on the proposed wording in this provision it would imply that OCS operations routinely run at maximum rated capacity over an entire calendar-year. Such an approach would grossly exaggerate potential emissions and ensure that many plans will exceed the EET values, where in practice; the actual emissions occurring under these plans may be significantly lower. As acknowledged by BOEM in multiple places in the preamble, this is a common practice under the existing regulatory framework as a mechanism to reduce emissions below the EET values and a concept that BOEM intended to carry forward. The provisions of § 550.200(a)(2) allow for such measures; however, further clarity on this topic is requested. We have proposed revisions to clarify that projected emission estimates should be based on designated operators’ annual maximum expected operations and not solely based on the maximum rated capacity of each emission source. This change will add further clarity that the use of self-mitigations measures to reduce the projected emissions by representing the anticipated operating rates and/or fuel usage levels by emission sources covered by the plan is acceptable. Additionally, we have proposed similar changes to the definition of projected emissions as listed in § 550.302(b). Additional revisions are requested to be consistent with the requested revisions to the definitions of <i>projected emissions</i> and <i>facility</i> as discussed in § 550.302(b) below. Finally, consistent with the above proposed change requested in § 550.187(a), we request that the term “designated operator” be used to ensure that it is clear that the designated operator of any OCS facility is the responsible party.	Calculate total projected emissions generated annually by each emissions source on or physically connected to each of the facilities described in your plan that would result from the construction, installation, operation, or decommissioning of the facility. Such calculations should be done for each year that the plan states that the designated operator proposes to engage in operating activities, up to ten years. This calculation should be based on the annual maximum-rated capacity-expected-operations of each emissions source associated with the facility, or the capacity that generates the highest rate of emissions, and the facility’s maximum potential projected annual emissions, using the methods and procedures specified under paragraphs (a) and (b) of this section.
	550.205(c)(2)	Calculate the maximum 12-month rolling sum of emissions from each emissions source on or physically connected to each facility and the maximum 12-month rolling sum of emissions from each facility that would result from the construction, installation, operation, or decommissioning of the facility. Identify the 12-month period used for this calculation. This should be the 12-month period during which your facility generates the highest amount emissions over the life of your plan.	Requested revisions to be consistent with our comments to § 550.205(c) whereby we request the removal of the 12-month rolling sum and § 550.302(b) whereby we requested changes to the definitions of <i>projected emissions</i> and <i>facility</i> .	Calculate the projected maximum annual calendar year 12-month rolling sum of emissions from each emissions source on or physically connected to each facility and the maximum 12-month rolling sum of emissions from each facility that would result from the construction, installation, operation, or decommissioning of the facility. Identify the calendar year with the maximum annual projected emissions that would result from the construction, installation, operation, or decommissioning of the facility 12-month period used for this calculation. This should be the 12-month period calendar year during which your facility generates the highest amount of emissions over the life of your plan.
	550.205(c)(3)	Calculate the maximum projected peak hourly emissions from each emissions source on or physically connected to each facility and the maximum projected peak hourly emissions from each facility that would result from the construction, installation, operation, or decommissioning of the facility.	The requested changes are intended to add further clarity and to be consistent with the requested revisions to the <i>projected emissions</i> and <i>facility</i> definitions as described in § 550.302(b) below. See comments to §§ 550.205(i) and 550.302 below.	Calculate the maximum peak hourly projected peak hourly emissions from each emissions source on or physically connected to each facility and the maximum peak hourly projected peak hourly emissions from each facility that would result from the exploration, development or production under the approved plan construction, installation, operation, or decommissioning of the facility.
	550.205(d)	<i>Attributed emissions.</i> For each criteria and major precursor air pollutant, calculate the attributed projected annual emissions for each of your MSCs, the maximum 12-month rolling sum of each MSC’s emissions, and the maximum projected peak hourly emissions for each MSC, using the following procedure:	As discussed in the Joint Industry Trades’ comments document BOEM does not have legal authority to regulate MSCs. As such we request that this provision be removed from the proposed regulation.	<i>Attributed emissions.</i> For each criteria and major precursor air pollutant, calculate the attributed projected annual emissions for each of your MSCs, the maximum annual calendar year 12-month rolling sum of each MSC’s emissions, and the maximum projected peak hourly emissions for each MSC, using the following procedure:
	550.205(d)(1)	For each facility described in your plan, identify the MSCs that will be used to support that facility. To the extent practicable, identify the other facilities that each MSC will support.	See comments to § 550.205(d) above regarding MSCs. It should be noted that designated operators will know the type of vessel(s) needed for a project when a plan is submitted but can rarely predict which exact vessels will be utilized. Changes in project schedules, work load (short term contracts), vessels dedicated to a role (ie, high volume, supplies. etc), and availability of a MSC are a few factors used to determine what vessel will be mobilized at the start of a project. These vessels may not even be on contract when a plan is submitted and with around 900 different vessels (work, crew, well evaluation, well	For each facility described in your plan, identify the MSCs that will be used to support that facility. To the extent practicable, identify the other facilities that each MSC will support.

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			stimulation, barges, etc.) supporting different types of operations in the GoM it is impossible for designated operators to predict every vessel(s) which will be utilized in a plan. Furthermore, BOEM asks that applicants identify the emissions per trip and multiply those emissions by the number of trips per year to identify annual emissions. This is impossible to project because there is no way to anticipate what route a support vessel will take years in advance of the trip, nor is it practicable for an OCS designated operator to predict the types of support vessel activities that may be necessary over a 10-year span.	
	550.205(d)(2)	For each MSC referred to in paragraph (d)(1) of this section: (i) An MSC that is intended to remain at sea continuously (i.e., a vessel that does not typically return to port on a regular basis) should be assumed to operate on a 24-hour basis for any day the MSC operates in the waters overlying the OCS or State submerged lands. (ii) For all other MSCs, calculate the emissions per trip, irrespective of what other facilities the MSC may also service on each trip. These emissions include all the emissions generated between the time that the MSC leaves its port or home base until it returns (i.e., support emissions per trip). All calculations must be based on the maximum rated capacity or the capacity that generates the highest rate of emissions, if greater, for each emissions source on the MSC.	See comments to § 550.205(d) above regarding MSCs.	For each MSC referred to in paragraph (d)(1) of this section: (i) An MSC that is intended to remain at sea continuously (i.e., a vessel that does not typically return to port on a regular basis) should be assumed to operate on a 24-hour basis for any day the MSC operates in the waters overlying the OCS or State submerged lands. (ii) For all other MSCs, calculate the emissions per trip, irrespective of what other facilities the MSC may also service on each trip. These emissions include all the emissions generated between the time that when the MSC is within 25 miles of the facility leaves its port or home base until it returns (i.e., support emissions per trip). All calculations must be based on the maximum rated capacity or the capacity that generates the highest rate of emissions, if greater, for each emissions source on the MSC.
	550.205(d)(3)	Multiply the emissions per trip from paragraph (d)(2) of this section by the number of trips the MSC will make during the 12 month period described in paragraph (c)(2) of this section to get the total support emissions for that MSC. If the MSC will remain at sea continuously, multiply the emissions it will generate per day by the number of days that it will operate in support of your facility during the 12 month period described in paragraph (c)(2) of this section.	See comments to § 550.205(d) above regarding MSCs.	Multiply the emissions per trip from paragraph (d)(2) of this section by the number of trips the MSC will make during the 12 month period described in paragraph (c)(2) of this section to get the total support emissions for that MSC. If the MSC will remain at sea continuously, multiply the emissions it will generate per day by the number of days that it will operate in support of your facility during the 12 month period described in paragraph (c)(2) of this section.
	550.205(d)(4)	If the MSC provides support only to your facility, then you must attribute the MSC’s total support emissions to that facility.	See comments to § 550.205(d) above regarding MSCs.	If the MSC provides support only to your facility, then you must attribute the MSC’s total support emissions to that facility.
	550.205(d)(5)	For each MSC described in paragraph (d)(1) of this section that supports multiple facilities, you may attribute the total support emissions for that MSC to your facility or you may attribute a portion of its total support emissions to your facility (i.e., calculate the attributed emissions for that MSC) using the following procedure: (i) Subtract the emissions you can document that should be reasonably allocated to other facilities from the total support emissions calculated under paragraph (d)(3) of this section for that MSC; or (ii) If it is not practicable to use the method in paragraph (d)(5)(i) of this section, divide the total support emissions calculated under paragraph (d)(3) of this section by the lowest number of facilities that the MSC will service on a typical trip; or (iii) Where it is not practicable to use either paragraph (d)(5)(i) or (ii) of this section, calculate the greater of: (A) The emissions that would be generated by the MSC traveling round-trip between the port or home base and the facility; or (B) The emissions generated by the MSC for the entire time it will operate within 25 statute miles of the facility.	See comments to § 550.205(d) above regarding MSCs.	For each MSC described in paragraph (d)(1) of this section that supports multiple facilities, you may attribute the total support emissions for that MSC to your facility or you may attribute a portion of its total support emissions to your facility (i.e., calculate the attributed emissions for that MSC) using the following procedure: (i) Subtract the emissions you can document that should be reasonably allocated to other facilities from the total support emissions calculated under paragraph (d)(3) of this section for that MSC; or (ii) If it is not practicable to use the method in paragraph (d)(5)(i) of this section, divide the total support emissions calculated under paragraph (d)(3) of this section by the lowest number of facilities that the MSC will service on a typical trip; or (iii) Where it is not practicable to use either paragraph (d)(5)(i) or (ii) of this section, calculate the greater of: (A) The emissions that would be generated by the MSC traveling round-trip between the port or home base and the facility; or (B) The emissions generated by the MSC for the entire time it will operate within 25 statute miles of the facility.
	550.205(d)(6)	Calculate the sum of the emissions estimates that result from the calculation in paragraph (d)(4) or (5) of this section for every MSC identified in paragraph (d)(1) of this section. That sum represents the attributed emissions for your facility.	See comments to § 550.205(d) above regarding MSCs.	Calculate the sum of the emissions estimates that result from the calculation in paragraph (d)(4) or (5) of this section for every MSC identified in paragraph (d)(1) of this section. That sum represents the attributed emissions for your facility
	550.205(d)(7)	All calculations must be based on the maximum rated capacity or the capacity that generates the highest rate of emissions for each of the relevant sources on every MSC.	See comments to § 550.205(d) above regarding MSCs.	All calculations must be based on the maximum rated capacity or the capacity that generates the highest rate of emissions for each of the relevant sources on every MSC.
	550.205(d)(8)	If BOEM questions your determination of the attributed emissions, the Regional Supervisor may require additional documentation to support your findings and may direct you to make changes, as appropriate.	See comments to § 550.205(d) above regarding MSCs. Moreover, as written the regulation would allow the Regional Supervisor to “direct” changes without any guidance as to what	If BOEM questions your determination of the attributed emissions, the Regional Supervisor may require additional documentation to support your findings and may direct you to make changes, as appropriate.

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			is an appropriate change. This needs to be tied to regulatory criteria.	
	550.205(e)	<i>Projected emissions.</i> For every facility described in your plan, you must identify the maximum projected emissions for each criteria and major precursor air pollutant by calculating the annual rate (for each calendar year), the maximum 12-month rolling sum, and the maximum peak hourly rate for your facility emissions under paragraph (c)(2) of this section and your attributed emissions under paragraph (d)(6) of this section.	See comments to § 550.205(e)(1) below.	Projected emissions. For every facility described in your plan, you must identify the maximum projected emissions for each criteria and major precursor air pollutant by calculating the annual rate (for each calendar year), the maximum annual calendar year 12-month rolling sum, and the maximum peak hourly rate for your facility emissions under paragraph (c)(2) of this section and your attributed emissions under paragraph (d)(6) of this section.
	550.205(e)(1)	If any of your proposed facilities would be located in such a manner as to potentially constitute proximate activities with a pre-existing facility or a facility that was previously approved but not yet constructed, you must identify any such facility in your plan.	As discussed in the Joint Industry Trades’ comments the consolidation of proximate activities is better addressed in § 550.303(j). Additionally, see the requested change to the definition of facility contained in § 550.302(b).	If any of your proposed facilities would be located in such a manner as to potentially constitute proximate activities with a pre-existing facility or a facility that was previously approved but not yet constructed, you must identify any such facility in your plan.
	550.205(e)(2)	If you are required to consolidate air emissions from multiple facilities, in accordance with the provisions of § 550.303(d), you must provide the projected emissions information for each facility and provide the complex total emissions for all of the consolidated activities.	See comments to § 550.205(e)(1) above regarding facility consolidation.	If you are required to consolidate air emissions from multiple facilities, in accordance with the provisions of § 550.303(d), you must provide the projected emissions information for each facility and provide the complex total emissions for all of the consolidated activities.
	550.205(f)	Emission reduction measure(s) (ERM). You must provide a description of all proposed ERM, including: the affected emissions source(s); the proposed emissions reduction control technologies, procedures and/or operational limits; the emission control efficiencies; the projected quantity of reductions to be achieved; and any monitoring or monitoring system you propose to use to measure or evaluate the associated emissions. You must be able to demonstrate that all ERM meet the requirements of § 550.309.	The language in this section is duplicative of other sections (§ 550.306, 550.307, and 550.309). In an effort to stream line the regulatory language it is requested that this language be changed to reference the relevant sections of the rule.	Emission reduction measure(s) (ERM). You must provide a description of all proposed ERM and associated information required in § 550.306, 550.307, and 550.309. , including: the affected emissions source(s); the proposed emissions reduction control technologies, procedures and/or operational limits; the emission control efficiencies; the projected quantity of reductions to be achieved; and any monitoring or monitoring system you propose to use to measure or evaluate the associated emissions. You must be able to demonstrate that all ERM meet the requirements of § 550.309.
	550.205(g)	<i>Modeling information.</i> If you are required to conduct any air quality modeling in support of your plan, then you must provide: (1) Table(s) of the appropriate and relevant maximum projected air pollutant concentrations over any area(s) of any State(s), including the most affected attainment area(s) and the most affected non-attainment area(s); (2) Table(s) of the appropriate and relevant maximum projected air pollutant concentrations over any Class I area(s), if relevant; (3) The maximum projected concentrations resulting from the projected emissions for each of your facilities, for each criteria air pollutant and major precursor air pollutant, for the corresponding averaging time(s) (e.g., 1-hour, 3-hour, 8-hour, 24-hour, annual, etc.) specified in the tables in 40 CFR 51.165(b)(2), 40 CFR 52.21(c), and 40 CFR part 50; (4) A list of all inputs, assumptions, and default values used for modeling and justification for each, including the source and justification for the proposed meteorological information; (5) The name and version of the model(s), and whether the model is listed on the USEPA preferred list of models in 40 CFR part 51 appendix W; and (6) A modeling report, including the modeling results. If you have previously provided such a report and/or results of the analysis relevant to paragraphs (e) and (g) of this section to the Regional Supervisor, and the projected emissions are the same as or lower than in the previously submitted report(s) or results, you may instead provide a reference to such report and/or results. (7) For each MSC, provide the distance from each facility described in your plan to the closest relevant home port (for MSCs other than offshore vehicles) or home base (for offshore vehicles), consistent with the maps and information you provide under § 550.224(e) or 550.256(b).	As discussed in the Joint Industry Trades’ comments, BOEM’s sole authority is for regulating compliance with the NAAQS. BOEM does not have the authority to require compliance with Class I increments or AQRV. Therefore, we request that § 550.205(g)(2) be removed. The determination of most affected coastal attainment area cannot simply be based on distance (as the BOEM proposal discusses, the prevailing winds do not blow straight to shore and therefore the most impacted area can be at more distant receptors). Furthermore, as discussed previously and in the Joint Industry Trades’ comments document, BOEM does not have legal authority to regulate MSCs. As such we request that this provision be removed from the proposed regulation.	<i>Modeling information.</i> If you are required to conduct any air quality modeling in support of your plan, then you must provide: (1) Table(s) of the appropriate and relevant maximum projected air pollutant concentrations over any coastal area(s) of any State(s), including the most affected attainment area(s) with the greatest modelling predicted concentrations and the most affected non-attainment area(s) with the greatest modelling predicted concentrations; (2) Table(s) of the appropriate and relevant maximum projected air pollutant concentrations over any Class I area(s), if relevant; (3) The maximum projected concentrations resulting from the projected emissions for each of your facilities, for each criteria air pollutant and major precursor air pollutant above the EET , for the corresponding averaging time(s) (e.g., 1-hour, 3-hour, 8-hour, 24-hour, annual, etc.) specified in the tables in 40 CFR 51.165(b)(2), 40 CFR 52.21(c), and 40 CFR part 50; (4) A list of all inputs, assumptions, and default values used for modeling and justification for each, including the source and justification for the proposed meteorological information; (5) The name and version of the model(s), and whether the model is referenced in 550.304(a)(1) listed on the USEPA preferred list of models in 40 CFR part 51 appendix W; and (6) A modeling report, including the modeling results. If you have previously provided such a report and/or results of the analysis relevant to paragraphs (e) and (g) of this section to the Regional Supervisor, and the projected emissions are the same as or lower than in the previously submitted report(s) or results, you may instead provide a reference to such report and/or results. (7) For each MSC, provide the distance from each facility described in your plan to the closest relevant home port (for MSCs other than offshore vehicles) or home base (for offshore vehicles), consistent with the maps and information you provide under § 550.224(e) or 550.256(b).
	550.205(h)	<i>Requirements applicable to specific air pollutants</i>	No comments regarding this paragraph.	N/A

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	550.205(h)(1)	<i>Nitrogen and Sulphur Oxides (NOx and SOx).</i> Various documents cross-referenced by these regulations, refer to NOx and NO2 (nitrogen dioxide) or SOx and SO2 (sulphur dioxide). Whenever possible, you must utilize data or reasonable estimates for NOx and SOx. At a minimum, your projected emissions of NOx must include emissions of nitrogen oxide and NO2, and your projected emissions of SOx must include emissions of SO2. In the event that data on NOx or SOx emissions are not available, you must instead utilize data on nitrogen oxide plus NO2 as a substitute for NOx, and SO2 emissions as a substitute SOx.	No comments regarding this paragraph.	N/A
	550.205(h)(2)	<i>Particulate Matter (PM₁₀ and PM_{2.5}).</i> For each emissions source, you must provide data and information on both PM ₁₀ (PM that is 10 micrometers or less in diameter) and PM _{2.5} (PM that is 2.5 micrometers or less in diameter) whenever such information is available and evaluate each type of particulate matter (PM) separately under every applicable standard. All reporting of PM _{2.5} must include the sum of filterable and condensable PM. In the event that data for PM is not separately available for both PM ₁₀ and PM _{2.5} for any given source, you must utilize the PM ₁₀ data for the PM ₁₀ analysis and the same data for the PM _{2.5} analysis. A plan that does not contain separate emission exemption threshold and modeling analysis for each type of PM will not be considered complete.	BOEM’s language that specifically addresses that plans that do not contain separate threshold and modelling analysis for each type of PM is wholly unnecessary. § 550.205(c) requires the estimation of projected emission for each criteria pollutant and both PM10 and PM2.5 are separate criteria pollutants. It is requested that this language is removed.	<i>Particulate Matter (PM₁₀ and PM_{2.5}).</i> For each emissions source, you must provide data and information on both PM ₁₀ (PM that is 10 micrometers or less in diameter) and PM _{2.5} (PM that is 2.5 micrometers or less in diameter) whenever such information is available and evaluate each type of particulate matter (PM) separately under every applicable NAAQS standard. All reporting of PM _{2.5} must include the sum of filterable and condensable PM. In the event that data for PM is not separately available for both PM ₁₀ and PM _{2.5} for any given source, you must utilize the PM ₁₀ data for the PM ₁₀ analysis and the same data for the PM _{2.5} analysis. A plan that does not contain separate emission exemption threshold and modeling analysis, for each type of PM will not be considered complete.
	550.205(h)(3)	<i>Hydrogen Sulfide (H₂S).</i> All emissions of SO _x that result from the flaring of hydrogen sulfide must be included in the projected emissions of SO _x reported and analyzed as part of your plan, in accordance with the USEPA’s Oil and Natural Gas Sector New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews. If your projected emissions of H ₂ S will potentially exceed the USEPA’s Significant Emission Rate for H ₂ S, as defined in 40 CFR 51.166(b)(23)(i), you must report the nature and extent of these emissions and their likely impact as part of your plan.	There are multiple issues with the proposed language in this subsection. Firstly, USEPA’s NSPS and NESHAP regulation is not relevant in geographical areas where BOEM has air quality jurisdiction, which as mentioned repeatedly through these comments is wholly focused on NAAQS and not HAPs. We request the removal of any references to USEPA NSPS and NESHAP requirements and pollutants that are not criteria or precursor air pollutants. The Proposed Rule would require an OCS facility to “report the nature and extent of H₂S emissions and their likely impact as part of the plan.” And Section 550.215, the Proposed Rule would require certain OCS facilities to model H₂S emissions. Although EPA regulates H₂S under other provisions of the CAA—particularly under Section 111’s new source performance standards (“NSPS”)—there is no NAAQS for H₂S, and it is not even a precursor pollutant. In particular, EPA regulates H₂S exclusively because of the potential for H₂S emissions from sulfur recovery plants to cause a nuisance (i.e., odors). While H₂S is included in the CAA’s prevention of significant deterioration (“PSD”) regulations, it is simply regulated at a threshold level designed to prevent observable odors, not for NAAQS compliance. Even if BOEM could regulate OCS facilities’ emissions to prevent odors, which it cannot, the nuisance effects of H₂S emissions from OCS sources are far less than those of onshore sulfur recovery plants. The “likely impact” of H₂S emissions from OCS operations will have no effect on onshore NAAQS compliance, and the proposal demonstrates no benefit from regulating these emissions. Accordingly, BOEM must not finalize either of these provisions. With that said, BSEE regulations for H2S would be pertinent mechanism to quantify H2S emissions; however, BSEE regulation is rightfully focused on facility personnel protection and not necessarily state air quality impacts. Furthermore, the requirements in § 550.205(b) already address the quantification of criteria pollutant emissions for each emission source. The inclusion of language in this subsection to quantify SO2 emissions from flaring is un-necessary. In conclusion, we request that § 550.205(h)(3) be removed in its entirety.	Hydrogen Sulfide (H₂S). All emissions of SO _x that result from the flaring of hydrogen sulfide must be included in the projected emissions of SO _x reported and analyzed as part of your plan, in accordance with the USEPA’s Oil and Natural Gas Sector New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants Reviews. If your projected emissions of H ₂ S will potentially exceed the USEPA’s Significant Emission Rate for H ₂ S, as defined in 40 CFR 51.166(b)(23)(i), you must report the nature and extent of these emissions and their likely impact as part of your plan.

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	550.205(h)(4)	<i>Methane (CH₄)</i> . Unless specifically directed to the contrary by another regulatory provision, the analysis or reporting of CH ₄ emissions is not required.	As discussed in Appendix C, Methane (CH ₄) is not a criteria pollutant and it is not a precursor pollutant. As mentioned repeatedly throughout these comments, BOEM’s air program should be wholly focused on criteria pollutants. We assert that BOEM’s discretion to require inclusion on Methane emissions in plan submittals is restricted. We request the removal of this subsection in its entirety.	Methane (CH₄). Unless specifically directed to the contrary by another regulatory provision, the analysis or reporting of CH₄ emissions is not required.
	550.205(h)(5)	<i>Ozone (O₃)</i> . Generally reporting is not required other than in accordance with the provisions of § 550.304(b), unless another regulatory provision specifically addresses O ₃ .	As there are no other provisions of this regulation that specifically address O ₃ this language this language should be deleted.	Ozone (O₃). Generally reporting is not required other than in accordance with the provisions of § 550.304(b), unless another BOEM regulatory provision specifically addresses O₃.
	550.205(h)(6)	<i>Lead (Pb) or Ammonia (NH₃)</i> . Reporting of emissions for these pollutants, for any given source, is required: if there are published manufacturer specifications of emissions factors for these pollutants; or if such information is available from the USEPA or could be obtained or derived from another recognized source, such as utilizing a mass balance approach. If you intend to use a source known to emit a potentially significant amount of Pb or NH ₃ , then you must obtain a reasonable estimate of the associated Pb or NH ₃ emissions. Zero emissions for these pollutants should be assumed in the situation where relevant data are not available and neither you nor BOEM have a reason to anticipate that the emissions could be potentially significant.	It is inappropriate for BOEM to regulate NH₃ and VOC as a PM_{2.5} precursor pollutant until: 1) EPA completes its rulemaking defining NH₃ and VOC as a presumptive precursor for a State; and 2) A state completes the SIP planning process for PM_{2.5}, and determines that NH₃ and VOC is a precursor in that State (80 <i>Fed. Reg.</i> 15430 at 15436 (March 23, 2015)). If EPA finalizes its proposed approach to regulate NH₃ and VOC as a precursor pollutants, BOEM must still justify regulating the pollutants under OCSLA. At a minimum, for example, BOEM must identify OCS facilities or emissions sources that would emit NH₃ in a sufficiently large quantity that it could impact onshore NAAQS compliance, and regulate only those components of an OCS facility for NH₃ that BOEM demonstrates emit NH₃. As such, we request that portions of this section be stricken and that zero emissions should be assumed. The proposed language allows BOEM to request this information under the specific situation where the emissions could be potentially significant.	<i>Lead (Pb) or Ammonia (NH₃)</i> . Reporting of emissions for these pollutants, for any given source, is required: if there are published manufacturer specifications of emissions factors for these pollutants; or if such information is available from the USEPA or could be obtained or derived from another recognized source, such as utilizing a mass balance approach. If you intend to use a source known to emit a potentially significant amount of Pb or NH₃, then you must obtain a reasonable estimate of the associated Pb or NH₃ emissions. Zero emissions for these pollutants should be assumed in the situation where relevant data are not available and neither you nor BOEM have a reason to anticipate that the emissions could be potentially significant.
	550.205(i)	<i>Distance calculations—</i> (1) <i>Distance from shore</i> . For each facility described in your plan, you must calculate and provide the distance in statute miles, as measured in a straight line from the site of the facility to the closer of: (i) The nearest mean high water mark of a State, or, on the Pacific coast, the nearest mean higher high water mark; or (ii) The nearest Class I area of any State. (2) <i>Distance from SSB</i> . For each facility described in your plan, you must calculate and provide the distance in statute miles, as measured in a straight line from the site of the facility to the closest point at which the OCS borders any State, at the SSB.	The legislative history of section 5(a)(8) demonstrates that Congress intended the "air quality of any State" to mean onshore air quality. As discussed in the Joint Industry Trades’ comments, BOEM does not have the legal authority to assess emissions impacts at the state seaward boundary. As proposed, BOEM appears to be arbitrarily redefining "State" to include the state submerged lands, contrary to Congressional intent. Additionally, as discussed in the Joint Industry Trades’ comments, BOEM’s sole authority is for regulating compliance with the NAAQS. BOEM does not have the authority to require compliance with Class I increments or AQRV. Chevron supports the Joint Industry Trades’’s arguments and additionally notes that BOEM has not provided a reasoned justification for the change in its interpretation. BOEM cannot change its existing policies without showing that there are justifiable reasons for the new policy. In the preamble to the Proposed Rule, BOEM states that States are responsible for attainment of the NAAQS over the entirety of the State including submerged Land. BOEM, then offers proof of this statement by indicating that EPA would not allow a State to permit a source that would exceed an AAI in the seaward boundary. The AAI is not designed to protect the NAAQS, and, as BOEM later acknowledges, the CAA establishes a different regulatory structure for ambient air above the OCS, then does OCSLA. Accordingly, this reason does not substantiate the policy change. BOEM then cites the secondary NAAQS as a reason to extend the boundary, in particular for protection of marine mammals, fish, and coral. While the CAA defines welfare to include “animals,” it does not specifically identify marine animals.	<i>Distance calculations—</i> (1) <i>Distance from shore</i> . For each facility described in your plan, you must calculate and provide the distance in statute miles, as measured in a straight line from the site of the facility to the closer of: (i) The nearest mean high water mark of a State, or, on the Pacific coast, the nearest mean higher high water mark; or (ii) The nearest Class I area of any State. (2) Distance from SSB. For each facility described in your plan, you must calculate and provide the distance in statute miles, as measured in a straight line from the site of the facility to the closest point at which the OCS borders any State, at the SSB.

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			EPA’s NAAQS are ambient air concentration levels that EPA sets based on a duration of exposure to ambient air. Marine animals generally do not experience the type of ambient air quality exposures that EPA studied in setting NAAQS, as they can remain submerged below the ambient air for long periods of time and surface only occasionally to breathe air. Their respiratory and circulatory systems also are dramatically different than onshore mammals. Moreover, many fish and coral may never be exposed to ambient air. BOEM has not shown that the adhering to the secondary NAAQS is necessary to protect these animals. BOEM then cites a number of studies it proposes to rely on, but then in reference to these studies concludes, “[a]lthough the available data are not yet conclusive, BOEM proposes to consider and evaluate the impacts of air pollution over State submerged lands, including Alaska.” [81 Fed. Reg. at 19739]. In light of this inconclusive information, BOEM has not met its legal burden for justifying the change from its previous interpretation of “State.” As such the reference to SSB should be deleted.	
	550.205(j)	<i>Documentation.</i> You must collect, create, and maintain records or any data or information establishing, substantiating, and verifying the basis for all information, data, and resources used to calculate your projected emissions under this section. The emissions factors you propose to use must be documented, and any relevant certifications, citations, methods, and procedures used to obtain or develop emissions factors must be retained. You must collect and maintain all documentation pertaining to the modeling analysis under § 550.205(g), if applicable, including all references and copies of any referenced materials, as well as any data or information related to any ERM that you propose or implement. You must provide this information, unless the Regional Supervisor waives this requirement for good cause.	As discussed in the Joint Industry Trades’ comments, we request that the language in this provision be revised to identify a period of retention of 5 years or the life of the plan, whichever is shorter, as well as suggests language that provides the opportunity for BOEM to request this information from the designated operator.	<i>Documentation.</i> You must collect, create, and maintain records or any data or information establishing, substantiating, and verifying the basis for all information, data, and resources used to calculate your projected emissions under this section. The emissions factors you propose to use must be documented, and any relevant certifications, citations, methods, and procedures used to obtain or develop emissions factors must be retained. You must collect and maintain all documentation pertaining to the modeling analysis under § 550.205(g), if applicable, including all references and copies of any referenced materials, as well as any data or information related to any ERM that you propose or implement. You must retain provide this information, unless the Regional Supervisor waives this requirement for good cause for a period of 5 years or the life of the plan, whichever is shorter, and supply this information to BOEM upon request.
	550.205(k)	<i>Compliance.</i> You must provide a description of how you will comply with § 550.303 when the emissions generated by your proposed plan activities exceed the respective emission exemption thresholds (EETs), calculated using the formulas in § 550.303(c). If you are subject to the requirement to monitor and report your actual emissions in accordance with § 550.311, then the description you provide must describe how you propose to monitor your emissions.	No comments regarding this paragraph.	N/A
	550.205(l)	<i>Reporting.</i> You must submit data and information in a format, and using the forms, as specified by BOEM. You must submit information in an electronically-readable format, unless otherwise directed by the Regional Supervisor. If you transmit the information to BOEM electronically, you must use a delivery medium or transmission method authorized by BOEM	The requested changes are proposed to increase clarity.	<i>Reporting.</i> You must submit data and information in a standard format, and using the forms, as specified by BOEM. You must submit information in an electronically-readable format, unless otherwise directed by the Regional Supervisor. If you transmit the information to BOEM electronically, you must use a delivery medium or transmission method as specified authorized by BOEM.
	550.205(m)	<i>Additional information.</i> (1) If you are required to conduct modeling, and if, under § 550.305 your projected emissions would cause an increase in the concentration of any pollutant that is within 95% of any Significant Impact Level (SIL), then you must: report the amount of emissions from aircraft or onshore support facilities as attributed emissions; and combine the impacts of aircraft and onshore support facilities emissions with the impacts of your projected emissions for the purposes of this section and for your analysis under subpart C of this part. The aircraft and support facilities for which you are required to report emissions are those described in §§ 550.224, 550.225, 550.257, and 550.258. If required to report your aircraft or onshore support facilities and those aircraft or onshore support facilities support multiple OCS facilities then you must allocate their emissions in an appropriate manner similar to that described for MSCs in § 550.205(d). (2) The Regional Supervisor may require such additional data or information related to these sources as is necessary to	As explained in the Joint Industry Trades’ comments, BOEM does not have authority to require inclusion of onshore support facilities or aircraft emissions in the air emissions evaluations. We request that this entire subsection be eliminated.	<i>Additional information.</i> (1) If you are required to conduct modeling, and if, under § 550.305 your projected emissions would cause an increase in the concentration of any pollutant that is within 95% of any Significant Impact Level (SIL), then you must: report the amount of emissions from aircraft or onshore support facilities as attributed emissions; and combine the impacts of aircraft and onshore support facilities emissions with the impacts of your projected emissions for the purposes of this section and for your analysis under subpart C of this part. The aircraft and support facilities for which you are required to report emissions are those described in §§ 550.224, 550.225, 550.257, and 550.258. If required to report your aircraft or onshore support facilities and those aircraft or onshore support facilities support multiple OCS facilities then you must allocate their emissions in an appropriate manner similar to that described for MSCs in § 550.205(d). (2) The Regional Supervisor may require such additional data or information related to these sources as is necessary to demonstrate your plan’s compliance with subpart C of this part, and/or applicable federal laws related to the protection of air quality within BOEM jurisdiction.

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		demonstrate your plan’s compliance with subpart C of this part, and/or applicable federal laws related to the protection of air quality within BOEM jurisdiction.		
	550.205(n)	<i>Requirements for plans to be deemed submitted.</i> Your plan will not be deemed submitted in accordance with the requirements of § 550.231 or § 550.266 until: (1) All of the requirements of this section have been completed; (2) You have completed the Ambient Air Increment (AAI) analysis, including the required BOEM forms, the modeling protocol, and the modeling results, as specified in § 550.307(b) if required; and (3) You have completed any other analysis required by subpart C of this part.	Due to the unclear and incomplete nature of the proposed rule, it is not possible to assess the impacts of potential plan recycles in order to obtain a completeness determination under the proposed requirements of (n)(1) and (n)(3). This could have significant implications on business continuity. Chevron recommends that BOEM develop a completeness checklist for the Air Quality portion of plans to mitigate delays and recycles. This subsection also contains language under § 550.205(n)(2) that is unnecessary as it is already captured in under § 550.205(n)(3). Therefore, it is requested that § 550.205(n)(2) be deleted from the regulation. Additionally, § 550.205(n)(2) presents a largely unworkable situation that will delay the plan approval process. Specifically, § 550.304(a)(2) requires a designated operator to submit the modelling protocol before you conduct modelling, the modelling information required by § 550.205(n) could not be submitted in the initial version of any plan. Such information could only be submitted after BOEM approves the modelling protocol. Therefore, it is requested that BOEM establish a timeline for completing its review. It is requested a 15 day limit to review and to approve or deny the protocol be added to § 550.205(g) or § 550.304(a)(2).	<i>Requirements for plans to be deemed submitted.</i> Your plan will not be deemed submitted in accordance with the requirements of § 550.231 or § 550.266 until: (1) All of the requirements of this section have been completed; (2) You have completed the Ambient Air Increment (AAI) analysis, including the required BOEM forms, the modeling protocol, and the modeling results, as specified in § 550.307(b) if required; and (3) You have completed any other analysis required by subpart C of this part.
	550.205(o)	<i>Plans exempt from review under the AQRP.</i> If you can demonstrate that your facility will not generate projected emissions of any criteria or precursor air pollutant in an amount greater than the corresponding significant emissions rate limit described in the “Pollutant and Emissions Rate” table defined in 40 CFR 52.21((b)(23)(i), your plan is exempt from the AQRP requirements of this section and subpart C of this part.	As discussed in Section 2.2, of the Joint Industry Trades’ comments, the use of onshore stationary source PSD significance thresholds in 40 CFR 52.21(b)(23)(i) are not appropriate for OCS regulations. As such it is proposed that the regulatory language be updated to reflect the more appropriate EET values.	<i>Plans exempt from review under the AQRP.</i> If you can demonstrate that your facility will not generate projected emissions of any criteria or precursor air pollutant in an amount greater than the corresponding EET significant emissions rate limit described in the “Pollutant and Emissions Rate” table defined in 40 CFR 52.21((b)(23)(i), your plan is exempt from the AQRP requirements of this section and subpart C of this part.
<i>What must the EP include?</i>	550.211(c)	<i>Drilling unit.</i> (1) A description of the drilling unit and associated equipment you will use to conduct your proposed exploration activities, including a brief description of its important safety and pollution prevention features, and a table indicating the type and the estimated maximum quantity of fuels, oil, and lubricants that will be stored on the facility. (2) For purposes of this section, the term “facility” means any installation, structure, vessel, vehicle, equipment or device that is temporarily or permanently attached to the seabed of the OCS, including an artificial island used for drilling, well completion, well-workover, or other operations	There is no need to add the definition of facility in this provision since this is already defined in § 550.302(b).	<i>Drilling unit.</i> (1) A description of the drilling unit and associated equipment you will use to conduct your proposed exploration activities, including a brief description of its important safety and pollution prevention features, and a table indicating the type and the estimated maximum quantity of fuels, oil, and lubricants that will be stored on the facility. (2) For purposes of this section, the term “facility” means any installation, structure, vessel, vehicle, equipment or device that is temporarily or permanently attached to the seabed of the OCS, including an artificial island used for drilling, well completion, well-workover, or other operations.
<i>What information must accompany the EP?</i>	550.212(f)	Air emissions information required by § 550.205	No comments regarding this paragraph.	N/A
<i>What hydrogen sulfide (H₂S) information</i>	550.215(d)	(2) If any H ₂ S emissions are projected to affect any location within a State in a concentration greater than 10 parts per million, the modeling analysis must be consistent with the	As explained in the Joint Industry Trades’ comments Section 12.7, BOEM’s mandate under OCSLA is to ensure that OCS operations do not adversely affect NAAQS onshore. Since H ₂ S	(2) If any H₂S emissions are projected to affect any location within a State in a concentration greater than 10 parts per million, the modeling analysis must be consistent with the USEPA risk management plan methodologies outlined in 40 CFR part 68.

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must accompany the EP?		USEPA risk management plan methodologies outlined in 40 CFR part 68.	does not have a NAAQS, BOEM does not have authority to regulate this pollutant. As such this text should be removed.	
	550.215(e)	<i>Hydrogen sulfide.</i> If you propose to flare any gasses containing a potentially significant amount of H ₂ S, you must separately identify this activity in your plan and separately identify the resulting emissions of sulphur oxides (SO _x) as part of your projected emissions under § 550.205(e).	See comments to § 550.215(d) above. Furthermore, this subsection is unnecessary. Emissions from flaring will already be accounted for in the information required by § 550.205(b). We request the subsection be eliminated.	<i>Hydrogen sulfide.</i> If you propose to flare any gasses containing a potentially significant amount of H₂S, you must separately identify this activity in your plan and separately identify the resulting emissions of sulphur oxides (SO_x) as part of your projected emissions under § 550.205(e).
	550.218	Removed	No comments regarding this paragraph.	N/A
What information on support vessels, offshore vehicles, and aircraft you will use must accompany the EP?	550.224(a)	<i>General.</i> A description of the MSCs and aircraft you will use to support your exploration activities. The description of MSCs must estimate the storage capacity of their fuel tanks and the frequency of their visits to your facility or facilities.	As discussed previously, at the time a plan is submitted designated operators may know the type of vessel(s) needed for a project but can rarely predict which exact vessels and aircrafts will be utilized. As such we request that the proposed changes be incorporated into this provision to better reflect available information at the time of plan submittal.	<i>General.</i> A description of type(s) (i.e., support vessel, stimulation vessel, construction vessel, etc.) of the MSCs and aircraft you will use to support your exploration activities. The description of MSCs must estimate the storage capacity of their fuel tanks and the frequency of their visits to your facility or facilities
	550.224(b)	<i>Air emissions.</i> See § 550.205.	As explained in the Joint Industry Trades’ comments, BOEM does not have authority to regulate onshore support facilities, offshore vehicles and aircraft emissions. Therefore this provision should be deleted from the regulation.	<i>Air emissions.</i>— See § 550.205.
What information on the onshore support facilities you will use must accompany the EP?	550.225(b)	<i>Air emissions.</i> A description of the emissions source, the frequency and duration of its operation, and the types of air pollutants likely to be emitted by the onshore support facilities you will use. Except as required under § 550.205(m), the amount of air pollutants emitted need not be reported. You do not need to report this information for any onshore support facility if the facility is permitted under the CAA or if you can identify another agency to which this emissions information from the facility was submitted.	As explained in the Joint Industry Trades’ comments, BOEM does not have authority to require inclusion of onshore support facilities or aircraft emissions in the air emissions evaluations.	<i>Air emissions.</i>— A description of the emissions source, the frequency and duration of its operation, and the types of air pollutants likely to be emitted by the onshore support facilities you will use. Except as required under § 550.205(m), the amount of air pollutants emitted need not be reported. You do not need to report this information for any onshore support facility if the facility is permitted regulated under the CAA or if you can identify another agency to which this emissions information from the facility was submitted.
What must the DPP or DOCD include?	550.241(c)	<i>Drilling unit.</i> A description of the drilling unit and associated equipment you will use to conduct your proposed development drilling activities. Include a brief description of its important safety and pollution prevention features, and a table indicating the type and the estimated maximum quantity of fuels and oil that will be stored on the facility. For the purpose of this section, the term facility means any installation, structure, vessel, vehicle, equipment or device that is temporarily or permanently attached to the seabed of the OCS, including an artificial island used for drilling, well completion, well-workover, or other operations.	See Section § 550.211(c) above.	<i>Drilling unit.</i> A description of the drilling unit and associated equipment you will use to conduct your proposed development drilling activities. Include a brief description of its important safety and pollution prevention features, and a table indicating the type and the estimated maximum quantity of fuels and oil that will be stored on the facility. For the purpose of this section, the term facility means any installation, structure, vessel, vehicle, equipment or device that is temporarily or permanently attached to the seabed of the OCS, including an artificial island used for drilling, well completion, well-workover, or other operations.
	550.241(d)	<i>Production facilities.</i> A description of the production platforms, satellite structures, subsea wellheads and manifolds, lease term pipelines (see definition at § 550.105), production facilities, umbilicals, and other facilities you will use to conduct your proposed development and production activities. Include a brief description of their important safety and pollution prevention features, and a table indicating the type and the estimated maximum quantity of fuels and oil that will be stored on the facility. For the purpose of this section, the term facility means a vessel, a structure, or an artificial island used for drilling, well completion, well-workover, or other operations or used to support production facilities.	See Section § 550.211(c) above.	<i>Production facilities.</i> A description of the production platforms, satellite structures, subsea wellheads and manifolds, lease term pipelines (see definition at § 550.105), production facilities, umbilicals, and other facilities you will use to conduct your proposed development and production activities. Include a brief description of their important safety and pollution prevention features, and a table indicating the type and the estimated maximum quantity of fuels and oil that will be stored on the facility. For the purpose of this section, the term facility means a vessel, a structure, or an artificial island used for drilling, well completion, well-workover, or other operations or used to support production facilities.
What information must accompany the DPP or DOCD?	550.242(g)	Air emissions information required by § 550.205	No comments regarding this paragraph.	
What hydrogen sulfide (H2S) information must accompany the DPP or DOCD?	550.245(d)	(3) If any H ₂ S emissions are projected to affect any location within a State in a concentration greater than 10 parts per million, the modeling analysis must be consistent with the USEPA risk management plan methodologies outlined in 40 CFR part 68.	See comments to § 550.215(d) above.	(3) If any H₂S emissions are projected to affect any location within a State in a concentration greater than 10 parts per million, the modeling analysis must be consistent with the USEPA risk management plan methodologies outlined in 40 CFR part 68.

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	550.245(e)	<i>Hydrogen sulfide.</i> If you propose to flare any gasses containing a potentially significant amount of hydrogen sulfide, you must separately identify this activity in your plan and separately identify the resulting emissions of SO _x , including reporting the sulphur emissions under § 550.205(e).	This subsection is unnecessary. Emissions from flaring will already be accounted for in the information required by 550.205(b). We request this subsection be eliminated.	<i>Hydrogen sulfide.</i> If you propose to flare any gasses containing a potentially significant amount of hydrogen sulfide, you must separately identify this activity in your plan and separately identify the resulting emissions of SO_x, including reporting the sulphur emissions under § 550.205(e).
	550.249	Removed	N/A	N/A
<i>What information on the support vessels, offshore vehicles, and aircraft you will use must accompany the DPP or DOCD?</i>	550.257(a)	<i>General.</i> A description of the MSCs and aircraft you will use to support your activities. The description of MSCs must estimate the storage capacity of their fuel tanks and the frequency of their visits to the facilities you will use to conduct your proposed development and production activities.	See comments on § 550.224(a) above.	<i>General.</i> A description of type(s) (i.e., support vessel, stimulation vessel, construction vessel, etc.) of the MSCs and aircraft you will use to support your activities. The description of MSCs must estimate the storage capacity of their fuel tanks and the frequency of their visits to the facilities you will use to conduct your proposed development and production activities.
	550.257(b)	<i>Air emissions.</i> See § 550.205.	See comments on § 550.224(b) above.	<i>Air emissions.</i> See § 550.205.
<i>What information on the onshore support facilities you will use must accompany the DPP or DOCD?</i>	550.258(b)	<i>Air emissions.</i> A description of the source, the frequency and duration of its operation, and the types of air pollutants likely to be emitted by the onshore support facilities you will use. Except as required under § 550.205(m), the amount of emissions of air pollutants need not be reported. You do not need to report this information for any onshore support facility if the facility is permitted under the CAA or if you can identify another agency to which emissions from the facility was submitted.	See comments to § 550.225(b) above.	<i>Air emissions.</i> A description of the source, the frequency and duration of its operation, and the types of air pollutants likely to be emitted by the onshore support facilities you will use. Except as required under § 550.205(m), the amount of emissions of air pollutants need not be reported. You do not need to report this information for any onshore support facility if the facility is permitted under the CAA or if you can identify another agency to which emissions from the facility was submitted.
<i>How must I conduct activities under the approved EP, DPP, DOCD, RUE, pipeline ROW, or lease term pipeline application?</i>	550.280(a)	<i>Compliance.</i> You must conduct all of your lease and unit activities according to your approved EP, DPP, DOCD, or RUE, pipeline ROW, or lease term pipeline application, and any approval conditions. You may not install or use any facility, equipment, vessel, vehicle, or other emissions source not described in your EP, DPP, DOCD, or RUE, pipeline ROW or lease term pipeline application, and you may not install or use a substitute for any emissions source described in your EP, DPP, DOCD, or RUE, pipeline ROW, lease term pipeline application, without BOEM prior approval. If you fail to comply with your approved EP, DPP, DOCD, or RUE, pipeline ROW, or lease term pipeline application:	It should be noted that this language conflicts with other sections of the proposed rule, namely § 550.303(g)(4) and our understanding of BOEM’s intent. We suggest language changes that make this section consistent with § 550.303(g)(4) and BOEM current practices. If BOEM were to reject the suggested changes, a designated operator may be forced to submit a plan with multiple "Operating Scenarios" to ensure that the approved plan includes "<i>all any facility, equipment, vessel, vehicle, or other emissions source not described in your EP, DPP, DOCD, or RUE, pipeline ROW or lease term pipeline application.</i>" A plan with multiple operating scenarios will prove to be administratively burdensome to BOEM and to the operator.	<i>Compliance.</i> You must conduct all of your lease and unit activities according to your approved EP, DPP, DOCD, or RUE, pipeline ROW, or lease term pipeline application, and any approval conditions. You may not install or use any facility, equipment, vessel, vehicle, or other emissions source not described in your EP, DPP, DOCD, or RUE, pipeline ROW or lease term pipeline application, and you may not install or use a substitute for any emissions source described in your EP, DPP, DOCD, or RUE, pipeline ROW, lease term pipeline application, without BOEM prior approval if doing so will result in an increase in maximum annual projected emissions, unless the proposed activity is determined to be an insignificant activity. If you fail to comply with your approved EP, DPP, DOCD, or RUE, pipeline ROW, or lease term pipeline application:
<i>How will BOEM require revisions to the approved EP, DPP, DOCD or application for a RUE?</i>	550.284(a)	<i>Periodic review.</i> The Regional Supervisor will periodically review the activities you conduct under your approved EP, DPP, DOCD, or RUE application and may require you to submit updated information on your activities. The frequency and extent of this review will be based on the significance of any changes in available information, applicable law or regulation, or onshore or offshore conditions affecting, or affected by, the activities in your approved EP, DPP, DOCD, or RUE application. (1) After 2020, any EP, DPP, DOCD or RUE application that was approved more than ten years prior must be resubmitted for air quality review in accordance with the requirements of § 550.310.	As discussed in the Joint Industry Trades’ comments, BOEM lacks the authority to require re-submission or revision of an already-approved plan, absent some indication of changed conditions or impacts. Our requested changes to this provision make this regulatory provision consistent with BOEM’s legal authority.	<i>Periodic review.</i> The Regional Supervisor will periodically review the activities you conduct under your approved EP, DPP, DOCD, or RUE application and may require you to submit updated information on your activities. The frequency and extent of this review will be based on the significance of any changes in available information, applicable law or regulation, or onshore or offshore conditions affecting, or affected by, the activities in your approved EP, DPP, DOCD, or RUE application. (1) After 2020, any EP, DPP, DOCD or RUE application required to be submitted under this provision must be updated that was approved more than ten years prior must be resubmitted for air quality review in accordance with the requirements of § 550.310.
Subpart C – Air Quality Analysis, Control, and Compliance				
<i>Under what circumstances does this subpart apply to operations in my plan?</i>	550.301	The provisions of this subpart apply to any existing facility or proposed plan involving a facility or facilities operating on, or proposed to operate on, any area of the OCS where the Secretary of the Interior has authority to regulate air emissions pursuant to section 5(a)(8) of the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1334(a)(8), as amended, and jurisdiction pursuant to section 328(b) of the CAA, 42 U.S.C. 7627(b), as amended, including OCS operations conducted pursuant to any plan approved under this part.	See comments in § 550.284(a) regarding BOEMs authority to require re-submission or revision of an already-approved plan. This provision is unclear, as it could be construed to assert that section 328 of the CAA creates jurisdiction for BOEM. Section 328 transfers jurisdiction over certain parts of the OCS to EPA. For OCS areas not transferred, section 328 does not expand BOEM's jurisdiction; rather, it leaves the existing OCSLA authority intact in those areas.	The provisions of this subpart apply to any existing facility plan deemed submitted after the effective date of the final regulation or proposed plan involving a facility or facilities operating on, or proposed to operate on, any area of the OCS where the Secretary of the Interior has authority to regulate air emissions pursuant to section 5(a)(8) of the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1334(a)(8), as amended, and retains jurisdiction pursuant to section 328(b) of the CAA, 42 U.S.C. 7627(b), as amended, including OCS operations conducted pursuant to any plan approved under this part.

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Acronyms and definitions concerning air quality.	550.302(a)	Acronyms and terms used in this subpart, and in § 550.205, have the following meanings: AAI means ambient air increment(s). AAQSB means ambient air quality standards and benchmarks. AEDT means aviation environmental design tool. APD means application for a permit to drill. AQCR means air quality control region. BACT means best available control technology. BLM means the Bureau of Land Management. Btu IT means British Thermal Unit International Tables. CAA means the Clean Air Act. CEO means Chief Environmental Officer (BOEM) CH4 means methane. CO means carbon monoxide. CP means criteria pollutant CSU means column-stabilized-units. DOCD means development operations coordination document. DOI means the U.S. Department of the Interior. DPP means development and production plan.	No comments regarding the acronym list.	N/A
		ECE means emission control efficiency. EET means emission exemption threshold(s). EIS means environmental impact statement. EP means exploration plan. ERM means emission reductions measure(s). FAA means Federal Aviation Administration. FLM means Federal Land Manager, which includes the heads of the U.S. Bureau of Land Management (BLM), Fish and Wildlife Service (FWS), National Park Service (NPS), Bureau of Land Management (BLM) in DOI and U.S. Forest Service in the Department of Agriculture. FPS means floating production systems. FPSO means floating production storage and offloading vessel. G&G means geological and geophysical. GHG means greenhouse gas. hp means horsepower. hpm means mechanical horsepower. HPU means hydraulic power unit. H2S means hydrogen sulfide.	No comments regarding the acronym list.	N/A
		kW means kilowatt. MARPOL means Marine Pollution Convention. MODU means mobile offshore drilling unit. MOVES means motor vehicle emission simulator. MSC means mobile support craft NAAQS means the primary or secondary national ambient air quality standards. NARA means National Archives and Records Administration. NH3 means ammonia. NO2 means nitrogen dioxide. NOx means nitrogen oxides. O3 means ozone. OCS means Outer Continental Shelf. OCSLA means Outer Continental Shelf Lands Act. ONRR means the Office of Natural Resources Revenue OSFR means oil spill financial responsibility. OSV means offshore supply vessel.	No comments regarding the acronym list.	N/A

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		Pb means lead. PM means particulate matter. PM2.5 means fine particulate matter equal to or less than 2.5 micrometers in diameter. PM10 means particulate matter equal to or less than 10 micrometers in diameter. PTE means potential to emit. ROW means rights-of-way. Rpm means revolutions per minute. RUE means right-of-use and easement. SILs means significant impact levels. SO2 means sulphur dioxide. SOx means sulphur oxides. SSB means State seaward boundary TAS means treatment as State. TIP means tribal implementation plan. TLP means tension-leg platforms. VOC means volatile organic compound. U.S. means the United States USEPA means the United States Environmental Protection Agency. µg/m3 means micrograms per cubic meter.	No comments regarding the acronym list.	N/A
	550.302(b)	Terms used in this subpart have the following meanings:	No comments regarding this definition.	N/A
		N/A	Chevron recommends that BOEM clearly define the phrase “affect the air quality of any state”. Appropriate definitions are identified and discussed in the Joint Industry Trades’ comments, Furthermore, BOEM is not consistent in how it uses the term “affected” throughout the Proposed Rule. Proposed Section 550.105 should include a definition of “affected State” that mirrors the language in Section 2(f) of OCSLA. However, BOEM uses the term “affected State” in the preamble and Proposed Rule in a manner that appears inconsistent with this statutory definition. For example in the preamble and proposed text BOEM uses phrases like “potentially affected State,” “most affected State,” [81 Fed. Reg. at 19778] and “probable impacts to most closely affected States.” [81 Fed. Reg. at 19794] Paragraphs (2) through (3) of the statutory definition are unequivocal; a State either satisfies the definition or it does not. Likewise, paragraphs (4) and (5) of the statutory definition require BOEM to designate an area as an “affected state” based on “<i>substantial probability</i> of significant impact” and “serious damage.” Under any of those paragraphs, an “affected State” is a definitively identified area. The language of the statutory “affected state” definition, and its contrast with how BOEM describes “affected states” in the Proposed Rule highlights BOEM’s failure in this proposal. BOEM attempts to regulate for impacts to a State before determining whether such types of harms exist and before definitively determining whether a state is even affected. There is no State that qualifies as “affected” based on a mere “potential” for or a “probab[ility]” of effects. In the context of prescribing emissions controls on long-term facilities, BOEM proposed to apply different control requirements based on the attainment status of the area “affected” by projected emissions. In this context, BOEM’s use of the phrase “affected” is without meaning and ambiguous, as BOEM provides no basis for making this determination, nor does it qualify the term to limit application only to “significantly” affect. Without explaining the basis for determining what area is “affected” the rule lacks the appropriate specificity necessary to apprise regulated entities of the requirements with which they must comply.	<u>New Proposed Definition</u> <i>Affect the air quality of any State</i> means the following: (1) In attainment areas, the air quality of any State is considered to be affected by an OCS source when emissions from that source as predicted by dispersion modeling results in an onshore concentration that exceed the SIL and the modelled concentration plus background concentration exceeds the NAAQS. (2) In nonattainment areas, the air quality of any State is considered to be affected by an OCS source when a model-predicted onshore concentration attributable to emissions from such an OCS source exceeds a SIL.

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			¹ See e.g. 81 Fed. Reg. 19,776; 30 C.F.R. § 550.304(b)(3). ² See e.g. 81 Fed. Reg. 19,778. ³ See e.g. id. at 19,794.	
		<i>Air quality control region (AQCR)</i> means an interstate area or major intrastate area, which the USEPA deems appropriate for assessing the regional attainment and maintenance of the primary or secondary national ambient air quality standards described in 42 U.S.C. 7409, as provided under 40 CFR part 81, subpart B, Designation of Air Quality Control Regions.	No comments regarding this definition.	N/A
		<i>Ambient Air Increments</i> (AAIs) means the national benchmarks for Ambient Air Increments set out in the table in 40 CFR 52.21(c), as amended, or in 42 U.S.C. 7473 <i>et seq.</i> , as amended.	As discussed in the Joint Industry Trades’ comments, BOEM’s use of the AAI is not appropriate for OCS sources. Therefore, we request that this definition be deleted.	<i>Ambient Air Increments (AAIs)</i> means the national benchmarks for Ambient Air Increments set out in the table in 40 CFR 52.21(c), as amended, or in 42 U.S.C. 7473 et seq., as amended.
		<i>Ambient air quality standards and benchmarks (AAQSB)</i> means any or all of the national ambient air quality standards and benchmarks referenced in this subpart, including the primary and secondary NAAQS defined in 40 CFR part 50; the SILs, in 40 CFR 51.165(b)(2); the AAIs, as set out in the table in 40 CFR 52.21(c).	We do not believe a “catch all” phrase such as AAQSB is warranted. As discussed in the Joint Industry Trades’ comments, it is not appropriate that BOEM’s proposed rule address PSD increments (i.e., AAIs). The rule should be precise and refer explicitly to NAAQS and SILs, as appropriate. Therefore, we request that the definition of AAQSB be removed from the definitions.	<i>Ambient air quality standards and benchmarks (AAQSB)</i> means any or all of the national ambient air quality standards and benchmarks referenced in this subpart, including the primary and secondary NAAQS defined in 40 CFR part 50; the SILs, in 40 CFR 51.165(b)(2); the AAIs, as set out in the table in 40 CFR 52.21(c).
		<i>Attainment area</i> means, for any given criteria air pollutant, a geographic area, which is not designated by the USEPA as being a designated non-attainment area, as codified at 40 CFR part 81 subpart C (40 CFR 81.300 through 81.356). This includes areas that are referred to as attainment, maintenance, unclassifiable, or unclassifiable/attainment in that subpart, as well as areas that have not yet been designated because the two-year period to complete such designations after revision of a NAAQS has not yet passed.	No comments regarding this definition.	N/A
		<i>Attributed emissions</i> means, for any given criteria or precursor air pollutant, the emissions from MSC and, if appropriate, aircraft, operating above the OCS or State submerged lands, that are attributed to a facility pursuant to the methodology set forth in § 550.205(d) for the period over which the corresponding facility emissions are measured.	As explained in the Joint Industry Trades’ comments, BOEM does not have the legal authority to regulate MSCs. Also, see comments to § 550.304(f) below. We request that this definition be eliminated. Also, BOEM regulation has not sufficiently apprised the regulated community as to the nature of “attributed emissions” because it broadly asks for comment on the manner in which MSC emissions would be attributed to a facility and deprives the public the opportunity provide meaningful comment. (81 FR 19737)	<i>Attributed emissions</i> means, for any given criteria or precursor air pollutant, the emissions from MSC and, if appropriate, aircraft, operating above the OCS or State submerged lands, that are attributed to a facility pursuant to the methodology set forth in § 550.205(d) for the period over which the corresponding facility emissions are measured.
		<i>Background concentration</i> means the ambient air concentration of any given criteria air pollutant that arises both from local natural processes and from the transport into the airshed of natural or anthropogenic pollutants originating locally or from another location, either as measured from an USEPA-approved air monitoring system or as determined on some other appropriate scientifically justified basis approved by BOEM.	We request minor revisions to this definition to allow input from the designated operator in establishing a basis for the background concentration.	<i>Background concentration</i> means the ambient air concentration of any given criteria air pollutant that arises both from local natural processes and from the transport into the airshed of natural or anthropogenic pollutants originating locally or from another location, either as measured from an BOEM- or, USEPA- approved air monitoring system or as determined on some other appropriate scientifically justified basis proposed by the designated operator and approved by BOEM.
		<i>Baseline concentration</i> means the ambient background concentration of any given air pollutant that exists or existed at the time of the first application for a USEPA Prevention of Significant Deterioration (PSD) permit in an area subject to section 169 of the CAA, based on air quality data available to the USEPA or a State air pollution control agency and on the monitoring data provided in the permit application and as defined in 40 CFR 51.166(b)(13). The baseline concentration is distinguished from the background concentration in that the background concentration changes continually over time to reflect the current ambient air concentration for any given air pollutant, whereas the baseline concentration remains fixed until such time as a new AAI is established for an attainment area.	This definition is not required because it is relevant only to determining increment (AAI) consumption. As discussed in the Joint Industry Trades’ comments, it is not appropriate that BOEM’s proposed rule address PSD increments (i.e., AAIs).	<i>Baseline concentration</i> means the ambient background concentration of any given air pollutant that exists or existed at the time of the first application for a USEPA Prevention of Significant Deterioration (PSD) permit in an area subject to section 169 of the CAA, based on air quality data available to the USEPA or a State air pollution control agency and on the monitoring data provided in the permit application and as defined in 40 CFR 51.166(b)(13). The baseline concentration is distinguished from the background concentration in that the background concentration changes continually over time to reflect the current ambient air concentration for any given air pollutant, whereas the baseline concentration remains fixed until such time as a new AAI is established for an attainment area.
		<i>Best Available Control Technology (BACT)</i> means a physical or mechanical system or device that reduces emissions of air pollutants subject to regulation to the maximum extent practicable, taking into account: the amount of emissions reductions necessary to meet specific regulatory provisions; energy, environmental, and economic impacts; and costs.	As noted in other comments, specificity should be added to this paragraph that clarifies the pollutants subject to this provision are criteria air pollutants. Finally, we request the addition of language ensuring that the review considers safe operations of all OCS operations as provided in § 550.307(c)(4).	<i>Best Available Control Technology (BACT)</i> means physical or mechanical system or device that reduces emissions of criteria air pollutants subject to regulation to the maximum extent practicable, taking into account: the amount of emissions reductions necessary to meet specific regulatory provisions; energy, environmental, and economic impacts; and costs. If the implementation of BACT under these regulations would compromise the safety of the operation of the facility, and such implementation of any air quality standards or benchmarks cannot be otherwise addressed, then BOEM may waive the requirement to apply BACT.

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		<i>Class I area</i> means an area designated by the USEPA, a State, or a Federally-recognized Indian tribe, where visibility and air emissions are protected by a FLM to pursuant to 42 U.S.C. 7472(a) or 7474, as amended; Class I areas include certain national parks, wilderness areas, national monuments, and areas of special national or regional natural, recreational, scenic, or historic value.	As discussed in the Joint Industry Trades’ comments, BOEM’s sole authority is for regulating compliance with the NAAQS. BOEM does not have the authority to require compliance with Class I increments or AQRV.	<i>Class I area</i> means an area designated by the USEPA, a State, or a Federally-recognized Indian tribe, where visibility and air emissions are protected by a FLM to pursuant to 42 U.S.C. 7472(a) or 7474, as amended; Class I areas include certain national parks, wilderness areas, national monuments, and areas of special national or regional natural, recreational, scenic, or historic value.
		<i>Class II area</i> means an area designated by the USEPA, a State, or a Federally-recognized Indian tribe, that is protected pursuant to 42 U.S.C. 7472(a) or 7474, as amended, to limits less stringent than those for Class I areas. Sensitive Class II areas represent a sub-classification of Class II areas that are defined by Federal Land Management Agencies as federal lands where the protection of air resources has been prioritized, as specified in acts, regulations, planning documents, or by policy.	As discussed in the Joint Industry Trades’ comments, BOEM’s use of the EPA term <i>Class II area</i> is not appropriate for OCS sources. Compliance with the NAAQS is required at all areas onshore. Therefore, we request that this definition be deleted.	<i>Class II area</i> means an area designated by the USEPA, a State, or a Federally-recognized Indian tribe, that is protected pursuant to 42 U.S.C. 7472(a) or 7474, as amended, to limits less stringent than those for Class I areas. Sensitive Class II areas represent a sub-classification of Class II areas that are defined by Federal Land Management Agencies as federal lands where the protection of air resources has been prioritized, as specified in acts, regulations, planning documents, or by policy.
		<i>Complex total emissions</i> means the sum of the facility emissions that would result from all of the facilities that have been aggregated for the purposes of evaluating their potential consolidated impact on air quality, pursuant to the methodology set forth in § 550.303(d), and the sum of all corresponding attributed emissions for those facilities.	As discussed in the Joint Industry Trades’ comments, the potential avoidance of BOEM requirements as result of improper consolidation of facilities is not a significant issue and the current provisions in § 550.303(j) adequately address this issue. Therefore, we request that the definition of <i>Complex Total</i> be deleted.	<i>Complex total emissions</i> means the sum of the facility emissions that would result from all of the facilities that have been aggregated for the purposes of evaluating their potential consolidated impact on air quality, pursuant to the methodology set forth in § 550.303(d), and the sum of all corresponding attributed emissions for those facilities.
		N/A	As discussed in the Joint Industry Trades’ comments we are proposing a new definition for the term <i>coastal area of any state</i> .	<u>Newly Proposed Definition</u> <i>Coastal area of any State</i> means the inland area up to 25 miles of the shoreline where the shoreline refers to the nearest mean high water mark of a State, or, on the Pacific coast, the nearest mean higher high water mark. A lesser distance may be acceptable if the modeling analysis demonstrates that maximum concentrations occur closer to the shoreline.
		<i>Criteria air pollutant or criteria pollutant</i> means any one of the principal pollutants for which the USEPA has established and maintains a NAAQS under 40 CFR part 50 in accordance with 42 U.S.C. 7409, as amended, for the protection of public health and welfare, and the environment. The USEPA has established primary standards for the protection of sensitive populations of children and the elderly and secondary standards for the protection of crops, vegetation, buildings, visibility, and prevention of harm to animals. Criteria air pollutants do not include Volatile Organic Compounds (VOCs) or any other precursor air pollutant not already regulated under the NAAQS.	No comments regarding this definition.	N/A
		<i>Design concentration</i> means the pollutant concentration at a given location projected, through computer-simulated air dispersion or photochemical modeling, as described under 40 CFR part 51, appendix W, section 7.2.1.1 to result from your projected emissions, combined with the background concentration for the same pollutant, averaging time, and statistical form at the most appropriate receptor location. The appropriate background concentration is measured from the nearest point at which there is data from an USEPA-approved air monitoring system, or as determined on some other appropriate scientifically justified basis approved by BOEM.	We request that the referenced section in this definition be corrected to section 7.2.1. Furthermore, we request the removal of the background concentration language from this definition because it is already defined in § 550.303(b) and is unnecessary.	<i>Design concentration</i> means the pollutant concentration at a given location projected, through computer-simulated air dispersion or photochemical modeling, as described under 40 CFR part 51, appendix W, section 7.2.1.1 to result from your projected emissions, combined with the background concentration for the same pollutant, averaging time, and statistical form at the most appropriate receptor location. The appropriate background concentration is measured from the nearest point at which there is data from an USEPA-approved air monitoring system, or as determined on some other appropriate scientifically justified basis approved by BOEM.
		<i>Dispersion modeling</i> means the mathematical computer simulation of air emissions being transported from a source through the atmosphere under given meteorological conditions. Emissions from sources, expressed as the rate of air pollutants emitted over time (i.e., pounds per hour), are translated through computer modeling into pollutant concentrations, expressed in units of micrograms of pollutants per cubic meter of ambient air (µg/m3), or in parts per million or billion, depending on the circumstances. When a file containing meteorological and emissions data are input into the computer model, the model will project the concentrations of the pollutants at a receptor location.	No comments regarding this definition.	N/A
		<i>Emission control efficiency (ECE)</i> means the effectiveness of an ERM for any given emissions source and air pollutant. The greater the emission control efficiency, the greater the effectiveness of the underlying controls (i.e., measured as a percentage reduction in the underlying emissions of any given pollutant). ECE varies from 100%, representing a control that completely eliminates emissions, to zero, representing a control that has no effect on such emissions.	The proposed regulatory text does not specify the averaging period for determining an appropriate ECE. It is suggested that an annual averaging period be utilized when determining the ECE. Furthermore, as noted in other comments, specificity should be added to this paragraph that clarifies the pollutants subject to this provision are criteria air pollutants. Finally, given the nature of operational limitations and/or equipment replacements, the estimation of an ECE is not practical or	<i>Emission control efficiency (ECE)</i> means the effectiveness of BACT as ERM for any given emissions source and criteria air pollutant. The greater the emission control efficiency, the greater the effectiveness of the underlying controls (i.e., measured as a percentage reduction in the underlying annual emissions of any given pollutant). ECE varies from 100%, representing a control that completely eliminates emissions, to zero, representing a control that has no effect on such emissions.

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			useful; therefore, we request that ECEs be used only for sources implementing BACT control requirements.	
		<i>Emissions credits</i> mean emissions reductions from an emissions source(s) not associated with the plan that are intended to compensate for the excessive emissions of criteria or precursor air pollutants, regardless of whether these emissions credits are acquired from an emissions source(s) located either offshore or onshore, including: emissions offsets generated by the lessee or operator itself; or emissions offsets acquired from a third party; or trading allowances or other alternative emission reduction method(s) or system(s) associated with a market-based trading mechanism; examples include mitigation banks or other competitive markets where these assets are exchanged.	In concept, this emissions credit provision provides benefit to the OCS designated operators. However, because BOEM has not established any specific emission credit regulatory requirements and states do not generally have banking systems for areas designated as attainment, the usefulness of the emissions credit program is significantly limited and would be burdensome to implement solely on a case-by-case basis. See the Joint Industry Trades’ comments for additional information.	<i>Emissions credits</i> mean emissions reductions from an emissions source(s) not associated with the plan that are intended to compensate for the excessive emissions of criteria or precursor air pollutants, regardless of whether these emissions credits are acquired from an emissions source(s) located either offshore or onshore, including: emissions offsets generated by the lessee or designated operator itself; or emissions offsets acquired from a third party; or trading allowances or other alternative emission reduction method(s) or system(s) associated with a market-based trading mechanism; examples include mitigation banks or other competitive markets where these assets are exchanged.
		<i>Emission exemption threshold(s) (EET)</i> means the maximum allowable rate of projected emissions, calculated for each air pollutant, expressed as short tons per year (tpy), above which facilities would be subject to the requirement to perform modeling.	Chevron requests minor changes to the definition of EET to improve clarity of the rule requirements. BOEM should also define EETs to be consistent with 30 CFR 550.303(e) regarding use of that term. Furthermore, as noted in other comments, specificity should be added to this paragraph that clarifies the pollutants subject to this provision are criteria air pollutants Chevron suggests an alternative definition.	<i>Emission exemption threshold(s) (EET)</i> means the maximum allowable rate of projected emissions, calculated pursuant to the requirements of § 550.303(c) for each criteria air pollutant, expressed as short tons per year (tpy), above which facilities would be subject to the requirement to perform modelling below which a facility’s emissions are <i>de minimis</i> and not subject to regulation under subpart C of this part..
		<i>Emissions factor(s)</i> means a value that relates the quantity of a specific pollutant released into the atmosphere with the operation of a particular emissions source. Emissions factors are usually expressed as the mass of pollutant generated from each unit (e.g., mass, volume, distance, work, or duration) of activity by the emissions source emitting the pollutant.	No comments regarding this definition.	N/A
		<i>Emission reduction measure(s) (ERM)</i> means any operational control(s), equipment replacement(s), BACT, or emissions credit(s), applied on either a temporary or permanent basis, to reduce the amount of emissions of criteria or precursor air pollutants that would occur in the absence of such measures.	The following change is proposed to clarify that replacement could include the substitution of other equipment in place of the primary emission source.	<i>Emission reduction measure(s) (ERM)</i> means any operational control(s), equipment replacement(s) or substitution(s) , BACT, or emissions credit(s), applied on either a temporary or permanent basis, to reduce the amount of emissions of criteria or precursor air pollutants that would occur in the absence of such measures.
		<i>Existing facility</i> means an operational OCS facility described in an approved plan.	No comments regarding this definition.	N/A
		<i>Facility</i> means, any installation, structure, vessel, vehicle, equipment, or device that is temporarily or permanently attached to the seabed of the OCS, including but not limited to a dynamically positioned ship, gravity-based structure, manmade island, or bottom-sitting structure, whether used for the exploration, development, production or transportation of oil, gas, or sulphur. All installations, structures, vessels, vehicles, equipment, or devices directly associated with the construction, installation, and implementation of a facility are part of a facility while located at the same site, attached, or interconnected by one or more bridges or walkways, or while dependent on, or affecting the processes of, the facility, including any ROV attached to the facility. One facility may include multiple drill rigs, drilling units, vessels, platforms, installations, devices, and pieces of equipment. Facilities include Mobile Offshore Drilling Unit(s) (MODU), even while operating in the “tender assist” mode (i.e., with skid-off drilling units), or any other vessel engaged in drilling or downhole operations, including well-stimulation vessels. Facilities also include all Floating Production Systems (FPSs), including Column-Stabilized-Units (CSUs), Floating Production, Storage and Offloading facilities (FPSOs), Tension-Leg Platforms (TLPs), and spars. Any vessel used to transfer production from an offshore facility is part of the facility while physically attached to it. Facilities also include all DOI-regulated pipelines and any installation, structure, vessel, equipment, or device connected to such a pipeline, whether temporarily or permanently, while so connected.	As discussed in the Joint Industry Trades’ comments, we request that BOEM incorporate the proposed revisions to the definition of <i>Facility</i> . It is also requested that BOEM incorporate portions of the previous regulatory language contained at § 550.303(j) of BOEM’s current regulation. See proposed new language in § 550.303(j) below. Chevron proposes the following edits to add clarity.	<i>Facility</i> means, any installation, structure, vessel, vehicle, equipment, or device that is temporarily or permanently attached to the seabed of the OCS for the purpose of exploring for, developing, or producing oil or gas or sulphur therefrom, and which emits a regulated criteria or precursor pollutant , including but not limited to a dynamically positioned ship, gravity-based structure, manmade island, or bottom-sitting structure, whether used for the exploration, development, production or transportation of oil, gas, or sulphur. All Installations, structures, vessels, vehicles, equipment, or devices directly associated with the construction, installation, and implementation of a facility are part of a facility only while located at the same site, attached, or interconnected by one or more bridges or walkways, or while dependent on, or affecting the processes of, to the facility, including any ROV attached to the facility. One facility may include multiple drill rigs, drilling units, vessels, platforms, installations, devices, and pieces of equipment. Facilities include Mobile Offshore Drilling Unit(s) (MODU), even while operating in the “tender assist” mode (i.e., with skid-off drilling units), or any other vessel engaged in drilling or downhole operations, including well-stimulation vessels while temporarily or permanently attached to the seabed and exploring for, developing, or producing oil and gas or sulphur resources. Facilities also include all Floating Production Systems (FPSs), including Column-Stabilized-Units (CSUs), Floating Production, Storage and Offloading facilities (FPSOs), Tension-Leg Platforms (TLPs), and spars, while temporarily or permanently attached to the seabed. Any vessel used to transfer production from an offshore facility is part of the facility while physically attached to it. Facilities also include all DOI-regulated pipelines and any installation, structure, vessel, equipment, or device connected to such a pipeline, whether temporarily or permanently, while so connected.

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		<i>Facility emissions</i> means, for any given criteria or precursor air pollutant, the annual, the maximum 12-month rolling sum, and the peak hourly emissions from all emissions sources on or connected to a facility.	See comments to § 550.205(c) whereby we request the removal of 12-month rolling sum.	<i>Facility emissions</i> means, for any given criteria or precursor air pollutant, the maximum projected annual, the maximum 12-month rolling sum , and the peak hourly emissions from all emissions sources on or connected to a facility.
		<i>Federally-recognized Indian tribe</i> refers to a Federally-recognized Indian tribe that has either a Treatment as State (TAS) status recognized by the USEPA or an approved TIP.	As discussed in the Joint Industry Trades’ comments, all proposed rule provisions related to Class I areas, Sensitive Class II areas, and consultation with FLMs or Federally-recognized Indian tribes should be removed.	<i>Federally-recognized Indian tribe</i> refers to a Federally-recognized Indian tribe that has either a Treatment as State (TAS) status recognized by the USEPA or an approved TIP.
		<i>Fugitive emissions</i> means the emissions of an air pollutant from an emissions source that do not pass through a stack, chimney, vent, or other functionally-equivalent opening.	No comments regarding this definition.	N/A
		<i>Fully reduce(d)</i> means to decrease emissions of VOCs to a rate that will not exceed the emission exemption threshold calculated under § 550.302, or to decrease emissions of criteria air pollutants to a rate that will not exceed the Significant Impact Levels set out in the table in 40 CFR 51.165(b)(2).	We request changes to the definition of <i>Fully reduce(d)</i> to be consistent with changes proposed in other sections of Subpart C.	<i>Fully reduce(d)</i> means to decrease emissions of VOCs to a rate that will not exceed the emission exemption threshold calculated under § 550.302, or to decrease emissions of criteria air pollutants to a rate that will not exceed the applicable Significant Impact Levels or NAAQS set out in the table in 40 CFR 51.165(b)(2).
		<i>Long-term facility</i> means a facility that has remained or is intended to remain in the same lease block or within one nautical mile of its original location for three years or longer; this three year period is measured from the time the facility is first attached to the seafloor, or another facility, and continues to run until the facility’s planned operations cease, regardless of the length of time the facility remains attached to the seafloor in any given year.	As discussed in the Joint Industry Trades’ comments, we request changes to the definition of <i>Long-term facility</i> to be consistent with our requested changes to definition of <i>Facility</i> .	<i>Long-term facility</i> means a “facility” that operates has remained or is intended to remain in the same lease block or within one nautical mile of its original location for three years or longer; this three year period is measured from the time the facility is first attached to the seafloor, or another facility, and continues to run until the facility’s planned operations cease, regardless of the length of time the facility remains attached to the seafloor in any given year.
		<i>Major precursor pollutant</i> means any precursor pollutant for which the States are required to report actual emissions to the USEPA, as defined in 40 CFR 51.15(a).	We recommend deleting this definition because the proposed rule does not appear to distinguish among major precursor pollutant, precursor air pollutant, and precursor pollutant. See alternative definition for precursor pollutant below.	<i>Major precursor pollutant</i> means any precursor pollutant for which the States are required to report actual emissions to the USEPA, as defined in 40 CFR 51.15(a).
		<i>MARPOL-certified engine</i> means either: (1) An engine with a power output of more than 5,000 kW and a per cylinder displacement at or above 90 liters installed on a ship constructed on or after January 1, 1990 but prior to January 1, 2000 that is subject to regulation 13.7 of MARPOL Annex VI; or (2) An engine with a power output of more than 130 kW built on or after January 1, 2000 that is subject to regulations 13.1 through 13.6 of MARPOL Annex VI.	No comments regarding this definition.	N/A
		<i>Maximum rated capacity</i> means the maximum power an engine is capable of generating over time, expressed in kW, and if necessary, as converted from hpm (where 1 hpm of power equals 745.699872 Watts or 0.745699872 kW) or from the International Table values of British thermal units (BtuIT, where 1 BtuIT/hour of power equals 0.29307107 Watts or 0.00029307107 kW).	The Proposed Rule defines “maximum rated capacity” only as related to engines. But elsewhere in the Proposed Rule, BOEM uses the term “maximum rated capacity” to refer to other types of emission sources. For example, in Proposed Rule Section 550.205(c) requires calculation of facility emissions using the “maximum rated capacity of each emissions source.” If BOEM continues to use the concept of “maximum rated capacity” for emission sources generally, it must adopt a definition of that term that has meaning for all types of emission sources, not just engines, in the re-proposed rule.	N/A
		<i>National ambient air quality standards (NAAQS)</i> means the ambient air standards established by the USEPA, as mandated by the CAA (42 U.S.C. 7409), set out in in 40 CFR part 50, for the common criteria air pollutants considered harmful to public health or welfare. There are two categories of the NAAQS: primary standards that set limits to protect public health, including the health of “sensitive” populations such as asthmatics, children, and the elderly; and secondary standards that set limits to protect public welfare when concentrations are elevated over time, including protection against visibility impairment; prevention of harm to animals, including marine mammals, fish and other wildlife; and avoidance of damage to crops, vegetation, and buildings. This term includes both categories.	We request that this definition be simplified by removing unnecessary language. BOEM includes reference to “marine animals” in its definition of NAAQS. While the CAA defines welfare to include “animals,” it does not specifically identify marine animals. EPA’s NAAQS are ambient air concentration levels that EPA sets based on duration of exposure to ambient air. Marine animals generally do not experience the type of ambient air quality exposures that EPA studied in setting NAAQS. BOEM should use the CAA definition of welfare contained in Section 302(h) of the CAA, or present evidence that EPA has, in fact, referenced “marine animals” as a specific type of animal protected by the current NAAQS.	<i>National ambient air quality standards (NAAQS)</i> means the ambient air standards established by the USEPA, as mandated by the CAA (42 U.S.C. 7409), set out in in at 40 CFR part 50.4-13., for the common criteria air pollutants considered harmful to public health or welfare. There are two categories of the NAAQS: primary standards that set limits to protect public health, including the health of “sensitive” populations such as asthmatics, children, and the elderly; and secondary standards that set limits to protect public welfare when concentrations are elevated over time, including protection against visibility impairment; prevention of harm to animals, including marine mammals, fish and other wildlife; and avoidance of damage to crops, vegetation, and buildings. This term includes both categories.
		<i>Non-attainment area</i> means, for any given criteria air pollutant, a geographic area, which the Administrator of the USEPA has designated as non-attainment for a NAAQS, as codified at 40 CFR part 81 subpart C. For the purposes of these regulations, all other areas will be considered Attainment areas.	No comments regarding this definition.	N/A

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		<i>Operational control</i> means a process, method or technique, other than a physical or mechanical control, or equipment replacement that reduces the emissions of criteria or precursor air pollutants (e.g., limitation on period of operation, load balancing, and/or use of less-polluting fuels).	The following change is proposed to clarify that replacement could include the substitution of other equipment in place of the primary emission source.	<i>Operational control</i> means a process, method or technique, other than a physical or mechanical control, or equipment replacement, or substitution that reduces the emissions of criteria or precursor air pollutants (e.g., limitation on period of operation, load balancing, and/or use of less-polluting fuels).
		<i>Particulate matter (PM)</i> means an airborne contaminant of particulate matter that is regulated as a criteria air pollutant under the ambient air standards. PM ₁₀ refers to airborne contaminants of particulates less than or equal to 10 micrometers. PM _{2.5} , or fine PM, is an airborne contaminant composed of particulates less than or equal to a diameter of 2.5 micrometers.	No comments regarding this definition.	N/A
		<i>Plan</i> means any initial, revised, modified, resubmitted, or supplemental Exploration Plan (EP), Development and Production Plan (DPP), Development Operations Coordination Document (DOCD), or application for a Right-of-Use and Easement (RUE), a Pipeline ROW, or a lease term pipeline application.	A Pipeline ROW has little impact on onshore air quality as such we request that Pipeline ROWs be removed from the requirements to submit a plan.	<i>Plan</i> means any initial, revised, modified, resubmitted, or supplemental Exploration Plan (EP), Development and Production Plan (DPP), Development Operations Coordination Document (DOCD), or application for a Right-of-Use and Easement (RUE), a Pipeline ROW , or a lease term pipeline application.
		<i>Potential to emit (PTE)</i> means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, will be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Attributed emissions are not counted in determining a facility’s PTE.	We request that this definition be deleted as it is not necessary if <i>projected emissions</i> is used in the regulation.	<i>Potential to emit (PTE)</i> means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, will be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Attributed emissions are not counted in determining a facility’s PTE.
		<i>Precursor air pollutant or precursor pollutant</i> means a compound that chemically reacts with other atmospheric gases to form a criteria air pollutant. Some precursor air pollutants are also defined as criteria air pollutants. Precursor air pollutants include VOCs, NO _x , SO _x , and NH ₃ .	BOEM must revise this definition to align with EPA and state treatment of precursor pollutants for NAAQS compliance purposes. Chevron offers suggested changes.	<i>Precursor air pollutant or precursor pollutant</i> means those acompounds defined at 40 CFR 51.166(b)(49)(i) that EPA defines as a precursor to the formation of a criteria air pollutant in accordance with Section 302(g) of the CAA, and requires an affected State to regulate in its State Implementation (or Tribal Implementation Plan) for purposes of achieving or maintaining compliance with the NAAQS that chemically reacts with other atmospheric gases to form a criteria air pollutant. Some precursor air pollutants are also defined as criteria air pollutants. Precursor air pollutants include VOCs, NO_x, SO_x, and NH₃.
		<i>Projected emissions</i> means, for any given criteria or precursor air pollutant, the sum of facility’s (or facilities’) emissions and the corresponding attributed emissions over the specified time period, with the controlled or uncontrolled nature of the pollutants specified by the context.	See comments to § 550.205(c)(1) that address a designated operator’s ability to self-mitigate emissions to more accurately reflect expected emissions for a facility. Also, as explained in the Joint Industry Trades’ comments, BOEM does not have the legal authority to regulate MSCs. See also comments to § 550.304(f) below. We request that the language related to attributed emissions be eliminated from this definition.	<i>Projected emissions</i> means, for any given criteria or precursor air pollutant, the sum of a facility’s (or facilities’) emissions and the corresponding attributed emissions over the specified time period, taking into consideration emissions controls, expected utilization, and operational controls. controlled, or uncontrolled or anticipated emission level otherwise reduced nature of the pollutants specified by the context.
		<i>Proximate activities</i> means activities that involve or affect any of the following: the same well(s); a common oil, gas, or sulphur reservoir; the same or adjacent lease block(s); or, facilities located within one nautical mile of one another. Where a well is drilled from one facility, but production from that well will ultimately take place through a different facility, the drilling and production activities constitute proximate activities if they occur within the same twelve months.	As discussed in the Joint Industry Trades’ comments, the potential avoidance of BOEM requirements as result of improper consolidation of facilities is not a significant issue and the current provisions in § 550.303(j) adequately address this issue. Therefore, we request that the definition of <i>proximate activities</i> be deleted.	<i>Proximate activities</i> means activities that involve or affect any of the following: the same well(s); a common oil, gas, or sulphur reservoir; the same or adjacent lease block(s); or, facilities located within one nautical mile of one another. Where a well is drilled from one facility, but production from that well will ultimately take place through a different facility, the drilling and production activities constitute proximate activities if they occur within the same twelve months.
		<i>Sensitive Class II area</i> means a Class II area defined by an FLM agency as being federal land where protection of air resources has been prioritized, as specified in acts, regulations, planning documents, or policy.	As discussed in the Joint Industry Trades’ comments, BOEM’s sole authority is for regulating compliance with the NAAQS. Therefore all proposed rule provisions related to Class I areas, Sensitive Class II areas, and consultation with FLMs or Federally-recognized Indian tribes should be removed.	<i>Sensitive Class II area</i> means a Class II area defined by an FLM agency as being federal land where protection of air resources has been prioritized, as specified in acts, regulations, planning documents, or policy.
		<i>Short-term facility</i> means any facility that is not a long-term facility or connected to a long-term facility.	No comments regarding this definition.	N/A
		<i>Significance level or Significant impact level (SIL)</i> means an ambient air benchmark or limit that applies to the ambient air impact of the emissions of a criteria air pollutant, as set out in the table in 40 CFR 51.165(b)(2).	It is inappropriate for BOEM to define a SIL as a “limit.” Such a definition suggests that there is an ongoing obligation to comply with the SIL. A SIL is a screening tool, used to determine if a cumulative analysis of the source’s emissions together with other sources and background concentrations is warranted. It is not a regulatory standard or emissions limitation. Exceeding a SIL does not demonstrate that emissions from an OCS facility would “significantly affect” onshore air quality or compliance with a NAAQS. Moreover, BOEM should not restrict the application of SILs to only criteria air pollutants, as SILs are also appropriate for screening precursor pollutant emissions. Finally, BOEM must codify the specific SILs in its regulation and cannot cross-	<i>Significance level or Significant impact level (SIL)</i> means the level of impact on ambient air quality below which BOEM considers a facility to have less than a significant impact on the ambient air quality of a coastal nonattainment area an ambient air benchmark or limit that applies to the ambient air impact of the emissions of a criteria air pollutant, as set out in the table in 40 CFR 51.165(b)(2). For those criteria pollutants or averaging periods for which there are no SILs, an interim SIL equal to five percent of the corresponding NAAQS will be in effect until BOEM adopts new SILs that are based on air quality studies underway in the Gulf of Mexico and Alaska.

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			reference EPA’s regulations. As discussed in the Joint Industry Trades’ comments, we believe SILs are appropriate for use in nonattainment areas but too stringent for use in attainment areas. Chevron suggests an alternative definition. It is important to note that in the “Proposed Alternate Language” column of this table, Chevron means the use of the term SIL to refer to the alternate definition and not the definition in the Proposed Rule. It is important to note that in the “Proposed Alternate Language” column of this table, Chevron means the use of the term SIL to refer to the alternate definition and not the definition in the Proposed Rule.	
		<i>Technically feasible</i> means a technology or methodology that: has been demonstrated to operate successfully on the same type of emissions source as the one under review; or is available and applicable to the type of emissions source under review.	As discussed in the Joint Industry Trades’ comments we request that BOEM further clarify how technical feasibility and cost effectiveness will be considered consistent with the requirements of OCSLA 43 U.S.C. § 1347(b). BOEM’s proposed definition is too broad and includes any technology that theoretically could be installed on an emissions source. That concept starkly contradicts BOEM’s allowance in Proposed Rule Section 550.306(a)(2) that a facility may demonstrate a technology is technically infeasible based on “physical, chemical or engineering principles.” BOEM must align its definition with the concept that a technically feasible control option is one that is not technically infeasible. BOEM bases its technical infeasibility demonstration on EPA’s BACT guidance. This BACT-like decision framework is inappropriate for the Proposed Rule and unsupported by OCSLA, but to the extent that BOEM retains that framework in any final rule it must also include “safety” as a pre-eminent consideration in whether a technology is feasible. Chevron suggests an alternative definition.	<i>Technically feasible</i> means a technology or methodology that: has been demonstrated to operate successfully on the same type of emission source as the one under review; or is available and applicable to the type of emissions source under review, for which there are no physical, chemical, safety or engineering difficulties that would prevent the safe installation and operation of the technology or methodology on the emissions source.
		<i>Total support emissions</i> means, for any criteria or precursor air pollutant, the total emissions generated by an MSC that operates in support of your and any other facilities, for the 12-month period over which the corresponding facility emissions are measured. For example, for any given MSC, the total support emissions would equal the number of service trips (i.e., from the port to the supported facilities) made during the relevant 12-month period multiplied by the average number of hours per service trip multiplied by the emissions per hour for all emissions source(s) on that MSC (derived from the emissions factor calculation).	As explained in the Joint Industry Trades’ comments, BOEM does not have the legal authority to regulate MSCs. We request that this definition be eliminated.	<i>Total support emissions</i> means, for any criteria or precursor air pollutant, the total emissions generated by an MSC that operates in support of your and any other facilities, for the 12-month period over which the corresponding facility emissions are measured. For example, for any given MSC, the total support emissions would equal the number of service trips (i.e., from the port to the supported facilities) made during the relevant 12-month period calendar year multiplied by the average number of hours per service trip multiplied by the emissions per hour for all emissions source(s) on that MSC (derived from the emissions factor calculation).
<i>What analysis of my projected emissions is required under this subpart?</i>	550.303(a)	<i>Establishing emission exemption thresholds.</i> BOEM establishes the rate of projected emissions, calculated for each air pollutant, above which facilities would be subject to the requirement to perform modeling. These EETs establish those rates of emissions below which BOEM has determined emissions would not significantly affect the air quality of any State. If your projected emissions or complex total emissions are exempt, then you will not be required to perform air quality modeling in accordance with the requirements of § 550.304 and to apply any controls, as described in §§ 550.305 through 550.307.	As stated in the Section § 550.303(a) emissions below the EET have been determined not to significantly affect the air quality of any state therefore no additional requirements of Subpart C are warranted to ensure compliance with NAAQS. Specifically no additional measuring, monitoring or recordkeeping as proposed in Sections § 550.309(d), 311 and 312 should be required. The reporting requirements addressed in the OCS inventory requirements of Section 550.187 are adequate to ensure emissions do not exceed the EET values and thus impact air quality onshore. The proposed alternative language presented addresses this proposed requested change. As noted in other comments, specificity should be added to this paragraph that clarifies the pollutants subject to this provision are criteria air pollutants. Furthermore, as discussed in the Joint Industry Trades’ comments, the potential avoidance of BOEM requirements as result of improper consolidation of facilities is not a significant issue and the current provisions in § 550.303(j) adequately address this issue. Therefore, we request that the term <i>complex total emissions</i> be deleted.	<i>Establishing emission exemption thresholds.</i> BOEM establishes the rate of projected emissions, calculated for each air pollutant, above which facilities would be subject to the requirement to perform modelling. These EETs establish those rates of emissions below which BOEM has determined emissions would not significantly affect the air quality of any State. If your projected emissions or complex total emissions are exempt, then you will not be required to perform air quality modelling in accordance with the requirements of § 550.304 and to apply any controls, as described in §§ 550.305 through 550.307. are exempt from all of the requirements of Subpart C.

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	550.303(b)	<i>Calculating projected emissions.</i> You must compare your projected emissions, or your complex total emissions if you are required to consolidate multiple facilities under paragraph (d) of this section, with the EETs, pursuant to the following methodology: (1) <i>Projected emissions.</i> You must calculate and report the projected emissions for each facility as set forth in § 550.205(e). (2) <i>Attributed emissions.</i> You must calculate and report all attributed emissions for each facility as set forth in § 550.205(d).	As discussed the Joint Industry Trades’ comments, we request that BOEM remove the inclusion of terms <i>complex total emissions</i> and <i>attributed emissions</i> consistent with the requested changes discussed in the definition of <i>Facility</i> in § 550.302(b) above.	<i>Calculating projected emissions.</i> You must calculate and report the projected emissions for each facility as set forth in § 550.205(c) and compare your projected emissions, or your complex total emissions if you are required to consolidate multiple facilities under paragraph (d) of this section, with the EETs, pursuant to the following methodology: (1) Projected emissions.—You must calculate and report the projected emissions for each facility as set forth in § 550.205(e). (2) Attributed emissions.—You must calculate and report all attributed emissions for each facility as set forth in § 550.205(d).
	550.303(c)	<i>Exempt emissions thresholds.</i> BOEM will establish EETs under this paragraph. These will determine whether your projected emissions or complex total emissions have the potential to significantly affect the air quality of any State.	As discussed in the Joint Industry Trades’ comments, we request that BOEM remove the inclusion of terms <i>complex total emissions</i> .	<i>Exempt emissions thresholds.</i> BOEM will establish EETs under this paragraph. These will determine whether your projected emissions or complex total emissions have the potential to significantly affect the air quality of any State.
	550.303(c)(1)	BOEM will establish new EETs based on the factors listed in this paragraph and publish them in the <i>Federal Register</i> . BOEM may establish different EETs that apply to different areas of the OCS or that apply to different kinds of emissions sources. BOEM may establish different EETs that apply to different areas of the OCS or that apply to different kinds of emissions sources. If your projected emissions for any criteria air pollutant or precursor air pollutant exceeds an EET, then you will be required to perform air quality modeling in accordance with the requirements of § 550.304 and you may be required to apply controls, as described in §§ 550.305 through 550.307, unless scientific evidence and the application of the factors set in paragraph (c)(2) of this section demonstrates otherwise.	Based on review of past modelling analyses, BOEMs own studies, State Implementation Plans (SIPs), and Department of Interior studies it has been determined that OCS operations have minimal impact on onshore air quality. Therefore, the current EETs are protective of on shore air quality and do not need to be revised. See the Joint Industry Trades’ comments for supporting documentation. Any future changes to the EETs must be based on the ongoing studies as discussed the Joint Industry Trades’ comments. BOEM indicates that the scientific basis for new EETs is not yet established, thus, BOEM has not provided the public a meaningful opportunity to comment on any future EETs.	BOEM will establish new EETs based on the factors listed in this paragraph and publish them in the <i>Federal Register</i>. BOEM may establish different EETs that apply to different areas of the OCS or that apply to different kinds of emissions sources. BOEM may establish different EETs that apply to different areas of the OCS or that apply to different kinds of emissions sources. If your projected emissions for any criteria air pollutant or precursor air pollutant exceeds an EET, then you will be required to perform air quality modeling in accordance with the requirements of § 550.304 and you may be required to apply controls, as described in §§ 550.305 through 550.307, unless scientific evidence and the application of the factors set in paragraph (c)(2) of this section demonstrates otherwise.
	550.303(c)(1)(i)	The first time that BOEM establishes a new set of EETs, BOEM will publish a notice in the <i>Federal Register</i> describing the proposed EETs and will specify the length of a corresponding comment period. At the conclusion of the comment period, BOEM will review and evaluate the comments and make a determination as to the final EETs. BOEM will publish a subsequent notice in the <i>Federal Register</i> listing the new EETs, along with a corresponding effective date for the new EETs.	Proposed regulatory language regarding BOEM’s first and subsequent revisions has been streamlined because the procedures specified in § 550.303(c)(1)(i) and (ii) are identical. Furthermore, as discussed in the Joint Industry Trades’ comments we request that future EETs go through the full rule making process and not just a public notice in <i>Federal Register</i> .	The first Each time that BOEM establishes a new set of EET(s), BOEM will publish a proposed rule publish a notice in the <i>Federal Register</i> describing the proposed EETs and will specify the length of a corresponding comment period. At the conclusion of the comment period, BOEM will review and evaluate the comments and make a determination as to the final EETs. BOEM will publish a subsequent notice in the <i>Federal Register</i> listing the new EETs, along with a corresponding effective date for the new EETs.
	550.303(c)(1)(ii)	Any time that BOEM determines that a revised EET should be established, BOEM will publish a notice in the <i>Federal Register</i> describing the proposed revised EET and will specify the length of a corresponding comment period. At the conclusion of the comment period, BOEM will review and evaluate the comments and make a determination as to the final EET. BOEM will publish a subsequent notice in the <i>Federal Register</i> listing revised EET, along with a corresponding effective date for the revised EET.	See comment on § 550.303(c)(1)(i) above.	Any time that BOEM determines that a revised EET should be established, BOEM will publish a notice in the <i>Federal Register</i> describing the proposed revised EET and will specify the length of a corresponding comment period. At the conclusion of the comment period, BOEM will review and evaluate the comments and make a determination as to the final EET. BOEM will publish a subsequent notice in the <i>Federal Register</i> listing revised EET, along with a corresponding effective date for the revised EET.
	550.303(c)(1)(iii)	Until the date of the notice, a facility will not be exempt under this section if its projected emissions of any pollutant exceed EETs as calculated using the following formulas: (A) EET= 3400 x D ^{2/3} for emissions of carbon monoxide (CO); and (B) EET= 33.3 x D for emissions of each of the following: nitrogen oxides (NOx); SOx; volatile organic compounds (VOCs);, and PM10. Where D is the distance of the facility from the shoreline, as identified in § 550.205(i)(1). (C) For Pb, the EET value is the level defined in 40 CFR 52.21(b)(23)(i).	As stated above to comments on § 550.303(c)(1) the current EETs are protective of air quality levels on shore and thus do not require revision. As discussed in the Joint Industry Trades’ comments, BOEM should not finalize emissions exemption threshold ranges prior to completing its scientific studies. Furthermore, as discussed the Joint Industry Trades’ comments, EETs must account for distance to the onshore area of a State. BOEM has not presented a compelling policy, scientific or legal reason to regulate Pb emissions under its Proposed Rule. BOEM’s sole reason for including Pb in the rule is that, “Lead is a CP for which NAAQS have been established.” [81 Fed. Reg. at 19759]. Congress set a higher threshold for regulating under Section 5(a)(8) which goes beyond a mere assertion that a NAAQS exists. While, BOEM failed to establish that any of the NAAQS significantly impact the ambient air quality of any State, its failure to establish its authority to regulate with respect to Pb is even more glaring. BOEM has not identified or discussed a single OCS emissions source that emits Pb. In contrast, EPA has acknowledged the negligible impacts of diesel fueled mobile sources on Pb concentrations. “The lead emissions result almost exclusively from lead content of the fuel; and since the lead content of diesel fuel is negligible, it is assumed that the lead emissions from diesel-fueled vehicles are also negligible.” (81 Fed. Reg.	Until the date of the notice, a facility will not be exempt under this section if its projected emissions of any pollutant exceed EETs as calculated using the following formulas: (A) EET= 3400 x D ^{2/3} for emissions of carbon monoxide (CO); and (B) EET= 33.3 x D for emissions of each of the following: nitrogen oxides (NOx); SOx; volatile organic compounds (VOCs); PM2.5 , and PM10. Where D is the distance of the facility from the shoreline, as identified in § 550.205(i)(1). (C) For Pb, the EET value is the level defined in 40 CFR 52.21(b)(23)(i).

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			at 19759) In 2000, US EPA commissioned a study of Commercial Marine Vessel Emissions that derived emissions factors in units of work (kW-hr) that depend on engine load factors, rather than emissions factors based on fuel consumption. The study included other criteria pollutants and TSP, but notably, did not develop lead emissions factors. (Appendix, Particulate Emission Factors for Mobile Sources as Calculated in the Model Part 5, https://www3.epa.gov/otaq/models/part5/part5uga.pdf) In the absence of any information showing the OCS emissions sources emit Pb in an appreciable quantity, there is no basis for a reasoned conclusion that OCS activities could significantly impact ambient air quality and affect NAAQS compliance, and thus, BOEM is without authority to regulate these emissions. In light of the negligible nature of Pb emissions from OCS facilities, BOEM’s rule creates a disproportionate burden for OCS facilities to prove that its emissions sources do not emit Pb in appreciable quantities. There is simply no justification for this burden. BOEM must also re-evaluate its EET for Pb. It proposes to establish the EET at EPA’s significant emissions rate of 0.6 tpy which EPA established based on nearby source impacts. BOEM proposes no adjustment for the facility’s distance to shore. Yet, Pb will only transport long distances from the originating source when it is entrained with small particulates (less than 2.5 microns). Pb found in PM_{2.5} fractions can be reliably modeled with Gaussian plume models and Lagrangian or Eulerian continental transport models (Integrated Science Assessment for Lead, U.S. EPA, EPA/600/R-10/075F (June 2013)). Although, a PUFF model, such as CALPUFF, is more realistic for determining the distance-adjusted emissions than a straight line Gaussian model. Given the availability of Pb dispersion modeling approaches, there is no reason for BOEM to default to a stagnant tpy EET value without considering the distance of transport.	
	550.303(c)(1)(iv)	Subsequent to the date of the notice, a facility will not be exempt under this section if its projected emission of any pollutant exceeds an EET published in the notice.	We request this provision be deleted to be consistent with the proposed changes to § 550.303(c)(1)(i).	Subsequent to the effective date of the notice, a facility must reevaluate and resubmit their plans according to the table 550.310(c)(2) will not be exempt under this section if its projected emission of any pollutant exceeds an EET published in the notice.
	550.303(c)(1)(v)	Because the USEPA’s AAQSB are subject to change as scientific knowledge improves and because modeling and evaluation techniques may improve over time, BOEM will revise EETs on an ongoing basis. Thus, as the USEPA revises the NAAQS, or any applicable SIL or AAI, BOEM, at its discretion, will periodically revise its EET formula(s) or its amount(s) for the corresponding air pollutant(s), as appropriate.	Clarification added to the proposed regulatory language to reference the specific provisions that address how BOEM will revise EET values and to remove unnecessary regulatory language. Furthermore, as noted in other comments, specificity should be added to this paragraph that clarifies the pollutants subject to this provision are criteria air pollutants.	Because the USEPA’s AAQSB are subject to change as scientific knowledge improves and because modeling and evaluation techniques may improve over time, BOEM will revise EETs on an ongoing basis. Thus, as the USEPA revises the NAAQS, or any applicable SIL or AAI, BOEM, at its discretion, will periodically revise its EET formula(s) or its amount(s) for the corresponding criteria air pollutant(s), as appropriate, and publish draft EETs according to 550.303(c)(1)(i).
	550.303(c)(2)	BOEM will determine new EET formulas taking into account the following factors:		BOEM will determine new EET formulas taking into account the following factors:
	550.303(c)(2)(i)	The absolute level of projected emissions;		The absolute level of projected emissions;
	550.303(c)(2)(ii)	The distance of the proposed facility or facilities from any State or from areas critical to natural resources, animals, and habitats;	As discussed in the Joint Industry Trades’ comments, BOEM cannot require plans to address air quality assessments other than NAAQS; therefore, we request the removal of such language from this provision.	The distance of the proposed facility or facilities from any State or from areas critical to natural resources, animals, and habitats;
	550.303(c)(2)(iii)	The existing ambient air pollution in potentially affected States, trend in the ambient air pollution in those States, the associated attainment status of such areas, and the associated effects to public health and welfare;	We request the removal of unnecessary language from this provision.	The existing ambient air pollution in potentially affected States, trend in the ambient air pollution in those States, and the associated attainment status of such areas, and the associated effects to public health and welfare attainment status should address public health and welfare;
	550.303(c)(2)(iv)	Any USEPA AAQSB applied in this part;	We request this provision be updated to reflect the requested revisions to the definitions in § 550.302(b).	Any NAAQS or SIL USEPA-AAQSB applied in this part;
	550.303(c)(2)(v)	The types, frequency, and duration of any air pollutant emissions and their formation and/or dispersion characteristics;	As noted in other comments, specificity should be added to this paragraph that clarifies that the pollutants subject to this provision are criteria air pollutants.	The types, frequency, and duration of any criteria air pollutant emissions and their formation and/or dispersion characteristics;
	550.303(c)(2)(vi)	The characteristics of the facility or facilities and MSCs, including the type and nature of the emissions sources, and the height of the associated points or stacks;	As explained in the Joint Industry Trades’ comments, BOEM does not have the legal authority to regulate MSCs. We request that the reference to MSCs be deleted.	The characteristics of the facility or facilities and MSCs , including the type and nature of the emissions sources, and the height of the associated points or stacks;

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	550.303(c)(2)(vii)	Prevailing meteorological characteristics in any given area, including air stability, relevant wind speeds and directions;	No comments on this provision.	N/A																																
	550.303(c)(2)(viii)	The amount of emissions from existing facilities and vessels in the vicinity of the proposed facility; and	It is requested that this provision be deleted as it is unnecessary and identifies items that are already captured under other provisions of § 550.303(c)(2).	The amount of emissions from existing facilities and vessels in the vicinity of the proposed facility; and																																
	550.303(c)(2)(ix)	Other necessary and appropriate considerations.	No comments on this provision.	N/A																																
	550.303(c)(3)	BOEM will set the EET formulas within the following ranges:	Based on review of past modelling analyses, BOEMs own studies, State Implementation Plans (SIPs), and Department of Interior studies it has been determined that OCS operations have minimal impact on onshore air quality. Therefore, the current EETs are protective of on shore air quality and do not need to be revised. See the Joint Industry Trades’ comments for supporting documentation. Any future changes to the EETs must be based on the ongoing studies as discussed in the Joint Industry Trades’ comments.	BOEM will set the EET formulas within the following ranges:																																
	550.303(c)(3)(i)	The minimum values in this range are determined by the formulas in table 1 to § 550.303. <table><caption>Table 1 to § 550.303</caption><tr><th>Minimum Value Equation</th><th>Pollutant* and Averaging Period</th></tr><tr><td>$E_{min} = 0.677(d^{1.2693})$</td><td>Annual NOx, SOx, and PM₁₀</td></tr><tr><td>$E_{min} = 0.2031(d^{1.2693})$</td><td>Annual PM_{2.5}</td></tr><tr><td>$E_{min} = 3.3851(d^{1.2693})$</td><td>24-hr SO₂ and PM₁₀</td></tr><tr><td>$E_{min} = 0.8124(d^{1.2693})$</td><td>24-hr PM_{2.5}</td></tr><tr><td>$E_{min} = 1354(d^{1.2693})$</td><td>1-hr CO</td></tr><tr><td>$E_{min} = 338.51(d^{1.2693})$</td><td>8-hr CO</td></tr><tr><td>$E_{min} = 16.926(d^{1.2693})$</td><td>3-hr SO₂</td></tr></table> Where <i>d</i> is the distance in statute miles from the State seaward boundary, as reported in your plan under §550.205(i)(2) and <i>E_{min}</i> equals tons per year. *For Pb, the minimum value amount is the level defined in 40 CFR 52.21((b)(23)(i).	Minimum Value Equation	Pollutant* and Averaging Period	$E_{min} = 0.677(d^{1.2693})$	Annual NOx, SOx, and PM ₁₀	$E_{min} = 0.2031(d^{1.2693})$	Annual PM _{2.5}	$E_{min} = 3.3851(d^{1.2693})$	24-hr SO ₂ and PM ₁₀	$E_{min} = 0.8124(d^{1.2693})$	24-hr PM _{2.5}	$E_{min} = 1354(d^{1.2693})$	1-hr CO	$E_{min} = 338.51(d^{1.2693})$	8-hr CO	$E_{min} = 16.926(d^{1.2693})$	3-hr SO ₂	See comments to § 550.303(c)(3) above. Furthermore, as documented in the Joint Industry Trades’ comments, the minimum EETs proposed in Table 1 contain a material error and utilize an overly conservative one line Gaussian equation. As discussed previously, there are extensive studies being conducted now that should be considered before establishing any new EET values. The legislative history of section 5(a)(8) demonstrates that Congress intended the "air quality of any State" to mean onshore air quality. As discussed in the Joint Industry Trades’ comments, BOEM does not have the legal authority to assess emissions impacts at the state seaward boundary. As proposed, BOEM appears to be arbitrarily redefining "State" to include the state submerged lands, contrary to Congressional intent. As such the reference to SSB should be deleted.	The minimum values in this range are determined by the formulas in table 1 to § 550.303. Delete Table 1 below. <table><caption>Table 1 to § 550.303</caption><tr><th>Minimum Value Equation</th><th>Pollutant* and Averaging Period</th></tr><tr><td>$E_{min} = 0.677(d^{1.2693})$</td><td>Annual NOx, SOx, and PM₁₀</td></tr><tr><td>$E_{min} = 0.2031(d^{1.2693})$</td><td>Annual PM_{2.5}</td></tr><tr><td>$E_{min} = 3.3851(d^{1.2693})$</td><td>24-hr SO₂ and PM₁₀</td></tr><tr><td>$E_{min} = 0.8124(d^{1.2693})$</td><td>24-hr PM_{2.5}</td></tr><tr><td>$E_{min} = 1354(d^{1.2693})$</td><td>1-hr CO</td></tr><tr><td>$E_{min} = 338.51(d^{1.2693})$</td><td>8-hr CO</td></tr><tr><td>$E_{min} = 16.926(d^{1.2693})$</td><td>3-hr SO₂</td></tr></table> Where <i>d</i> is the distance in statute miles from the State seaward boundary, as reported in your plan under §550.205(i)(2) and <i>E_{min}</i> equals tons per year. *For Pb, the minimum value amount is the level defined in 40 CFR 52.21((b)(23)(i).	Minimum Value Equation	Pollutant* and Averaging Period	$E_{min} = 0.677(d^{1.2693})$	Annual NOx, SOx, and PM ₁₀	$E_{min} = 0.2031(d^{1.2693})$	Annual PM _{2.5}	$E_{min} = 3.3851(d^{1.2693})$	24-hr SO ₂ and PM ₁₀	$E_{min} = 0.8124(d^{1.2693})$	24-hr PM _{2.5}	$E_{min} = 1354(d^{1.2693})$	1-hr CO	$E_{min} = 338.51(d^{1.2693})$	8-hr CO	$E_{min} = 16.926(d^{1.2693})$	3-hr SO ₂
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	550.303(c)(3)(ii)	The maximum values of this range are set by the following formulas: (A) If $d \leq 3$, then $E_{max} = 7072$ for CO; and $E_{max} = 100$ for NOx, SOX, VOCs, and PM10. (B) If $d > 3$, then $E_{max}= 3400 \times d^{2/3}$ for CO; and $E_{max} = 33.3 \times d$ for NOx, SOX, VOCs, and PM10 Where d will be the distance of the facility from the SSB as identified in § 550.205(i)(2).	See comments to § 550.303(c)(1) above. If BOEM insists on defining “d” as the SSB, Chevron supports the proposed language in 550.303(c)(3)(ii)(A).	The maximum values of this range are set by the following formulas: (A) If $d \leq 3$, then $E_{max} = 7072$ for CO; and $E_{max} = 100$ for NOx, SOX, VOCs, and PM10. (B) If $d > 3$, then $E_{max}= 3400 \times d^{2/3}$ for CO; and $E_{max} = 33.3 \times d$ for NOx, SOX, VOCs, and PM10 Where d will be the distance of the facility from the SSB as identified in § 550.205(i)(2).																																
	550.303(c)(4)	If your projected emissions for any criteria air pollutant or precursor air pollutant exceeds the EETs as determined pursuant to § 550.303, then you will be required to perform air quality modeling in accordance with the requirements of § 550.304 and you may be required to apply controls, as described in §§ 550.305 through 550.307.	See comments to § 550.205(c)(1) that address a designated operator’s ability to self-mitigate emissions to more accurately depict projected emissions for a facility.	If your projected emissions for any criteria air pollutant or precursor air pollutant exceeds the EETs as determined pursuant to § 550.303 after applying mitigation , then you will be required to perform air quality modeling in accordance with the requirements of § 550.304 and you may be required to apply controls, as described in §§ 550.305 through 550.307.																																
	550.303(d)(1)	Consolidation of air pollutant emissions from multiple facilities. (1) You must report the projected emissions from multiple facilities which may have been or are described in multiple plans, as the complex total emissions for your plan, if:	As discussed in the Joint Industry Trades’ comments, the potential avoidance of BOEM requirements as result of improper consolidation of facilities is not a significant issue and the current rule provisions in § 550.303(j) adequately address this issue. Therefore, we request that this provision be deleted. Although the current provisions of § 550.303(j) were not included in the proposed rule, they have been inserted below and we request that this provision (including proposed modifications) be included in the re-proposed rule.	Consolidation of air pollutant emissions from multiple facilities. (1) You must report the projected emissions from multiple facilities which may have been or are described in multiple plans, as the complex total emissions for your plan, if:																																
	550.303(d)(1)(i)	The air pollutant emissions are generated by proximate activities (i.e., the same well(s); a common oil, gas, or sulphur reservoir; the same or adjacent lease block(s); or, by facilities located within one nautical mile of one another) ; and	See comments to § 550.303(d)(1) above.	The air pollutant emissions are generated by proximate activities (i.e., the same well(s); a common oil, gas, or sulphur reservoir; the same or adjacent lease block(s); or, by facilities located within one nautical mile of one another) ; and																																

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	550.303(d)(1)(ii)	You wholly or partially own, control or operate those facilities; in the event of a dispute as to what constitutes common ownership, control or operations, BOEM will make a determination by reference to the ONRR criteria defined in 30 CFR 1206.101 and 1206.151; and	See comments to § 550.303(d)(1) above.	You wholly or partially own, control or operate those facilities; in the event of a dispute as to what constitutes common ownership, control or operations, BOEM will make a determination by reference to the ONRR criteria defined in 30 CFR 1206.101 and 1206.151; and
	550.303(d)(1)(iii)	The construction, installation, drilling, operation, or decommissioning of any of your facilities occurs within a contemporaneous 12-month period as the construction, installation, drilling operation, or decommissioning of any other facility; and	See comments to § 550.303(d)(1) above.	The construction, installation, drilling, operation, or decommissioning of any of you’re the designated operator’s facilities occurs within a calendar year contemporaneous 12-month period as the construction, installation, drilling operation, or decommissioning of any other of the designated operator’s facility; and
	550.303(d)(1)(iv)	Such a consolidation of emissions from multiple facilities would generate emissions sufficient to exceed an applicable emission exemption threshold (based on the exemption review described in paragraphs (e) or (f) of this section).	See comments to § 550.303(d)(1) above.	Such a consolidation of emissions from multiple facilities would generate emissions sufficient to exceed an applicable emission exemption threshold (based on the exemption review described in paragraphs (e) or (f) of this section).
	550.303(d)(2)	If any two or more facilities meet all of the conditions specified in (d)(1)(i) through (iii) of this section, you must calculate the sum of the projected emissions from those facilities (including their respective attributed emissions) as the complex total emissions for your plan.	See comments to § 550.303(d)(1) above.	If any two or more facilities meet all of the conditions specified in (d)(1)(i) through (iii) of this section, you must calculate the sum of the projected emissions from those facilities (including their respective attributed emissions) as the complex total emissions for your plan.
	550.303(d)(3)	BOEM will make a determination that you have appropriately considered the relevant data in your analysis of the complex total emissions.	See comments to § 550.303(d)(1) above.	BOEM will make a determination that you have appropriately considered the relevant data in your analysis of the complex total emissions.
	550.303(d)(4)	If you are required to consolidate projected emissions data from multiple facilities, then anywhere a requirement applies to projected emissions you must instead use complex total emissions, except with respect to the process by which projected emissions are determined for any given facility (as specified in § 550.205(d)).	See comments to § 550.303(d)(1) above.	If you are required to consolidate projected emissions data from multiple facilities, then anywhere a requirement applies to projected emissions you must instead use complex total emissions, except with respect to the process by which projected emissions are determined for any given facility (as specified in § 550.205(d)).
	550.303(e)	<i>Emissions do not exceed any threshold.</i> If none of your projected emissions or complex total emissions of any precursor or criteria air pollutant exceeds the applicable emission exemption threshold, then your projected emissions are <i>de minimis</i> , and no further analysis is required under this subpart.	Revisions to the proposed regulatory text were added to clarify that a facility is exempt from all provisions of Subpart C if projected emissions are below all EET values. Also, see comments to § 550.303(d)(1) above regarding the deletion of the term <i>complex total emissions</i> from this provision.	Emissions do not exceed any threshold. If none of your projected emissions or complex total emissions of any precursor or criteria air pollutant exceeds the applicable emission exemption threshold, then your projected emissions are <i>de minimis</i> , and no further analysis is required under this subpart. you are exempt from additional requirements as prescribed in Subpart C.
	550.303(f)	<i>Emissions exceed a threshold.</i> If your projected emissions or complex total emissions of the precursor or criteria air pollutant exceed the applicable emission exemption threshold, then further review and/or controls are required, in accordance with the provisions below:	See comments to § 550.303(d)(1) above regarding the deletion of the term <i>complex total emissions</i> from this provision.	Emissions exceed a threshold. If your projected emissions or complex total emissions of the precursor or criteria air pollutant exceed the applicable emission exemption threshold, then further review and/or controls are is required, in accordance with the provisions below:
	550.303(f)(1)	If the exceedance is for VOCs, you must control your emissions of VOCs in accordance with § 550.306, for a short-term facility, or § 550.307, for a long-term facility.	As discussed in the Joint Industry Trades’ comments, BOEM proposed regulatory requirements for VOC neither consider the significance of the effect of the emissions on the “air quality of [a] [s]tate” nor endeavor to assess the impact of the emissions on onshore attainment or maintenance of the NAAQS and thus this provision is inconsistent with the mandate of section 5(a)(8) and exceed BOEM’s authority. Studies reported in the 2012-2017 GOM Multiscale EIS concluded that the ozone impacts from VOC and NOx emissions from all GOM gulf-wide OCS operations are on the order of 0.4 to 4 ppb, which are less than a reasonable estimate of EPA ozone SIL values of 3-4 ppb. Therefore, these photochemical modeling studies indicate that requiring control of OCS VOC emissions would not be necessary to address ozone NAAQS impacts. The ongoing BOEM photochemical modeling EET studies will update the science on this issue, and it is premature for BOEM to require additional modeling or controls for VOC and NOx sources until the updated photochemical modeling is completed.	If the exceedance is for VOCs, you must control your emissions of VOCs in accordance with § 550.306, for a short-term facility, or § 550.307, for a long-term facility.
	550.303(f)(2)	If the exceedance is for any criteria air pollutant, then you must conduct modeling in accordance with § 550.304.	No comments regarding this paragraph.	N/A
	550.303(f)(3)	If the exceedance is for NOx, VOCs, or CO, and if the conditions specified in § 550.304(b) have been met, you are required to conduct photochemical modeling for O3.	Chevron supports the discussions included in the Joint Industry Trades’ comments. In addition, Chevron offers the following for consideration. The preamble of the proposed rule states that BOEM does not anticipate requiring single source photochemical modeling for plan facilities until such time as it has determined that this	If the exceedance is for NOx, VOCs, or CO, and if the conditions specified in § 550.304(b) have been met, you are required to conduct photochemical modeling for O3.

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			modeling would be reasonable and practical, taking into consideration both the technical feasibility and the costs (81 <i>Fed. Reg.</i> 19775). However, under the provisions of 30 CFR 550.303(f)(3) of the proposed rule, modeling is triggered as soon as EPA, an FLM, or BOEM identify an available model regardless of the application for which that model was developed, and regardless of the costs. Currently, photochemical modeling involves significant costs and time, and there are very few vendors with appropriate expertise to conduct such modeling. These issues will persist for some period of time even after EPA lists the availability of a model in 40 CFR Part 51 Appendix W. BOEM should conduct a formal rulemaking process for approving photochemical models and procedures to be used in such an analysis, similar to what is required of EPA, and revise the proposed rule to allow for, but not require, photochemical modeling. Moreover, EPA has not designated CO as a precursor for the ozone NAAQS. Although ozone modeling considers CO emissions from a facility, it is inappropriate for BOEM to require ozone modeling or trigger any review for ozone under the rule based on exceeding the EET for CO. Currently, EPA is not regulating VOC and NH3 as presumptive PM2.5 precursor in nonattainment areas until States complete their SIP planning process (80 <i>Fed. Reg.</i> 14340 at 15436 (Mar. 23, 2015). In this process, a State may also determine that NOx and SOx are not PM2.5 precursors. Furthermore, EPA has not defined VOC and NH3 as precursor to PM2.5 in attainment areas. Thus, it is inappropriate for BOEM to trigger photochemical grid modeling for PM2.5 for EET exceedance of these pollutants. Therefore, Chevron supports the Joint Industry Trades’ proposal to strike the proposed requirements of 30 CFR 550.303(f)(3).	
	550.303(f)(4)	If the exceedance is for NO _x , VOCs, PM _{2.5} , or SO _x , and if the conditions specified in § 550.304(b) have been met, you are required to conduct photochemical modeling for PM _{2.5} .	See response above response to § 550.303(f)(3).	If the exceedance is for NO_x, VOCs, PM2.5, or SO_x, and if the conditions specified in § 550.304(b) have been met, you are required to conduct photochemical modeling for PM2.5.
	550.303(g)(1)	<i>Changes to previously approved plans.</i> (1) If you change your plan implementation, such that your projected emissions, or your complex total emissions, will occur in years other than those that were previously approved, you must submit a revised plan, and that revised plan must be approved before you implement the proposed changes.	It is requested that this provision be revised to be consistent with the proposed changes in § 550.205(c)(2) and to remove the term <i>complex total emissions</i> as previously discussed. Changing the year that maximum emissions in an approved plan will occur will not impact the supporting air quality analysis. Therefore, as updating the year the maximum emissions will occur is an administrative change, Chevron proposes that the updated plan be submitted prior to the change being implemented, but an approval is not required prior to commencement. This change will help mitigate the potential delays that may result from having to wait for an approval from BOEM in situations where the maximum emissions for the facility are not increasing.	<i>Changes to previously approved plans.</i> (1) If you change your plan implementation, such that your facility maximum projected emissions, or your complex total emissions, will occur in years other than those that were previously approved, you must submit a revised plan, and that revised plan must be approved submitted before you implement the proposed changes.
	550.303(g)(2)	If at any time you anticipate an increase in the maximum air pollutant emissions from a previously approved plan, you must submit a revised plan, pursuant to 30 CFR 550.283(a)(4).	As noted in other comments, specificity should be added to this paragraph that clarifies the pollutants subject to this provision are criteria pollutants and the time period and emission basis for comparison.	If at any time you anticipate an you will increase annual facility emissions above in the maximum annual criteria or precursor air pollutant emissions from a previously approved plan, you must submit a revised plan, pursuant to 30 CFR 550.283(a)(4).
	550.303(g)(3)	If you propose to make a change to your operations on your existing facility or facilities, but not to the equipment used in such operations, and your approved projected annual emissions in any given year are higher than those previously approved for the particular year, but lower than the maximum air pollutant emissions for any year, you do not need to submit a revised plan -- as long as the operations would occur in the same year as described in the previous plan.	This subsection is repetitive with the requirement in § 550.280(a). It is suggested that this text be eliminated and the text in § 550.280(a) be revised based on the suggested language changes.	If you propose to make a change to your operations on your existing facility or facilities, but not to the equipment used in such operations, and your approved projected annual emissions in any given year are higher than those previously approved for the particular year, but lower than the maximum air pollutant emissions for any year, you do not need to submit a revised plan -- as long as the operations would occur in the same year as described in the previous plan.

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	550.303(g)(4)	If you propose to make a change to the equipment on your existing facility or facilities in a year or years where your plan already anticipated operations, and your proposed change would result in an increase in air pollutant emissions from that equipment for any air pollutant, you must submit a revised plan.	This subsection is repetitive with the requirement in § 550.280(a). It is suggested that this text be eliminated and the text in § 550.280(a) be revised based on the suggested language changes.	If you propose to make a change to the equipment on your existing facility or facilities in a year or years where your plan already anticipated operations, and your proposed change would result in an increase in air pollutant emissions from that equipment for any air pollutant, you must submit a revised plan.
	550.303(g)(5)	If your plan was approved for a short-term facility that becomes a long-term facility, then you must submit a revised plan for review and approval by BOEM.	No comments regarding this paragraph.	N/A
	550.303(h)	<i>Federal land manager.</i> If BOEM believes that your proposed activities may affect a Class I or a Sensitive Class II area of a State:	Chevron supports the discussions included in the Joint Industry Trades’ comments, as well as the removal of the requirements included in 30 CFR 550.303(h). In addition, Chevron offers the following for consideration. BOEM’s proposal lacks a legal justification for including the requirements of 550.303(h) in its proposed rule. The NAAQS are defined air quality concentrations that apply universally in every area of the country. The OCSLA authorizes BOEM to regulate, when sources have a significant air quality impact that affects NAAQS compliance - - not to regulate the significant air quality impact in and of itself – for unrelated affects to non-NAAQS related measures. However, 550.303(h) proposes to do precisely that by providing FLMs an open-ended invitation to raise issues with regard to air impacts on AQRVs, and providing BOEM unbridled discretion to ask for additional information and analysis related to FLMs AQRV concerns. The proposed rule fails to provide a sufficient nexus between AQRV protection and NAAQS compliance. The CAA charges FLMs with the separate and distinct obligation to protect AQRVs within CAA jurisdictions. “The Federal Land Manager and the Federal official charged with direct responsibility for management of such lands shall have an affirmative responsibility to protect the air quality related values (including visibility) of any such lands within a class I area and to consider, in consultation with the Administrator, whether a proposed major emitting facility will have an adverse impact on such values” (42 U.S.C. 7475). OCLSA did not extend this same authority to FLMs with respect to OCS facilities within its jurisdiction. Congress afforded only one national wilderness area additional protection under OCSLA. In Section 12(h) [43 U.S.C. 1340] of OCSLA, Congress imposed additional conditions for issuing a lease or permit that would affect the Point Reyes Wilderness. This demonstrates that Congress understood the importance of National Wilderness Areas, but extended additional protections only to this area and not all Class I areas. The question as to whether a source will impact NAAQS compliance is purely a concentration-based question, not specifically related to AQRV impacts, and FLM consultation on AQRVs adds nothing in furtherance of the NAAQS protection objective. Moreover, BOEM even goes beyond the authority granted in the CAA to FLMs, to create a newly defined area, “sensitive class II areas.” FLMs may find this label helpful as they craft their own programs to project AQRVs throughout the country, but the CAA does not afford special protections to these areas and neither does OCSLA. Again, BOEM’s proposed rule imposes a process with which not even land-based facilities need comply, and there is not a statutory basis or policy justification for the disparate treatment of OCS facilities. Even if BOEM could justify consideration of AQRV’s as a legal and policy matter, BOEM’s proposed text is vague and unbounded in the type and quantity of additional analysis required of an applicant. The regulations allow an FLM to merely assert a “view” without any burden of providing scientifically-based evidence to substantiate that view, and then allows BOEM to request any analysis or information it deems relevant [proposed 550.303(h)(2)].	<i>Federal land manager.</i> If BOEM believes modeling and Q/D analysis indicates that your proposed activities may affect NAAQS in a Class I or a Sensitive Class II area of a State:

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			Section 18(g) of OCSLA specifically limits BOEMs authority to order facilities to supply information for environmental impacts and other evaluations. That section allows BOEM to obtain information from public sources for the purposes of environmental impact statements and making other evaluations, but specifically provides that it must “purchase” such information from private sources. The implication of this statutory provision is that Congress did not intend BOEM to have authority to require facilities to conduct studies for defining AQRVs or identifying impacts where that information is currently lacking. This intent is further evident in Section 21(d) of OCSLA. This section authorizes the Secretary to consider “<i>available</i> relevant environmental information in making decisions” (43 U.S.C. 1346) <i>Emphasis added</i>. This statutory provision in no way authorizes the BOEM to demand additional production of information beyond what is available for that decision. Accordingly, even if BOEM finds authority to include an FLM consultation process, BOEM must revise the existing proposed regulation to indicate that the burden of demonstrating an impact is on the FLM, not the applicant. BOEM must allow an applicant to present alternative information, but cannot mandate an applicant undertake a study to prove or disprove an unsubstantiated view expressed by an FLM in the first instance. Critics similarly fault US EPA’s FLM Consultation process as vague and unbounded. In 1986, US EPA sought comment on substantial revisions to the FLM consultation. In 1999, after a lengthy stakeholder process, US EPA developed a draft FLM proposal to revamp the program in ways suggested herein. While US EPA never proposed that draft due to shifts in resources and priorities, that draft contains US EPA’s considered thinking on ways to improve the FLM process, and BOEM should consult with US EPA about that thinking before moving forward with these provisions.	
	550.303(h)(1)	BOEM may consult with one or more relevant FLMs to determine what effects could result from your proposed activities.	See comments to § 550.303(h) above.	N/A
	550.303(h)(2)	BOEM will consider the views of the FLMs in determining whether your plan complies with the provisions of this subpart. Based on this consultation, BOEM may require additional information and analysis, either prior to or as a condition of approving your plan.	See comments to § 550.303(h) above.	BOEM will consider the views of the FLMs in determining whether your plan complies with the provisions of this subpart. Based on this consultation, BOEM may require additional information and analysis, either prior to or as a condition of approving your plan.
	550.303(h)(3)	If the FLM does not raise any concerns regarding your plan in a timely manner, BOEM will assume that the FLM has no objections to the proposed plan.	See comments to § 550.303(h) above.	If the FLM does not raise any concerns regarding your plan in a timely manner 15 days, BOEM will assume that the FLM has no objections to the proposed plan.
	550.303(j) – Current Regulation	<i>Review of facilities with emissions below the exemption amount.</i> If, during the review of a new, modified, or revised Exploration Plan or Development and Production Plan, the Regional Supervisor determines or an affected State submits information to the Regional Supervisor which demonstrates, in the judgment of the regional supervisor, 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 Regional Supervisor 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 Regional Supervisor which demonstrates that the exempt facility is not significantly affecting the air quality of an onshore area of the State.	See comments to definition of <i>Facility</i> in § 550.302(b) above and the Joint Industry Trades’ comments.	<i>Review of facilities with emissions below the exemption amount.</i> If, during the review of a new, modified, or revised Exploration Plan or Development and Production Plan, the Regional Supervisor determines or an affected State submits information to the Regional Supervisor which demonstrates, in the judgment of the regional supervisor, 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 Regional Supervisor shall require the lessee to submit additional emissions information to determine whether emission control measures are necessary and appropriate for NAAQS compliance. Additional emissions information requested shall be limited to information relating to facilities for which the lessee is the designated Operator and that are within the 500m USCG Safety Zone of the otherwise exempt facility (measured from the center of the equipment on the surface site) that share any of the following production equipment including but not limited to, amine gas sweetening units, phase separators, natural gas dehydrators, or emissions control devices. The lessee also shall be given the opportunity to present information to the Regional Supervisor which demonstrates that the exempt facility is not significantly affecting the air quality of an onshore area of the State for NAAQS compliance.
What must I do if my projected emissions exceed an emission exemption threshold?	550.304	If your projected emissions or your complex total emissions exceed the limits defined in § 550.303(c) for any criteria or precursor pollutant, you must conduct modeling of that pollutant, and any other pollutant for which that pollutant is a precursor, to project the impacts of those emissions.	As discussed in the Joint Industry Trades’ comments, the potential avoidance of BOEM requirements as result of improper consolidation is not a significant issue and the current provisions in § 550.303(j) adequately address this issue. Therefore, we request that the term <i>complex total emissions</i> be deleted.	If your projected emissions or your complex total emissions exceed the limits applicable EETs defined in § 550.303(c) for any criteria or precursor pollutant after applying mitigation, you must conduct modelling of that pollutant in accordance with the following paragraphs of this section, and any other pollutant for which that pollutant is a precursor, as applicable, to project the impacts of those emissions.

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			In addition, please refer to the comments on 30 CFR 550.303(f)(3) with regard to requested removal of the precursor modelling requirement.	
	550.304(a)(1)	<i>Dispersion models.</i> (1) You must use one or more of the following air dispersion models: (i) A model approved by the USEPA, as described in appendix A to appendix W of 40 CFR part 51 (Summaries of Preferred Air Quality Models); or (ii) A model included in the Federal Land Managers’ Air Quality Related Values Workgroup Guidance; or (iii) Another model approved by the BOEM Chief Environmental Officer (CEO). (iv) The BOEM CEO may disapprove the use of a USEPA-approved or FLM-approved air quality model, if the CEO determines that such model would not be appropriate in the OCS context.	Clarification added to allow both the preferred and alternate USEPA approved models. Additionally, the BOEM CEO should not be allowed to override EPA approved models or FLM guidance. As proposed the requirement provides BOEM unfettered discretion.	<i>Dispersion models.</i> (1) You must use one or more of the following air dispersion models: (i) A model approved by the USEPA (preferred or alternate), as described in appendix A to appendix W of 40 CFR part 51 (Summaries of Preferred Air Quality Models); or (ii) A model included in the Federal Land Managers’ Air Quality Related Values Workgroup Guidance; or (iii) Another model approved by the BOEM Chief Environmental Officer (CEO). (iv) The BOEM CEO may disapprove the use of a USEPA-approved or FLM-approved air quality model, if the CEO determines that such model would not be appropriate in the OCS context.
	550.304(a)(2)	You must follow the modeling procedures recommended in 40 CFR part 51 appendix W, to the extent possible. You must provide BOEM with a copy of your dispersion modeling protocol and the associated data and assumptions used to do your analysis before you conduct modeling.	See comments to § 550.205(n) above regarding modeling protocol. Furthermore, we request adding clarification that only the portions relevant to offshore sources should be followed.	You must follow the relevant modeling procedures recommended for offshore sources in 40 CFR part 51 appendix W, to the extent possible. You must provide BOEM with a copy of your dispersion modeling protocol and the associated data and assumptions used to do your analysis before you conduct modeling.
	550.304(b)(1)	<i>Photochemical models.</i> Photochemical modeling is required only if: (1) Your projected emissions (or your complex total emissions where applicable) for the relevant precursor air pollutants exceed an applicable EET;	Expensive and complex photochemical modelling is not warranted given the minimal impact of OCS operations on onshore air quality. See additional discussions as provided in the Joint Industry Trades’ comments document, as well as the comments on 30 CFR 550.303(f)(3) above. Section 550.304(b) of the Proposed Rule would require modeling for VOC and PM _{2.5} when an approved model is available irrespective of whether an affected State regulates that pollutant as a precursor. This is inappropriate because the pollutants may not be regulated as precursors within an affected State. When EPA identifies a regulated precursor pollutant, each State then determines whether regulation of that precursor in the State is necessary for NAAQS compliance during the SIP development process. Given this, BOEM has no bases for treating OCS facilities more stringently than onshore sources by requiring modeling for precursor pollutants in a State before a State completes its SIP development process and determines that it needs to regulate that pollutant for NAAQS compliance. If an affected State does not regulate the precursor, then the final rule should not require an OCS facility to model for air quality impacts in that State for that pollutant.	<i>Photochemical models.</i> Photochemical modeling is required only if: (1) Your projected emissions (or your complex total emissions where applicable) for the relevant precursor air pollutants exceed an applicable EET;
	550.304(b)(2)	An appropriate photochemical air quality model is available that: (i) Meets the USEPA’s requirements of section 3.2 of appendix W to 40 CFR; (ii) Complies with the Federal Land Managers’ Air Quality Related Values Workgroup Guidance; or (iii) Is another model approved by the BOEM CEO;	See response to § 550.304(b)(1) above.	An appropriate photochemical air quality model is available that: (i) Meets the USEPA’s requirements of section 3.2 of appendix W to 40 CFR; (ii) Complies with the Federal Land Managers’ Air Quality Related Values Workgroup Guidance; or (iii) Is another model approved by the BOEM CEO;
	550.304(b)(3)	BOEM has determined that adequate relevant information on background concentrations is available for the relevant location(s) in a potentially affected State(s).	See response to § 550.304(b)(1) above.	BOEM has determined that adequate relevant information on background concentrations is available for the relevant location(s) in a potentially affected State(s).
	550.304(b)(4)	Upon request, you must provide BOEM with a copy of your photochemical modeling protocol and the associated data and assumptions used to do your photochemical analysis before you conduct modeling.	See comments to § 550.304(b)(1) and § 550.304(a)(2) above.	Upon request, you must provide BOEM with a copy of your photochemical modeling protocol and the associated data and assumptions used to do your photochemical analysis before you conduct modeling.
	550.304(c)	<i>Projected emissions.</i> Base your modeling on the maximum projected emissions, as reported under § 550.205(e), or on the complex total emissions, where applicable;	As discussed in the Joint Industry Trades’ comments, the potential avoidance of BOEM requirements as result of improper consolidation of facilities is not a significant issue and the current provisions in § 550.303(j) adequately address this issue. Therefore, we request that the term <i>complex total</i>	<i>Projected emissions.</i> Base your modeling on the maximum projected emissions, as reported under § 550.205(e), or on the complex total emissions, where applicable;

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			<i>emissions</i> be deleted.	
	550.304(d)	<i>Meteorology.</i> Apply the best available and most recent meteorological dataset, either as directed in 40 CFR part 51 appendix W, or by using an alternate dataset approved by the Regional Supervisor.	No comments on this provision.	N/A
	550.304(e)	<i>Estimates of ambient air concentrations.</i> For each criteria air pollutant resulting from your projected emissions (or complex total emissions where applicable), estimate the peak incremental concentrations projected in any attainment area(s) and, separately, in any non-attainment area(s), in any State (over State submerged lands or onshore), both on an annual basis and for the other averaging times specified in the appropriate USEPA regulations at 40 CFR part 50 and the tables at 40 CFR 51.165(b)(2) and 40 CFR 52.21(c).	See comments in § 550.302(b) regarding the removal of the term <i>complex total emissions</i> from this provision. Additionally, see the Joint Industry Trades’ comments and the proposed new definition added in § 550.302(b) regarding the addition of coastal areas to this provision.	<i>Estimates of ambient air concentrations.</i> For each criteria air modelled pollutant resulting from your projected emissions (or complex total emissions where applicable), estimate the peak maximum incremental-plan-related concentrations projected in any coastal attainment area(s) and, separately, in any coastal non-attainment area(s), in any State where a SIP identifies an OCS contributor (over State submerged lands or onshore), both on an annual basis and for the other -averaging times specified in the appropriate USEPA regulations at 40 CFR part 50 and the tables at 40 CFR 51.165(b)(2) and 40 CFR 52.21(c).
	550.304(e)(1)	To the extent practicable, your estimate of the incremental ambient air concentrations of any criteria air pollutant must consider not only the dispersion of each criteria air pollutant itself, but also the formation of any criteria air pollutant that may result from the dispersion or presence of any relevant precursor air pollutant(s). Specifically: (i) Any analysis of PM2.5 must include NOx, SOx, VOCs, and NH3 (ii) Any analysis of O3 must include NOx, VOCs, and CO.	See comments above on the definition of air pollutant contained in § 550.105. Expensive and complex photochemical modelling is not warranted given the minimal impact of OCS operations on onshore air quality. See additional discussions as provided in the Joint Industry Trades’ comments document, as well as the comments on 30 CFR 550.303(f)(3) above. BOEM’s use of the word “incremental concentrations” in Section 550.304(e)(1) is unclear. BOEM appears to require AAI modeling in nonattainment areas. This requirement is more stringent than what is required by EPA onshore, as EPA does not track increment consumption in nonattainment areas. The rule also appears to require AAI modeling irrespective of whether a facility’s emissions exceed the SIL. EPA does not require a facility to conduct AAI modeling if its emissions are below the SIL. Moreover, BOEM’s regulatory text appears to require a source to model for AAI twice – once before applying ERM and then after applying ERM. Even if inclusion of increment modeling in BOEM’s rule were appropriate (which it is not), such an approach is redundant and unnecessary. For these reasons, Chevron requests that the provisions of 30 CFR 550.304(e)(1) be removed.	To the extent practicable, your estimate of the incremental ambient air concentrations of any criteria air pollutant must consider not only the dispersion of each criteria air pollutant itself model predictions of PM2.5 and ozone must consider both direct emissions and secondary pollutant formation due to, but also the formation of any criteria air pollutant that may result from the dispersion or presence of any emissions of relevant precursor air pollutant(s), where precursor pollutants are defined at 40 CGR 51.166(b)(49)(i). Specifically: (i) Any analysis of PM2.5 must include NOx, SOx, VOCs, and NH3 (ii) Any analysis of O3 must include NOx, VOCs, and CO.
	550.304(e)(2)	BOEM may provide information though a Notice to Lessees to assist lessees and operators in evaluating existing ambient air concentrations, or changes in such concentrations over time if it determines that there is an effective means of estimating ambient air quality. (i) In the event that BOEM has established appropriate background concentration data, or baseline concentration data, for any given pollutant, at any given location and point in time, you must use the data provided by BOEM. (ii) In the event that BOEM has not established appropriate background concentration data for any given pollutant, for any given location, and point in time, you should use the relevant data from the USEPA for the closest appropriate location, as specified by the Regional Supervisor.	The requested revisions reflect our proposed changes to the definition of <i>background concentration</i> as defined in § 550.302(b). Chevron notes that use of monitored background concentrations from the nearest onshore monitor may be inappropriate. The most important factor in selecting a background concentration is that it is representative of the area. A representative monitor may not be the closest monitor. For these reasons, we are proposing to allow the designated operator the opportunity to submit the most representative background concentration to the Regional Supervisor for approval.	BOEM may provide information though a Notice to Lessees to assist lessees and designated operators in evaluating existing ambient air concentrations, or changes in such concentrations over time if it determines that there is an effective means of estimating ambient air quality. (i) In the event that BOEM has established appropriate background concentration data, or baseline concentration data, for any given pollutant, at any given location and point in time, you must use the data provided by BOEM. (ii) In the event that BOEM has not established appropriate background concentration data for any given pollutant, for any given location, and point in time, you should use the relevant data from the USEPA for the closest appropriate location, or as determined on some other appropriate scientifically justified basis proposed by the designated operator and approved by as specified by the Regional Supervisor.
	550.304(f)	<i>Attributed emissions.</i> Conduct modeling of attributed emissions from those locations where the emissions are expected to occur (i.e., utilizing a line, area, volume, or pseudo point source model).	As explained in the Joint Industry Trades’ comments, BOEM does not have the legal authority to regulate MSCs. We request that this provision be deleted. Despite BOEM’s lack of legal authority to regulate MSCs, the Proposed Rule would require an OCS facility to model attributed emissions (MSCs) to determine a facility’s potential onshore ambient air impact. Under EPA’s regulations, mobile emissions are not part of the stationary source, and these emissions are instead treated as secondary emissions. EPA does not require onshore sources to model secondary emissions in NAAQS or increment analysis:	<i>Attributed emissions.</i> Conduct modeling of attributed emissions from those locations where the emissions are expected to occur outside of the shoreline (i.e., utilizing a line, area, volume, or pseudo-point source model).

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			<i>While existing mobile source emissions are considered in the determination of background air quality for the NAAQS analysis (typically using existing air quality data), it should be noted that the applicant need not model estimates of future mobile source emissions growth that could result from the proposed project because the definition of "secondary emissions" specifically excludes any emissions coming directly from mobile sources.</i> As with the NAAQS analysis, applicants are not required to estimate future mobile source emissions growth that could result from the proposed project because they are excluded from the definition of "secondary emissions."^[1] The Proposed Rule would treat OCS facilities more stringently than a comparable onshore source, and BOEM has not justified this disparate treatment. [1] EPA, <i>New Source Review Workshop Manual - Prevention of Significant Deterioration and Nonattainment Area Permitting</i> at C.34 (Oct. 1990 Draft).	
	550.304(g)	<i>Documentation and reporting.</i> Create a modeling report documenting all emissions sources, inputs, parameters, assumptions, procedures, methods, and results, including input and output files, and data upon which your analysis under this subpart is based, and provide BOEM with this report, copies of all data and access to any programs used in your modeling.	No comments regarding this paragraph.	N/A
<i>How do I determine whether my projected emissions of criteria air pollutants require ERM?</i>	550.305(a)	For all criteria air pollutants other than PM_{2.5} and O₃, compare the results of the modeling described in § 550.304 with the SILs set out in the table at 40 CFR 51.165(b)(2). If the modeling results exceed a SIL for any criteria air pollutant for any averaging time, you are required to apply ERM to sources to reduce emissions only for the CPs that exceed a SIL, as specified in § 550.306 for a short-term facility, or as specified in § 550.307 for a long-term facility.	As discussed in the Joint Industry Trades’ comments, BOEM has not clearly defined when OCS emissions “affect the air quality of any State.” In the Joint Industry Trades’ comments, they identify appropriate definitions. The requested changes incorporate our proposed definition of “affect the air quality of any State.” The EPA SIL generally represents an ambient air concentration that is 1-5% of the NAAQS. In this respect, it is a highly conservative value, and debatable as to whether it actually measures a “significant” impact. EPA designed its SILs as a screening tool to allow certain sources to avoid more costly and time consuming cumulative impact modeling for the NAAQS. Unfortunately, BOEM deemed these thresholds as the level above which emissions from a source are deemed to have a “significant” impact in the proposed rule. Relying on EPA SILs as a trigger for ERM requirements is not sufficient to ensure that the Proposed Rule only regulates sources that are within BOEM’s OCSLA jurisdiction. As proposed, these provisions ignore the fundamental limits OCSLA places on BOEM’s regulatory jurisdiction, and they should be withdrawn and re-proposed such that ERM are only required where emissions significantly affect onshore air quality and affect NAAQS compliance. In conjunction with the Joint Industry Trades’ comments, Chevron offers the proposed revisions to the provisions of 30 CFR 550.305(a) which conservatively require ERMs in attainment areas when a NAAQS is exceeded, and in a nonattainment area when the SIL is exceeded. We request that these revisions be incorporated into the re-proposed rule.	For all criteria air pollutants other than PM_{2.5} and O₃, compare the results of the modeling described in § 550.304 with the SILs in coastal nonattainment and attainment areas.set out in the table at 40 CFR 51.165(b)(2) If the modeling results exceed a SIL for any criteria air pollutant for any averaging time in a coastal nonattainment area, you are required to apply ERM to sources to reduce emissions only for the CPs that exceed a SIL, as specified in § 550.306 for a short-term facility, or as specified in § 550.307 for a long-term facility. If the modeling results exceed the SIL in coastal attainment area you must compare the modelled results plus the appropriate background concentration to the NAAQS. If the modeling results, including the appropriate background concentration, exceed a NAAQS for any criteria air pollutant for any averaging time in a coastal attainment area, you are required to apply ERM to sources to reduce emissions only for the CPs that exceed a NAAQS, as specified in § 550.306 for a short-term facility, or as specified in § 550.307 for a long-term facility.

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	550.305(b)	For PM _{2.5} , you must add the results of your dispersion modeling of direct PM _{2.5} emissions conducted under § 550.304(a) to the results of your photochemical modeling, if required under § 550.304(b), before you compare the results with the PM _{2.5} SILs set out in the table at 40 CFR 51.165(b)(2). If this sum exceeds a SIL for PM _{2.5} for any averaging time, you are required to apply ERM for a short-term facility as specified in § 550.306, or as specified in § 550.307, for a long-term facility.	See response to § 550.304(b)(1) above.	For PM_{2.5}, you must add the results of your dispersion modeling of direct PM_{2.5} emissions conducted under § 550.304(a) to the results of your photochemical modeling, if required under § 550.304(b), before you compare the results with the PM_{2.5} SILs set out in the table at 40 CFR 51.165(b)(2). If this sum exceeds a SIL for PM_{2.5} for any averaging time, you are required to apply ERM for a short-term facility as specified in § 550.306, or as specified in § 550.307, for a long-term facility.
	550.305(c)	For O ₃ , you must add the results of your photochemical modeling, if required under § 550.304(b), to the existing background concentrations, as described under § 550.302, and determine if the sum exceeds the NAAQS for O ₃ for any averaging time. If so, for a short-term facility, you must apply ERM as specified in § 550.306, or as specified in § 550.307 for a long-term facility.	See response to § 550.304(b)(1) above.	For O₃, you must add the results of your photochemical modeling, if required under § 550.304(b), to the existing background concentrations, as described under § 550.302, and determine if the sum exceeds the NAAQS for O₃ for any averaging time. If so, for a short-term facility, you must apply ERM as specified in § 550.306, or as specified in § 550.307 for a long-term facility.
<i>What ERM are required for a short-term facility?</i>	550.306(a)	If any short-term facility requires ERM under § 550.303(f) for VOCs or § 550.305 for a CP, then you are required to conduct an ERM analysis to determine potential control options and their likely cost effectiveness. In conducting your ERM analysis, you must:	See comments to § 550.303(f) above. In addition, Chevron believes that BOEM may require emissions controls only for certain OCS facilities (those that significantly impact the ambient air quality of a State) and only for the purpose of NAAQS compliance. Chevron also disagrees with the Proposed Rule’s inclusion of a BACT- like process for establishing emissions control requirements. Notwithstanding these positions, any control technology requirement in the final rule must consider the economic impacts of requiring control including consideration of , “ ...any existing pollution control technology in use at the source, the remaining useful life of the source, and the degree of improvement in [NAAQS compliance] which may reasonably be anticipated to result from use of the technology.”¹¹ These are the types of consideration Congress mandated that EPA consider in context of a best available retrofit analysis, and these considerations are appropriate for OCS emissions sources that may likewise require retrofitting of additional emissions controls. The emissions control decision framework also must consider safety factors as such issues are paramount to OCS facility operations. For example, Congress recognized this in directing EPA to consider safety factors in applying reasonably available control technology to tank vessels.² BOEM should recognize safety not only in its provided safety exception, but in context of picking between two available control measures. ¹¹See CAA § 169A(g)(2) establishing considerations for best available retrofit technology. Rather than NAAQS compliance the text refers to visibility. 42 U.S.C. § 7491. ¹² See CAA § 183 (f)(1). 42 U.S.C. § 7511b.	If any short-term facility requires ERM under § 550.303(f) for VOCs or § 550.305 for a CP, then you are required to conduct an ERM analysis to determine potential control options and their likely cost effectiveness. In conducting your ERM analysis, you must:
	550.306(a)(1)	Identify all available control technologies relevant to the emissions of the pollutant(s) for which ERM is required;		Identify all available control technologies relevant to the emissions of the pollutant(s) for which ERM is required;
	550.306(a)(2)	Determine which of these options are technically feasible for your plan; a demonstration of technical infeasibility must be clearly documented and must show, based on physical, chemical or engineering principles, that technical difficulties would preclude the successful use of the applicable emission control technology or methodology.	The proposed changes to these provisions streamlines the ERM analysis and agency review process, and removes overly burdensome requirements for designated operators as well as BOEM in situations where there is an easily identifiable ERM option to reduce emissions below NAAQS/SIL.	Determine which of these options are technically and economically feasible for your plan: (i) In cases where this selection is sufficient to demonstrate compliance with the NAAQS for coastal attainment areas, and the SIL for the coastal nonattainment areas, the analysis is complete and must be documented in the proposed plan in accordance with 550.306(b). (ii) In cases where a NAAQS or SIL will be exceeded after applying all technically and economically feasible ERMs, a demonstration of technical infeasibility must be clearly documented and must show, based on physical, chemical or engineering principles, that technical difficulties would preclude the successful use of the applicable emission control technology or methodology.
	550.306(a)(3)	Rank the technically feasible control technologies by their emission control efficiencies (ECE) and determine their likely reduction of criteria air pollutant emissions (i.e., absolute effectiveness), in tpy of emissions avoided;		550.306(a)(2)(ii)(A) Rank the technically feasible control technologies by their emission control efficiencies (ECE) and determine their likely reduction of criteria air pollutant emissions (i.e., absolute effectiveness), in tpy of emissions avoided;
	550.306(a)(4)	Evaluate the most effective ERM and document the results of your analysis; and		550.306(a)(2)(ii)(B) Evaluate the most effective ERM and document the results of your analysis; and

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	550.306(a)(5)	Select reasonable operational controls or replacement(s) of equipment that are technically and economically feasible and that are designed to limit your facility's projected emissions to the greatest practicable extent, taking into consideration the effectiveness and the cost of implementation, for each option considered. You must demonstrate that you have chosen the most effective technically and economically feasible operational controls or replacement(s) of equipment for every pollutant requiring such controls that can be implemented cost effectively. As an alternative, you may propose an equivalent reduction through the use of emissions credits.		550.306(a)(2)(ii)(C) Select reasonable operational controls or replacement(s) of equipment that are technically and economically feasible and that are designed to limit your facility's projected emissions to the greatest practicable extent, taking into consideration the effectiveness and the cost of implementation, for each option considered. You must demonstrate that you have chosen the most effective technically and economically feasible operational controls or replacement(s) of equipment for every pollutant requiring such controls that can be implemented cost effectively. As an alternative, you may propose an equivalent reduction through the use of emissions credits.
	550.306(a)(6)	If you can demonstrate to the satisfaction of the Regional Supervisor that no technically feasible operational controls or equipment replacement(s) can be implemented cost effectively, then; (i) For any given pollutant, if your emissions would affect only attainment areas, no ERM will be required with respect to that pollutant beyond that which was proposed in your plan. (ii) If your emissions affect any non-attainment area for a specific pollutant, the Regional Supervisor may require the implementation of other ERM for that pollutant in lieu of operational controls or equipment replacement(s) as a condition of approving your plan. For any proposed BACT, you must provide a description of the associated energy, environmental, and economic impacts, and other costs.	As discussed in the Joint Industry Trades’ comments, BOEM has not clearly defined when OCS emissions “affect the air quality of any State.” In the Joint Industry Trades’ comments, they identify appropriate definitions. The requested changes incorporate our proposed definition of “affect the air quality of any State.” Paragraph (ii) provides the Regional Supervisor unfettered discretion without providing criteria for when alternative controls may be required.	550.306(a)(3) If you can demonstrate to the satisfaction of the Regional Supervisor that no technically feasible operational controls or equipment replacement(s) can be implemented cost effectively, then; (i) For any given pollutant, if your emissions would affect-only result in a NAAQS exceedance in a coastal attainment area(s), no ERM will be required with respect to that pollutant beyond that which was proposed in your plan. (ii) If your emissions affect-would result in a SIL exceedance in a coastal any non-attainment area(s) for a specific pollutant, the Regional Supervisor may require the implementation of other ERM for that pollutant in lieu of operational controls or equipment replacement(s) as a condition of approving your plan. For any proposed BACT, you must provide a description of the associated energy, environmental, and economic impacts, and other costs.
	550.306(b)	Unless you demonstrate to the satisfaction of the Regional Supervisor that no technically feasible control technology can be implemented cost effectively, your plan must include:	No changes to this paragraph	N/A
	550.306(b)(1)	An evaluation of the ERM you select, quantifying and verifying the emission reduction measure(s) and associated cost(s);	BOEM has not provided justification for requiring designated operators to provide costs “associated” with selected ERM. As this requirement applies to the selected ERM option, and is not intended to provide justification of economic infeasibility, Chevron requests that the “associated costs” phrase be removed due to confidential business information (CBI) concerns associated with providing this information. Furthermore, the language included in the proposed rule is unclear. If BOEM insists upon requiring cost data for the selected ERM option, BOEM must clarify what information is being required in the re-proposed rule.	An evaluation of the ERM you select, quantifying and verifying the emission reduction measure(s) and associated cost(s);
	550.306(b)(2)	A description of how your selected operational controls or replacement(s) of equipment meet the criteria in § 550.309 for emission reduction measures; and a calculation of your revised projected emissions (or complex total emissions, where applicable), taking into account your selected operational controls or replacement(s) of equipment.	See comments in § 550.302(b) regarding the removal of the term <i>complex total emissions</i> from this provision.	A description of how your selected operational controls or replacement(s) of equipment meet the criteria in § 550.309 for emission reduction measures; and a calculation of your revised projected emissions (or complex total emissions, where applicable), taking into account your selected operational controls or replacement(s) of equipment.
	550.306(c)	Upon making a commitment to apply the appropriate operational controls or replacement(s) of equipment or other ERM in lieu of operational controls or replacement(s) of equipment, BOEM may approve your plan, provided all other applicable requirements have been met.	Chevron requests that this paragraph be removed. BOEM’s option to approve the plan is inherent to the process.	Upon making a commitment to apply the appropriate operational controls or replacement(s) of equipment or other ERM in lieu of operational controls or replacement(s) of equipment, BOEM may approve your plan, provided all other applicable requirements have been met.
	550.306(d)	In the event that BOEM obtains information or data that would indicate that your projected emissions may cause the NAAQS to be exceeded, the Regional Supervisor may require you to provide additional data, analysis, or modeling to demonstrate compliance with the NAAQS or may require that you implement additional ERM so that the NAAQS are not exceeded.	This language is unnecessary as BOEM regulation already includes other opportunities to request additional information and analyses. See provisions of § 550.308(a) below. Additionally, BOEM’s Proposed Rule would provide BOEM authority to request additional information or require additional emission reduction measures if BOEM has “data” that would indicate that an OCS facility’s projected emissions may cause a NAAQS to be exceeded. After the extensive modeling demonstration required under BOEM’s Proposed Rule, it is difficult to envision that alternative data would provide a scientific basis to dispute the findings in the modeling report. Moreover, as crafted, proposed § 550.306(d) is overly broad and provides BOEM authority to require any information or any ERM, even for an OCS facility that has not been shown to significantly impact the ambient air quality of any	In the event that BOEM obtains information or data that would indicate that your projected emissions may cause the NAAQS to be exceeded, the Regional Supervisor may require you to provide additional data, analysis, or modeling to demonstrate compliance with the NAAQS or may require that you implement additional ERM so that the NAAQS are not exceeded.

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			State. Therefore, Chevron requests that this paragraph be removed from the re-proposed rule.	
<i>What ERM are required for a long-term facility?</i>	550.307(a)	<i>Control of emissions of VOCs from a long-term facility.</i> If any long-term facility requires ERM for VOCs under § 550.303(f), you must propose ERM for the facility. The extent of the ERM required depends on the attainment status of the State area affected by your projected emissions.	See comments to § 550.303(f)(1) above.	<i>Control of emissions of VOCs from a long-term facility.</i> If any long-term facility requires ERM for VOCs under § 550.303(f), you must propose ERM for the facility. The extent of the ERM required depends on the attainment status of the State area affected by your projected emissions.
	550.307(a)(1)	Except as provided in paragraph (3), if all the State areas potentially affected by your projected emissions of VOCs are designated as attainment areas for O ₃ and PM _{2.5} , then you must evaluate and propose ERM utilizing the process described for a short-term facility in § 550.306(a)(1) through (4) and consider all relevant ERM, excluding BACT. You must demonstrate in your plan that the ERM you propose, excluding BACT, will reduce the emissions of VOCs to the lowest practicable and reasonable rate, expressed in tpy. If you elect to propose BACT in lieu of an alternative ERM, you must provide a description of the associated energy, environmental, and economic impacts, and other costs.	See comments to § 550.303(f)(1) above.	Except as provided in paragraph (3), if all the State areas potentially affected by your projected emissions of VOCs are designated as attainment areas for O₃ and PM_{2.5}, then you must evaluate and propose ERM utilizing the process described for a short-term facility in § 550.306(a)(1) through (4)(5) and consider all relevant ERM, excluding BACT. You must demonstrate in your plan that the ERM you propose, excluding BACT, will reduce the emissions of VOCs to the lowest practicable and reasonable rate, expressed in tpy. If you elect to propose BACT in lieu of an alternative ERM, you must provide a description of the associated energy, environmental, and economic impacts, and other costs.
	550.307(a)(2)	Except as provided in paragraph (a)(3) of this section, if your projected emissions of VOCs potentially affect a State coastal area designated as a non-attainment area for O ₃ or PM _{2.5} , then you must evaluate BACT and other relevant ERM and propose ERM utilizing the process described for a short-term facility in § 550.306(a)(1) through (4). You must fully reduce the projected emissions of VOCs to a level not to exceed the EET for VOCs, as calculated for your plan in accordance with § 550.303(c). If your proposed ERM are insufficient to reduce the emissions of VOCs to a level that does not exceed the EET, you must propose and apply additional ERM until such reduction is achieved. For any proposed BACT, you must provide a description of the associated energy, environmental and economic impacts, and other costs.	See comments to § 550.303(f)(1) above.	Except as provided in paragraph (a)(3) of this section, if your projected emissions of VOCs potentially affect a State coastal area designated as a non-attainment area for O₃ or PM_{2.5}, then you must evaluate BACT and other relevant ERM and propose ERM utilizing the process described for a short-term facility in § 550.306(a)(21) through (4). You must fully reduce the projected emissions of VOCs to a level not to exceed the EET for VOCs, as calculated for your plan in accordance with § 550.303(c). If your proposed ERM are insufficient to reduce the emissions of VOCs to a level that does not exceed the EET, you must propose and apply additional ERM until such reduction is achieved. For any proposed BACT, you must provide a description of the associated energy, environmental and economic impacts, and other costs.
	550.307(a)(3)	<i>VOC waiver:</i> If your projected emissions of VOCs potentially affect a State coastal area but you can demonstrate that your VOCs will not cause an increase, or would cause a reduction, in the formation of O ₃ (i.e., reduce the O ₃ production efficiency), then no ERM are required for those VOCs.	As discussed in the Joint Industry Trades’ comments we support the concept of NOx and VOC waivers. Should BOEM retain NOx and VOC waivers as part of the rule, it would be useful to provide an example of a waiver analysis for an OCS source.	N/A
	550.307(b)	<i>Control of emissions of criteria air pollutants from a long-term facility.</i> If a long-term facility requires ERM for criteria air pollutants under § 550.305, then you must propose ERM and conduct modeling as specified below. The objectives of your proposal, and the extent to which additional requirements may apply, depend on the attainment status of the affected State area(s).	Requested clarification added to be consistent with the proposed new coastal areas definition add in § 550.302(b). Chevron suggests that BOEM consider including all air dispersion modelling requirements in one distinct section, as opposed to including some of the requirements in Sections 304 and 305, and other requirements in this section, Including modelling requirements in a sections titled “What ERM are required for a long-term facility?” is illogical.	<i>Control of emissions of criteria air pollutants from a long-term facility.</i> If a long-term facility requires ERM for criteria air pollutants under § 550.305, then you must propose ERM and conduct modeling as specified below. The objectives of your proposal, and the extent to which additional requirements may apply, depend on the attainment status of the affected State coastal area(s).
	550.307(b)(1)	If all State areas affected by your emissions are designated as attainment areas, then:	See comments to § 550.307(b) above.	If all State coastal areas affected by your emissions are designated as attainment areas, then:
	550.307(b)(1)(i)	You must consider all relevant ERM excluding BACT, utilizing the process described for a short-term facility in § 550.306(a)(1) through (4).	See comments to § 550.306(a) above.	You must consider all relevant ERM excluding BACT , utilizing the process described for a short-term facility in § 550.306(a)(1) through (4) (3)
	550.307(b)(1)(ii)	You must conduct modeling for all of the air pollutants set out in the table at 40 CFR 52.21(c) using the reduced projected emissions that result from your proposed ERM. If photochemical models are required under § 550.304, then you must also perform photochemical modeling and add the results of those models to the results of the subsequent model results.	See response to § 550.304(b)(1) above. Furthermore, as noted in other comments, specificity should be added to this paragraph that clarifies the pollutants subject to this provision are criteria air pollutants. Finally, it is requested that this requirement be amended to clarify that modelling would only applicable to criteria air pollutants that are still above the EET after using the reduced projected emission levels.	You must conduct modeling for all of the criteria air pollutants set out in the table at 40 CFR 52.21(e) 40 CFR part 50 that are above the EET using the reduced projected emissions that result from your proposed ERM reductions under 550.307(b)(1)(i) through (vi). If photochemical models are required under § 550.304, then you must also perform photochemical modeling and add the results of those models to the results of the subsequent model results.
	550.307(b)(1)(iii)	You must combine the ambient air concentrations resulting from the projected emissions of each relevant CP with those emissions of the same CP from other onshore and offshore sources which contribute to the consumption of the maximum allowable	The requested changes to this provision will ensure consistency with other changes discussed previously.	You must combine the ambient air concentrations resulting from the projected emissions of each relevant CP with appropriate background concentrations for that CP those emissions of the same CP from other onshore and offshore sources which contribute to the consumption of the maximum allowable increases above the baseline concentration for each pollutant and baseline area as established in 40 CFR 52.21. Compare your results with the NAAQSAAIs applicable to the Class area designation of the State

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		increases above the baseline concentration for each pollutant and baseline area as established in 40 CFR 52.21. Compare your results with the AAIs applicable to the Class area designation of the State area set out in table 40 CFR 52.21(c). (A) For this analysis, use the ambient air quality concentration data specified in § 550.304(e)(2). (B) As an alternative, you may instead model only the increment-related emissions increases and decreases between the baseline date and the modeling date (using emissions inventory data) for all relevant onshore and offshore sources, combined, and then compare the resulting modeled concentration change to the appropriate increment value, without regard to ambient background concentrations.		area set out in table 40 CFR 52.21(e) 40 CFR part 50. (A) For this analysis, use the ambient air quality concentration data specified in § 550.304(e)(2). (B) As an alternative, you may instead model only the increment-related emissions increases and decreases between the baseline date and the modeling date (using emissions inventory data) for all relevant onshore and offshore sources, combined, and then compare the resulting modeled concentration change to the appropriate increment value, without regard to ambient background concentrations.
	550.307(b)(1)(iv)	If your projected emissions affect State areas with multiple class area designations, then you must reduce your projected emissions to meet the AAIs set out in the table in 40 CFR 52.21(c), according to the requirements for each class area.	See comments to § 550.307(b)(1)(iii) above.	If your projected emissions and background concentration data affect State exceed a NAAQS in coastal areas with multiple class area designations , then you must reduce your projected emissions to meet the NAAQS AAIs set out in the table in 40 CFR 52.21(e) 40 CFR part 50, according to the requirements for each class area.
	550.307(b)(1)(v)	If your proposed ERM are sufficient to reduce projected emissions, such that projected concentrations do not exceed any of the AAIs, you must then conduct the analysis described in § 550.307(b)(1)(vi). If your modeling results exceed the AAIs for any given air pollutant, then you must continue to apply additional ERM to sources to reduce that pollutant until additional modeling confirms that your projected concentrations do not exceed any AAI. Having done this, you must then conduct the analysis described in § 550.307(b)(1)(vi).	See comments to § 550.307(b)(1)(iii) above.	If your proposed reductions under 550.307(b)(1)(i) and (vi) ERM are sufficient to reduce projected emissions, such that projected design concentrations do not exceed the relevant NAAQS no additional modelling or ERM analyses are required.any of the AAIs; you must then conduct the analysis described in § 550.307(b)(1)(vi). If your modeling results exceed the NAAQSAAIs for any given criteria air pollutant, then you must continue to apply additional ERM to sources to reduce that pollutant until additional modeling confirms that your projected concentrations do not exceed any NAAQSAAIs . Having done this, you must then conduct the analysis described in § 550.307(b)(1)(vi).
	550.307(b)(1)(vi)	You must conduct additional modeling, adding the appropriate background concentrations defined under § 550.302 and specified in § 550.304(e)(2) to your results, in order to determine the relevant design concentrations. You must compare the design concentrations for each criteria air pollutant with the NAAQS set out in 40 CFR part 50. If any of the NAAQS is exceeded for any air pollutant for any period of exposure, then you must propose additional ERM, and repeat the corresponding modeling, until you can demonstrate that your design concentrations do not exceed the NAAQS.	Request to delete unnecessary language as this requirement is addressed in § 550.307(b)(1)(v) above.	You must conduct additional modeling, adding the appropriate background concentrations defined under § 550.302 and specified in § 550.304(e)(2) to your results, in order to determine the relevant design concentrations. You must compare the design concentrations for each criteria air pollutant with the NAAQS set out in 40 CFR part 50. If any of the NAAQS is exceeded for any air pollutant for any period of exposure, then you must propose additional ERM, and repeat the corresponding modeling, until you can demonstrate that your design concentrations do not exceed the NAAQS.
	550.307(b)(2)	If your emissions affect any area designated as a non-attainment area, then you must evaluate BACT and other relevant ERM utilizing the process described for a short-term facility in § 550.306(a)(1) through (4) and consider all relevant ERM, including BACT. You must reduce the ambient impact of your emissions of all criteria air pollutants to a level that does not exceed the applicable SILs at 40 CFR 51.165(b)(2). You must conduct modeling using your revised projected emissions and compare the results with the SILs. If photochemical modeling is required under § 550.304, then you must also perform additional photochemical modeling and combine the results of that modeling with the results of the subsequent dispersion models. If your results exceed any SIL for any criteria air pollutant for any averaging time, then you must apply additional ERM until additional modeling demonstrates that all projected emissions have been fully reduced so that no SIL is exceeded for any criteria air pollutant over any applicable averaging time. Having done this, you must then conduct the analysis described in § 550.307(b)(1)(vi).	The requested changes to this provision will ensure consistency with other changes discussed previously. In addition, Chevron believes that BOEM may require emissions controls only for certain OCS facilities (those that significantly impact the ambient air quality of a State) and only for the purpose of NAAQS compliance. Chevron also disagrees with the Proposed Rule’s inclusion of a BACT- like process for establishing emissions control requirements. Notwithstanding these positions, any control technology requirement in the final rule must consider the economic impacts of requiring control including consideration of , “ ...any existing pollution control technology in use at the source, the remaining useful life of the source, and the degree of improvement in [NAAQS compliance] which may reasonably be anticipated to result from use of the technology.”¹ These are the types of consideration Congress mandated that EPA consider in context of a best available retrofit analysis, and these considerations are appropriate for OCS emissions sources that may likewise require retrofitting of additional emissions controls. The emissions control decision framework also must consider safety factors as such issues are paramount to OCS facility operations. For example, Congress recognized this in directing EPA to consider safety factors in applying reasonably available control technology to tank vessels.² BOEM should recognize safety not only in its provided safety exception, but in context of picking between two available control measures. ^[1]See CAA § 169A(g)(2) establishing considerations for best available retrofit technology. Rather than NAAQS compliance the text refers to visibility. 42 U.S.C. § 7491.	If your emissions significantly affect any coastal area designated as a non-attainment area, then you must evaluate BACT and other relevant ERM utilizing the process described for a short-term facility in § 550.306(a)(1) through (43) and consider all relevant ERM, including BACT . You must reduce the ambient impact of your emissions of all criteria air pollutants to a level that does not exceed the applicable SILs at 40 CFR 52.21(e) 40 CFR part 50. You must conduct modeling using your revised projected emissions and compare the results with the SILs. If photochemical modeling is required under § 550.304, then you must also perform additional photochemical modeling and combine the results of that modeling with the results of the subsequent dispersion models. If your results exceed any SIL for any criteria air pollutant for any averaging time, then you must apply additional ERM until additional modeling demonstrates that all projected emissions have been fully reduced so that no SIL is exceeded for any criteria air pollutant over any applicable averaging time. Having done this, you must then conduct the analysis described in § 550.307(b)(1)(vi).

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			^[2] See CAA § 183 (f)(1). 42 U.S.C. § 7511b.	
	550.307(c)(1)	<i>Exceptions to the ERM requirement:</i> (1) AAIs. For any averaging time other than an annual period, a facility’s projected emissions may cause an ambient impact that exceeds an applicable AAI one time during any rolling 12-month period for any given criteria air pollutant at any one location and still be considered to have fully reduced emissions.	We request this provision be deleted to be consistent with the removal of AAI provisions as discussed previously.	Exceptions to the ERM requirement: (1) AAIs. For any averaging time other than an annual period, a facility’s projected emissions may cause an ambient impact that exceeds an applicable AAI one time during any rolling 12-month period for any given criteria air pollutant at any one location and still be considered to have fully reduced emissions.
	550.307(c)(2)	NO _x Waiver: If your projected emissions of NO _x potentially affect a State coastal area, but you can demonstrate that those emissions would not cause an increase, or would cause a reduction, in the formation of O ₃ (i.e., reduce the O ₃ production efficiency), then no ERM are required for NO _x , unless: (i) The potentially affected area is an attainment area for NO _x and your analysis indicates that the AAIs for NO _x would be exceeded in the absence of such ERM; or (ii) The potentially affected area is a non-attainment area for NO _x .	As discussed in the Joint Industry Trades’ comments we support the concept of NO _x and VOC waivers. Should BOEM retain NO _x and VOC waivers as part of the rule, it would be useful to provide an example of a waiver analysis for an OCS source.	NO _x Waiver: If your projected emissions of NO _x potentially affect a State coastal area, but you can demonstrate that those emissions would not cause an increase, or would cause a reduction, in the formation of O ₃ (i.e., reduce the O ₃ production efficiency), then no ERM are required for NO _x , unless: (i) The potentially affected area is an attainment area for NO_x and your analysis indicates that the AAIs for NO_x would be exceeded in the absence of such ERM; or (ii) The potentially significantly affected area is a non-attainment area for NO ₂ .
	550.307(c)(3)	VOC Waiver. A VOCs waiver could apply, as described in § 550.307(a)(3).	No comments regarding this paragraph.	N/A
	550.307(c)(4)	Safety exception. If the implementation of a plan under these regulations would compromise the safety of the operation of the facility, and such implementation of any air quality standards or benchmarks cannot be otherwise addressed, then BOEM may waive the requirement to apply ERM.	Chevron supports this citation and requests that it be included in the definition of ERM to highlight from the start of the analysis. Chevron supports BOEM’s proposal to include a safety exception under Section 550.307(c)(4). It is important that BOEM include examples and an explanation in the preamble to the re-proposed rule so that BOEM’s intentions with respect to this provision are clear and affirmatively state that even a potential safety concern can warrant use of the safety exception.	Safety exception. If the implementation of a plan under these regulations would compromise the safety of the operation of the facility, and such implementation of any air quality standards or benchmarks cannot be otherwise addressed , then BOEM may waive the requirement to apply ERM.
	550.307(d)	<i>NAAQS requirement.</i> No concentration of an air pollutant may exceed the concentration permitted under any primary or secondary NAAQS.	As discussed in the Joint Industry Trades’ comments this provision is unreasonable and would essentially require OCS sources to completely offset their emissions if modelled impacts were shown to impact an area that is nonattainment even if the OCS source’s impact is insignificantly small. Therefore we request that this provision be deleted.	NAAQS requirement. No concentration of an air pollutant may exceed the concentration permitted under any primary or secondary NAAQS.
	550.307(e)	<i>Emissions credits.</i> You may propose to use emissions credits to achieve the equivalent reduction of emissions for any criteria air pollutant as an alternative to any other ERM, regardless of the attainment status of the State area affected by your potential emissions.	In concept, this emissions credit provision provides benefit to the OCS designated operators. However, because BOEM has not established any specific emission credit regulatory requirements and states do not generally have banking systems for areas designated as attainment, the usefulness of the emissions credit program is significantly limited and would be burdensome to implement solely on a case-by-case basis. See the Joint Industry Trades’ comments for additional information.	<i>Emissions credits.</i> You may propose to use emissions credits to achieve the equivalent reduction of emissions for any criteria air pollutant as an alternative to any other ERM, regardless of the attainment status of the State coastal area affected by your potential emissions.
<i>Under what circumstances will BOEM require additional ERM on my proposed facility or facilities?</i>	550.308(a)	<i>Regional Supervisor review.</i> You may be required to apply additional ERM, on either a temporary or permanent basis, depending on the circumstances, even though you have demonstrated compliance with the sections above, if BOEM determines that your projected emissions or, where applicable, complex total emissions, may cause or contribute to a violation of a NAAQS. The Regional Supervisor may make this determination based on:	"Cause or contribute to a violation of a NAAQS" is not the correct standard. To the extent that these provisions purport to allow the Regional Supervisor to mandate action where the OCS activity does not "significantly affect the air quality of any State for NAAQS compliance," they are outside BOEM's statutory authority. [See discussion above, related to 550.141(d).] Under the language of Section 5(a)(8), the air quality regulations implemented by BOEM are “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 this subchapter significantly affect the air quality of any State.” Accordingly, the regulations must be limited: - to pollutants for which EPA has issued NAAQS; - for compliance with the NAAQS; and	Regional Supervisor review. You may be required to apply additional ERM, on either a temporary or permanent basis, depending on the circumstances, even though you have demonstrated compliance with the sections above, if BOEM determines that your projected emissions or, where applicable, complex total emissions, may cause or contribute to a violation of a NAAQS. The Regional Supervisor may make this determination based on:

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			even where the regulations are for compliance with a NAAQS, they must be limited by the extent to which the regulated activities significantly affect the air quality on-shore for the relevant NAAQS. Furthermore, as discussed in the Joint Industry Trades’ comments, BOEM’s inclusion of provision that would allow the Regional Supervisor to simply ignore the entire proposed regulatory scheme, make his or her own NAAQS compliance determination, and impose his or her own emission controls at will, is plainly arbitrary. Therefore, we request that these provisions be deleted.	
	550.308(a)(1)	Information submitted by a State or local government, or a Federally-recognized Indian tribe;	See comments on § 550.308(a) above.	Information submitted by a State as part of SIP or local government, or a Federally-recognized Indian tribe;
	550.308(a)(2)	A cumulative impacts analysis conducted for an environmental impact statement (EIS) prepared to comply with the National Environmental Policy Act (NEPA);	See comments on § 550.308(a) above.	A cumulative impacts analysis conducted for an environmental impact statement (EIS) prepared to comply with the National Environmental Policy Act (NEPA);
	550.308(a)(3)	A compliance review of your proposed plan under § 550.232(b) for an EP, or § 550.267(c) for a DPP or DOCD; or	See comments on § 550.308(a) above.	A compliance review of your proposed plan under § 550.232(b) for an EP, or § 550.267(c) for a DPP or DOCD; or
	550.308(a)(4)	The declaration by an adjacent State, or the USEPA, of an air quality emergency for a location that may be affected by air emissions generated by your operations.	See comments on § 550.308(a) above.	The declaration by an adjacent State, or the USEPA, of an air quality emergency for a location that may be affected by air emissions generated by your operations.
	550.308(b)	<i>Lessee’s or operator’s right to challenge.</i> You will be given notice of the Regional Supervisor’s determination, as well as an opportunity to present additional information and analysis for review by the Regional Supervisor. If you present the Regional Supervisor with additional information and analysis, the Regional Supervisor will reassess whether your projected emissions, or complex total emissions, may cause or contribute to a violation of any NAAQS, and whether additional ERM will be required for your facility. The Regional Supervisor will then notify the State or local government, or Federally-recognized Indian tribe, and explain the reasons for this determination.	See comments on § 550.308(a)	Lessee’s or operator’s right to challenge. You will be given notice of the Regional Supervisor’s determination, as well as an opportunity to present additional information and analysis for review by the Regional Supervisor. If you present the Regional Supervisor with additional information and analysis, the Regional Supervisor will reassess whether your projected emissions, or complex total emissions, may cause or contribute to a violation of any NAAQS, and whether additional ERM will be required for your facility. The Regional Supervisor will then notify the State or local government, or Federally-recognized Indian tribe, and explain the reasons for this determination.
<i>What requirements apply to my ERM?</i>	550.309(a)	<i>Sufficiency.</i> Your proposed ERM must be sufficient to achieve actual emissions reductions corresponding to those reported in your plan for the duration of your plan’s operations under all reasonably foreseeable conditions. On a case-by-case basis, the Regional Supervisor will review your proposed ERM and make a determination whether such measures meet the applicable criteria.	We request the removal of unnecessary language as these items are already part of the plan review process.	<i>Sufficiency.</i> Your proposed ERM must be sufficient to achieve actual emissions reductions corresponding to those reported in your plan for the duration of your plan’s operations under all reasonably foreseeable conditions. On a case-by-case basis, the Regional Supervisor will review your proposed ERM and make a determination whether such measures meet the applicable criteria.
	550.309(b)	<i>Effectiveness.</i> You must continually ensure the effectiveness of your ERM for the duration of your plan’s operations. If your measures become disabled or unavailable, you must immediately notify the Regional Supervisor and replace such ERM with others of equal or superior effectiveness within 30 days of discovering the disability or unavailability, unless the Regional Supervisor approves an extension not to exceed 90 days.	The requested changes are proposed to improve clarity of this provision and to recognize that the limit to an extension period of 90 day is unreasonable for OCS operations that typically operate in remote and harsh environments. The requirements related to “effectiveness” and “control efficiency” are suitable for emissions sources installed with BACT, but do not apply to operational controls or emissions credits. BOEM should revise these requirements to only apply to emissions sources installed with BACT. In § 550.309(b), BOEM’s proposed language imposes a general obligation to assure that a facility continues to operate with the emission reduction measures in place. The proposed language, however, could be interpreted beyond that intent to require continuous operational monitoring to “continually ensure the effectiveness” of the emissions reduction measure. ERM’s are not necessarily add-on control devices, or installed on the facility’s own emissions sources, such that operations can be continuously monitored by a facility. Finally, all equipment will occasionally require downtime for maintenance or repair. In addition, Chevron is concerned that the timeframe for reporting “immediately” is overly stringent, and we do not believe that it is necessary to strictly limit the timeframe to find a replacement BACT to only 90 days. Equipment, for example, has been known to be backordered for periods far exceeding this time frame. Chevron recommends deleting this entire provision from the final rule, as it is unnecessary in light of	<i>Effectiveness.</i> You must continually ensure the effectiveness of your BACTERM for the duration of your plan’s operations. If your measures become permanently disabled or unavailable, such that your emissions exceed your facility’s maximum annual projected emissions as approved in your plan you must immediately notify the Regional Supervisor within 5 business days of such event, and set forth a schedule for and replacing such BACTERM with others of equal or superior effectiveness as soon as practicable within 30 days of after discovering the disability or unavailability. unless the Regional Supervisor approves an extension not to exceed 90 days.

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			other requirements to monitor, record, and report facility emissions. If BOEM retains the language in the final rule, then Chevron recommends the language be revised as proposed.	
	550.309(c)	<i>Control efficiency.</i> Your proposed ERM must reflect actual ECE. You must substantiate any ECE that you project and provide sufficient evidence to justify your ECE to the satisfaction of the Regional Supervisor.	Substantiating actual emission control efficiency would likely require testing. BOEM should outline what is required to “substantiate” ECE as part of the rulemaking, allowing designated operators due process to comment. Furthermore, this provision should be limited to emission sources subject to BACT control requirements. Case law demonstrates that regulated entities and the public need sufficient criteria in a regulation to be on notice of what is proposed (so that they can comment on it) and what is required. The “fair notice” or “fair warning” doctrine prohibits an agency from imposing penalties, requirements, or liability where the agency’s policy or interpretation does not provide regulated parties with prior notice of what is required. Case law also indicates that a regulator (such as the Regional Supervisor here) cannot have discretion to create a new substantive requirement that would be subject to notice and comment (just as the law prevents regulation by NTL, the law prevents regulation by email/phone call). Because the decisions of the Regional Supervisor would “have the force and effect of law,” they cannot be exempt from notice-and-comment requirements. In addition, BOEM’s regulatory language is misguided because ERMs are used to compensate for a facility’s “projected emissions” which is not equivalent to the facility’s actual emissions. Actual efficiency, in practice, may vary from the theoretical efficiency achievable when operating at maximum design capacity. If BOEM uses theoretical maximums to predict emissions, then reductions should be based on this same currency. In this regard, manufacturers’ guarantees, when available, should provide a reliable source of information to estimate the emissions reduction or control efficiency. In general, even if a facility operates at a lower control efficiency when operating at lower operational levels, actual emissions from the emissions source are lower than would occur at a higher control efficiency and there is no need to discount the control efficiency when conducting a maximum-based emissions projection. Moreover, BOEM’s regulatory focus on “efficiency” is not necessarily the proper tool to measure the effectiveness of the emissions reduction measure for all emissions source types. For some, emissions reductions are better measured on a mass basis by comparing controlled to uncontrolled emissions rates. For these reasons, we request that the proposed requirements of § 550.309(c) be deleted.	<i>Control efficiency.</i> Your proposed ERM must reflect actual ECE. You must substantiate any ECE that you project and provide sufficient evidence to justify your ECE to the satisfaction of the Regional Supervisor.
	550.309(c)(1)	Should your substantiating data indicate a range of ECE, you must utilize the more conservative estimates (i.e., those that would result in lower ECE) in your analysis and modeling.	See comments on § 550.309(c) above.	Should your substantiating data indicate a range of ECE, you must utilize the more conservative estimates (i.e., those that would result in lower ECE) in your analysis and modeling.
	550.309(c)(2)	ECE estimates of 100 percent are generally not acceptable, except in cases where there is clear and convincing and/or historical evidence to justify their use.	See comments on § 550.309(c) above.	ECE estimates of 100 percent are generally not acceptable, except in cases where there is clear and convincing and/or historical evidence to justify their use.
	550.309(d)	<i>Emission reductions monitoring.</i> If ERM are contained in your approved plan, the Regional Supervisor may require that you provide actual emissions data and/or any other information annually that the Regional Supervisor deems necessary to verify the effectiveness of your proposed ERM or their emission control efficiency.	It is requested that this provision be updated to reflect that actual emissions monitoring would only be applicable in instances where control technology was employed as part of BACT requirements. There are already sufficient requirements under the monitoring and recordkeeping portion and GOADs to ensure compliance with operational limits. Additionally, case law demonstrates that regulated entities and	<i>Emission reductions monitoring.</i> If ERM BACT are contained in your approved plan, the Regional Supervisor may require that you provide actual emissions data and/or any other information annually that the Regional Supervisor deems necessary to verify the effectiveness of your proposed ERM BACT or their emission control efficiency as a condition the plan approval.

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			the public need sufficient criteria in a regulation to be on notice of what is proposed (so that they can comment on it) and what is required. The “fair notice” or “fair warning” doctrine prohibits an agency from imposing penalties, requirements, or liability where the agency’s policy or interpretation does not provide regulated parties with prior notice of what is required. Case law also indicates that a regulator (such as the Regional Supervisor here) cannot have discretion to create a new substantive requirement that would be subject to notice and comment (just as the law prevents regulation by NTL, the law prevents regulation by email/phone call). Because the decisions of the Regional Supervisor would “have the force and effect of law,” they cannot be exempt from notice-and-comment requirements. Because the proposed requirements are unclear, Chevron requests that BOEM provide additional clarity on the additional information that will be required to verify the effectiveness of the BACT in the re-proposed rule.	
	550.309(d)(1)	If your plan is approved subject to the application of ERM, you must ensure that the emissions associated with each emissions source for which ERM is required complies with the emissions verification requirements of § 550.311. The Regional Supervisor may require that you install emissions measurement meters if the Regional Supervisor determines that such meters are necessary to ensure compliance with this requirement.	It is requested that this provision be removed because it is duplicative of § 550.311.	If your plan is approved subject to the application of ERM, you must ensure that the emissions associated with each emissions source for which ERM is required complies with the emissions verification requirements of § 550.311. The Regional Supervisor may require that you install emissions measurement meters if the Regional Supervisor determines that such meters are necessary to ensure compliance with this requirement.
	550.309(d)(2)	If you propose or are required to install emissions meters or any other monitoring equipment, you must collect and maintain monthly logs of the relevant meter or monitoring equipment readings.	See comments on § 550.309(d)(1) above. Furthermore, it is unclear what the term “emissions meters” means as it is not defined in this Subpart.	If you propose or are required to install emissions meters or any other monitoring equipment, you must collect and maintain monthly logs of the relevant meter or monitoring equipment readings.
	550.309(e)	<i>Emissions credits.</i> For emissions credits, the following requirements also apply:	Chevron theoretically supports BOEM’s proposal to broaden the types of emissions reductions that can be used as emission credits to offset significant effects on t air quality for NAAQS compliance.. In practice, however, Chevron is concerned that the actual availability of emissions credits will be markedly limited by the lack of an organized banking structure to facilitate emission purchases and trades. In this respect, Chevron does not believe that the emissions credit approach as proposed provides a viable means of complying or reducing the existing burden of the rule. Notwithstanding, these concerns, BOEM should create a workable structure. There are some nuances of BOEM’s proposal that require refinement. Chevron disagrees with BOEM’s general statement that an emissions credit must reduce emissions in the specific AQCR. Since transformational pollutants such as ozone may form outside the AQCR, but transport into the AQCR, reductions outside the AQCR can provide meaningful benefits for the AQCR by reducing background concentrations in the area. In this regard, we believe that EPA’s allowance system may provide a source of emission reductions that have a net air quality benefit for an AQCR. Accordingly, Chevron believes that BOEM’s focus should be on the net air quality benefit and not the specific area from which the emission reduction originate. BOEM also proposes to require a facility to notify a State if it obtains an emissions credit from an onshore source. Section 25(a)(3) of OCSLA requires BOEM to submit any plan it receives to the Governor of an affected State within 10 days of receipt of such plan, which includes the air quality review. BOEM has not identified a statutory authority that allows BOEM to transfer its obligation to the facility with respect to any portion of the plan provisions, including use of onshore emission credits. Moreover, in light of BOEM’s obligation a separate and additional requirement on the facility is redundant and unnecessary, and BOEM should remove the requirements in Section 550.309(e)(6) from the re-proposed	<i>Emissions credits.</i> For emissions credits, the following requirements also apply:

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			rule. Finally, BOEM’s proposal in Section 550.309(e)(8) to limit use of emissions credits if BOEM would have to engage in “ongoing monitoring” to verify continued compliance seems to limit emissions reductions to use of only emissions reductions that occur from shutdown of a facility. Chevron suggests that BOEM remove this language from the final rule, and work on developing mechanism to facilitate use of emissions credits.	
	550.309(e)(1)	You must acquire your emissions credits from emissions source(s), either offshore or onshore, that affect the air quality of the same AQCR.	See comments in § 550.309(e) above.	You must acquire your emissions credits from emissions source(s), either offshore or onshore, that affect the air quality of the same AQCR.
	550.309(e)(2)	For a CP, the emissions credits that you propose must provide a net air quality benefit for the same pollutant; for a precursor pollutant, any emissions credits that you propose must provide a net air quality benefit for that CP for which the pollutant is a precursor.	See comments in § 550.309(e) above.	For a CP, the emissions credits that you propose must provide a net air quality benefit for the same pollutant; for a precursor pollutant, any emissions credits that you propose must provide a net air quality benefit for that CP for which the pollutant is a precursor.
	550.309(e)(3)	You must demonstrate to the Regional Supervisor that the emissions credit you propose binds you and any other parties who agree to lower their emissions.	See comments in § 550.309(e) above.	You must demonstrate to the Regional Supervisor that the emissions credit you propose binds you and any other parties who agree to lower their emissions.
	550.309(e)(4)	You must also demonstrate that any emissions reductions will last for a period of time sufficient to ensure your plan’s continued compliance with the provisions of this subpart. The Regional Supervisor may periodically require you to certify that the emissions reductions are still in place.	See comments in § 550.309(e) above.	You must also demonstrate that any emissions reductions will last for a period of time sufficient to ensure your plan’s continued compliance with the provisions of this subpart. The Regional Supervisor may periodically require you to certify that the emissions reductions are still in place.
	550.309(e)(5)	Any emissions credits must reduce emissions below rates otherwise required by law;	See comments in § 550.309(e) above.	Any emissions credits must reduce emissions below rates otherwise required by law;
	550.309(e)(6)	In addition to BOEM, you must notify the appropriate State air quality control jurisdiction of your proposal to acquire emissions offsets and, if necessary, its need to revise the State Implementation Plan to include the information regarding the emissions offsets you have acquired. You must provide evidence of such State notification to BOEM before you commence any operations that rely on the associated emissions credits.	See comments in § 550.309(e) above..	In addition to BOEM, you must notify the appropriate State air quality control jurisdiction of your proposal to acquire emissions offsets and, if necessary, its need to revise the State Implementation Plan to include the information regarding the emissions offsets you have acquired. You must provide evidence of such State notification to BOEM before you commence any operations that rely on the associated emissions credits.
	550.309(e)(7)	Emissions credits are allowed in those circumstances where BOEM can readily verify the historical emissions from the facility to be used for the emissions credit, and the emissions reduction associated with the acquired emissions credit.	See comments in § 550.309(e) above.	Emissions credits are allowed in those circumstances where BOEM can readily verify the historical emissions from the facility to be used for the emissions credit, and the emissions reduction associated with the acquired emissions credit.
	550.309(e)(8)	The approval of an emissions credit will be contingent upon receipt of proper documentation and will not be granted if such an emissions credit would require BOEM to engage in ongoing monitoring to verify continued compliance.	See comments in § 550.309(e) above.	The approval of an emissions credit will be contingent upon receipt of proper documentation and will not be granted if such an emissions credit would require BOEM to engage in ongoing monitoring to verify continued compliance.
	550.309(e)(9)	Nothing in these regulations is intended to restrict emissions credits from being obtained and shared by multiple lessees or operators.	See comments in § 550.309(e) above.	Nothing in these regulations is intended to restrict emissions credits from being obtained and shared by multiple lessees or operators.
	550.309(f)	<i>Emission reduction measure(s) (ERM):</i> Unless otherwise specified, you may employ any operational control, equipment replacement(s), BACT, or emissions credit, on either a temporary or permanent basis, to reduce the amount of emissions that would occur in the absence of such measures. Any proposed ERM will become a condition of your plan upon approval and could be required on either a permanent or temporary basis, depending on the circumstances and location of the proposed facilities.	No comments on this provision.	
	550.309(f)(1)	In the event that you elect or are required to apply equipment replacement on a facility as the selected form of ERM, both the method of replacement and the equipment must comply with all other applicable federal regulations.	It is requested that this unnecessary language be removed. BOEM does not have legal authority to enforce other applicable federal regulations.	In the event that you elect or are required to apply equipment replacement on a facility as the selected form of ERM, both the method of replacement and the equipment must comply with all other applicable federal regulations.
	550.309(f)(2)	In the event that the equipment being replaced is part of an MSC subject to USCG regulation, such replacement must be implemented in such a manner as to comply with USCG regulations.	As explained in the Joint Industry Trades’ comments, BOEM does not have the legal authority to regulate MSCs. Furthermore, the owners of MSC’s and not the designated operators are responsible for compliance with USCG. As such this provision should be removed.	In the event that the equipment being replaced is part of an MSC subject to USCG regulation, such replacement must be implemented in such a manner as to comply with USCG regulations.

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How will revisions to the ambient air quality standards and benchmarks (AAQSB) affect my plan?	550.310(a)	<i>Review of plans.</i> BOEM will evaluate the air pollutant emissions data submitted in your plan for compliance with the AAQSBs in effect on the date your plan is deemed submitted.	We request the following changes to increase clarity of this provision and to make the regulatory language consistent with changes previously discussed. Furthermore, as noted in other comments, specificity should be added to this paragraph that clarifies the pollutants subject to this provision are criteria air pollutants.	<i>Review of plans.</i> BOEM will evaluate the criteria and precursor air pollutant emissions data submitted in your plan in accordance with the processes established in 550.303 and 550.304. for compliance with the The NAAQS and SILs that are AAQSBs -in effect on the date your plan is deemed submitted will be utilized (if necessary) to determine if ERM s are necessary.
	550.310(b)	<i>Proposed plans.</i> All activities described in initial, revised, modified, and supplemental plans must comply with the AAQSB in effect on the date the plan is deemed submitted, except:	See comments to § 550.310(a). Compliance with the NAAQS is a state obligation, not an obligation on the facility.	<i>Proposed plans.</i> All activities described in initial, revised, modified, and supplemental plans must comply with consider the NAAQS and SILs AAQSB in effect on the date the plan is deemed submitted, except:
	550.310(b)(1)	If your plan was deemed submitted shortly after the effective date of a new or revised AAQSB, and you believe the immediate application of the new or revised AAQSB is impracticable or would otherwise impose an unreasonable hardship on your proposed operations, then you may request a deferral from the requirement to comply with the new or revised standard. The Regional Director will review your request and may with the concurrence of the Director grant a temporary deferral, not to exceed two years, from compliance with the new or revised AAQSB based upon a finding of impracticability or undue hardship.	See comments to § 550.310(a). We support the option for a designated operator to request a two-year deferral. Planning for new productions facilities takes multiple years and unexpected changes to the AAQSB can pose significant schedule risks if the necessary DOCD approvals are delayed.	If your plan was deemed submitted shortly after the effective date of a new or revised NAAQS or SILsAAQSB , and you believe the immediate application of the new or revised NAAQS or SILsAAQSB is impracticable or would otherwise impose an unreasonable hardship on your proposed operations, then you may request a deferral from the requirement to have the air emissions evaluated utilizing the new or revised standard. The Regional Director will review your request and may with the concurrence of the Director grant a temporary deferral, not to exceed two years, from compliance with the new or revised AAQSB consistent with the length of time EPA provides to States to submit revised State Implementation Plans for the new or revised NAAQS based upon a finding of impracticability or undue hardship.
	550.310(b)(2)	Upon a finding that noncompliance with a new or revised AAQSB would not significantly affect the air quality of any State, the Director may grant a departure from compliance with the revised AAQSB. The Director may condition the departure upon any requirement(s) deemed necessary to avoid causing or contributing to a violation of the NAAQS.	BOEM has not explained in enough detail how this subsection could be acted upon by the Director. It is unclear how a finding of non-compliance with a new or revised NAAQS would be found to similarly not significantly affect air quality of any state. It is requested that this process be further clarified in the re-proposed rule.	Upon a finding that noncompliance with a new or revised NAAQSAAQSB would not significantly affect the air quality of any State coastal area , the Director may grant a departure from compliance with the revised NAAQSAAQSB . The Director may condition the departure upon any requirement(s) deemed necessary to avoid causing or contributing to a violation of the NAAQS if the source would significantly affect the ambient air quality of the State.
	550.310(c)(1)	<i>Approved plans.</i> (1) In order to ensure that your emissions remain compliant with any changes to the NAAQS, you are required to resubmit your plan for a periodic air quality review ten years after BOEM’s previous approval of your plan, as further defined in paragraph (c)(2) of this section. A plan resubmitted pursuant to this provision must be updated to comply with the requirements of § 550.205 as they exist at the time of the plan resubmission, including the most current data on emissions factors and MSC emissions, and must be reevaluated against the EETs and formulas as they exist at the time of the plan resubmission. When you resubmit a plan under this provision, that plan must include estimates for the annual projected emissions for the subsequent ten years, or for however long the plan’s facility or facilities would be expected to remain in operation, whichever is shorter. With respect to the emissions calculations for any given emissions source, the resubmitted plan must account for the most recent available data on the actual emissions of the relevant emission source. All of the applicable requirements of this subpart in effect on the date of resubmission apply on the same basis to a resubmitted plan as for an initial plan.	As discussed in the Joint Industry Trades’ comments, the requirement to re-submit plans every 10 years is inconsistent with section 25(h)(3) of OCSLA, which indicates that BOEM can only review an existing plan “based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan.” 43 U.S.C. § 1351(h)(3).	<i>Approved plans.</i> (1) In order to ensure that your emissions remain compliant with any changes to the NAAQS, you are required to resubmit your plan for a periodic air quality review ten years after BOEM’s previous approval of your plan, as further defined in paragraph (c)(2) of this section. A plan resubmitted pursuant to this provision must be updated to comply with the requirements of § 550.205 as they exist at the time of the plan resubmission, including the most current data on emissions factors and MSC emissions, and must be reevaluated against the EETs and formulas as they exist at the time of the plan resubmission. When you resubmit a plan under this provision, that plan must include estimates for the annual projected emissions for the subsequent ten years, or for however long the plan’s facility or facilities would be expected to remain in operation, whichever is shorter. With respect to the emissions calculations for any given emissions source, the resubmitted plan must account for the most recent available data on the actual emissions of the relevant emission source. All of the applicable requirements of this subpart in effect on the date of resubmission apply on the same basis to a resubmitted plan as for an initial plan.

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	550.310(c)(2)	In order to ensure that your emissions remain compliant with OCSLA, starting in 2020, BOEM will conduct periodic reviews of plans approved prior to the effective date of the new exemption thresholds. To accomplish this, from that year forward, you must submit the air quality component of your previously approved plan according to the following schedule, regardless of whether you have a change in emissions. <table><tr><th>Year the Plan was Approved</th><th>Year in Which Resubmission is Required:</th></tr><tr><td>Prior to 1980</td><td>2020</td></tr><tr><td>1980 through 1984</td><td>2021</td></tr><tr><td>1985 through 1989</td><td>2022</td></tr><tr><td>1990 through 1994</td><td>2023</td></tr><tr><td>1995 through 1999</td><td>2024</td></tr><tr><td>2000 through 2004</td><td>2025</td></tr><tr><td>2005 through 2009</td><td>2026</td></tr><tr><td>2010 through 2012</td><td>2027</td></tr><tr><td>2013 through 2014</td><td>2028</td></tr><tr><td>2015 through 2016</td><td>2029</td></tr><tr><td>2017 through 2018</td><td>2030</td></tr><tr><td>2019 through 2020</td><td>2031</td></tr><tr><td>2021 through 2022</td><td>2032</td></tr><tr><td>2023 and beyond</td><td>Ten years after year of approval</td></tr></table>	Year the Plan was Approved	Year in Which Resubmission is Required:	Prior to 1980	2020	1980 through 1984	2021	1985 through 1989	2022	1990 through 1994	2023	1995 through 1999	2024	2000 through 2004	2025	2005 through 2009	2026	2010 through 2012	2027	2013 through 2014	2028	2015 through 2016	2029	2017 through 2018	2030	2019 through 2020	2031	2021 through 2022	2032	2023 and beyond	Ten years after year of approval	See comment to § 550.310(c)(1) above.	In order to ensure that your emissions remain compliant with OCSLA, starting in 2020, BOEM will conduct periodic reviews of plans approved prior to the effective date of the new exemption thresholds. To accomplish this, from that year forward, you must submit the air quality component of your previously approved most recently approved supplemental or revised plan according to the following schedule, regardless of whether you have a change in emissions.— Delete Table below. <table><tr><th>Year the Plan was Approved</th><th>Year in Which Resubmission is Required:</th></tr><tr><td>Prior to 1980</td><td>2020</td></tr><tr><td>1980 through 1984</td><td>2021</td></tr><tr><td>1985 through 1989</td><td>2022</td></tr><tr><td>1990 through 1994</td><td>2023</td></tr><tr><td>1995 through 1999</td><td>2024</td></tr><tr><td>2000 through 2004</td><td>2025</td></tr><tr><td>2005 through 2009</td><td>2026</td></tr><tr><td>2010 through 2012</td><td>2027</td></tr><tr><td>2013 through 2014</td><td>2028</td></tr><tr><td>2015 through 2016</td><td>2029</td></tr><tr><td>2017 through 2018</td><td>2030</td></tr><tr><td>2019 through 2020</td><td>2031</td></tr><tr><td>2021 through 2022</td><td>2032</td></tr><tr><td>2023 and beyond</td><td>Ten years after year of approval</td></tr></table>	Year the Plan was Approved	Year in Which Resubmission is Required:	Prior to 1980	2020	1980 through 1984	2021	1985 through 1989	2022	1990 through 1994	2023	1995 through 1999	2024	2000 through 2004	2025	2005 through 2009	2026	2010 through 2012	2027	2013 through 2014	2028	2015 through 2016	2029	2017 through 2018	2030	2019 through 2020	2031	2021 through 2022	2032	2023 and beyond	Ten years after year of approval
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	550.310(c)(2)(i)	The plan is due to BOEM on the same month as the month in which the plan was originally approved.	See comment to § 550.310(c)(1) above.	The plan is due to BOEM on the same month as the month in which the plan was originally most recently approved.																																																												
	550.310(c)(2)(ii)	For an initially approved plan, the lessee or operator is required to resubmit the plan in accordance with the table in paragraph (c)(2) of this section.	See comment to § 550.310(c)(1) above.	For an initially plans approved after the effective date of these rules plan, the lessee or operator is required to resubmit the plan in accordance with the table in paragraph (c)(2) of this section.																																																												
	550.310(c)(2)(iii)	If a revised, modified, resubmitted, or supplemental plan is submitted within ten years from the date of the initial plan submittal, the new resubmission date would be ten years from the date of approval of the revised, modified, resubmitted, or supplemental plan.	See comment to § 550.310(c)(1) above.	If a revised, modified, resubmitted, or supplemental plan is submitted within ten years from the date of the initial plan submittal, the new resubmission date would be ten years from the date of approval of the revised, modified, resubmitted, or supplemental plan.																																																												
	550.310(c)(2)(iv)	If you fail to submit a revised plan as required under this section, then the previous approval of your plan is revoked. You may be subject to civil penalties or other appropriate sanctions for a regulatory violation, including the requirement to cease operations, as provided by 43 U.S.C. 1350.	See comment to § 550.310(c)(1) above.	If you fail to submit a revised plan as required under this section, then the previous approval of your plan is revoked. You may be subject to civil penalties or other appropriate sanctions for a regulatory violation, including the requirement to cease operations, as provided by 43 U.S.C. 1350.																																																												
<i>Under what circumstances will I be required to measure and report my actual emissions?</i>	550.311(a)	<i>Compliance demonstration conditions.</i> Under any of the following conditions, you must demonstrate that your actual emissions have at all times and continue to be in compliance with your previously approved plan:	BOEM proposes to require many facilities to conduct post construction emissions monitoring. Specifically BOEM proposes to require all emissions sources record fuel usage and activity data, and that emissions sources applying ERM, and “exceptionally large [facilities] be required to monitor their actual emissions” with Parametric Emission Monitoring Systems (PEMS). 81 Fed. Reg. at 19,745. In the preamble, BOEM bases its rationale for this requirement on the allegation that emission projections are unreliable because “it utilizes emissions projection for equipment, much of which is not yet in use at the particular site.” <i>Id.</i> This justification is lacking in at least two respects: 1) projections are proposed to be based on maximum rated capacity; and 2) as even BOEM acknowledges in its own regulatory text in proposed § 550.311(a)(3), historical operating data exists for many facilities. Chevron questions whether BOEM has legal authority to require any post-approval emissions monitoring, but even assuming this authority exists, verifying emissions does not require a continuous monitoring system such as PEMS. Chevron disagrees with mandating such a level of rigor as set forth in the Proposed Rule’s preamble. Nevertheless, BOEM requests comment on five different	<i>Compliance demonstration conditions.</i> Under any of the following conditions, you must demonstrate that your actual emissions have at all times and continue to be in compliance with your previously approved plan:																																																												

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		alternatives for determining which emissions sources the rule should require to monitor emissions. Those options include 1) setting a specific threshold; 2) adopting a case by case approach for determining facility monitoring requirements based on general criteria; 3) identifying emissions factors BOEM believes are unreliable; 4) setting a fixed percentage of the EET; 5) any combination of the above. Chevron does not support BOEM’s third, fourth or fifth alternative. BOEM has not demonstrated that it has the necessary expertise to rate EPA’s emission factors. BOEM’s fourth approach would be based on a premise that exempt facilities should still monitor emissions. OCSLA provides BOEM no authority to regulate exempt sources. EETs are set at highly conservative values, and even if projected emissions contain an error, exempt sources would have a very low probability of creating significant impacts on the ambient air quality of the State, and even a smaller probability of interfering with NAAQS compliance - - the two criteria BOEM must show before imposing a regulatory burden under its rule. Therefore, BOEM lacks authority to establish monitoring requirements for such emissions sources. Because the fifth alternative may encompass the third and fourth, Chevron does not support that alternative. Finally, while BOEM’s first and second alternatives have some appeal, BOEM’s proposal lacks sufficient specificity to provide meaningful comment on these approaches. Regardless of which approach BOEM selects and re-proposes, the final rule should only require monitoring, for the sources for which BACT is required. The final rule also must acknowledge the unique configurations and space limitations on OCS structures that may prevent a facility from actively monitoring emissions. As proposed in 30 CFR 550.306, Chevron requests the flexibility to account for technical and economic feasibility of monitoring systems. In Section 550.311(a), BOEM proposed to require a facility to demonstrate that actual emissions have complied with the approved plan at all times. As constructed this language could be interpreted in a manner that is overly restrictive for OCS operations. Chevron agrees that facilities should operate in a manner consistent with its approved plan, but the overarching concern is that total actual emissions for all emissions sources not exceed the values used to demonstrate that the facility will not cause a NAAQS compliance concern from a significant impact on the air quality of a State. In this regard, it is not essential that every piece of equipment adhere to individual emission limitations “at all times” to assure that total actual emissions from the facility do not exceed this value. Additionally, BOEM’s regulatory language is vague by failing to specify when and how often facility must make this “at all times” “demonstration.” The cited circumstances are also confusing as to the manner in which they relate to BOEM’s request for potential monitoring alternatives. None of the alternatives on which BOEM requests comments would align	
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			with the circumstances named in this provision in the rule. As proposed, however, the Proposed Rule lacks sufficient specificity to apprise potentially regulated entities of the requirements that would apply. Accordingly, BOEM should not finalize any of these requirements before re-proposing a concrete option. Based on the lack of clear foundation for the proposed requirements in Section 550.311(a), Chevron recommends that BOEM delete this provision from its final rule.	
	550.311(a)(1)	Your plan is approved subject to the implementation of BACT or emissions credits;	Under BOEM’s Proposed Rule, BOEM would impose BACT requirements absent any demonstration linking the BACT requirement to onshore air quality impacts. In this context, BOEM has not established why violating a BACT should trigger a comprehensive plan compliance demonstration. In this same Section, BOEM proposed to apply its “at all times” provision when a plan includes emissions credits. Yet, the emission reduction might originate from an emissions source other than the facility, and BOEM has not explained why use of emissions credits, in and of itself, justifies a higher level of scrutiny on plan compliance. Based on the lack of clear foundation for the proposed requirements in Section 550.311(a)(1), Chevron recommends that BOEM delete this provision from its final rule.	Your plan is approved subject to the implementation of BACT or emissions credits;
	550.311(a)(2)	Any emission source on your facility uses an engine that is not certified by the USEPA consistent with the requirements of 40 CFR 1042 or 40 CFR 1043, for U.S.-flag vessels, or that is not certified to the MARPOL Annex VI Regulation 13 requirements as required by the Act to Prevent Pollution from Ships, for foreign-flag vessels operating in the U.S.	In Section 550.311(a)(2), BOEM applies this “at all times” requirement to a facility using uncertified engines. Yet, BOEM already scrutinized use of these engines in the plan approval and will assign appropriate emissions tracking protocols for these emissions sources. Again, BOEM has not explained why use of a particular type of emissions source should result in a higher level of scrutiny on the entire plan, rather than just the emissions sources. Based on the lack of clear foundation for the proposed requirements in Section 550.311(a)(2), Chevron recommends that BOEM delete this provision from its final rule.	Any emission source on your facility uses an engine that is not certified by the USEPA consistent with the requirements of 40 CFR 1042 or 40 CFR 1043, for U.S.-flag vessels, or that is not certified to the MARPOL Annex VI Regulation 13 requirements as required by the Act to Prevent Pollution from Ships, for foreign-flag vessels operating in the U.S.
	550.311(a)(3)	The Regional Supervisor determines that your projected emissions, or complex total emissions, for any criteria or precursor air pollutant, calculated on either an annual basis or on the basis of a 12-month rolling sum, may significantly underestimate your actual emissions based either on historical data about your emissions sources or on ambient air monitoring.	In Section 550.311(a)(3), BOEM proposes to apply this provision when projected emissions underestimate actual emissions based on historical data or ambient air monitoring. BOEM should address discrepancies with projected emissions and historical operations in the plan approval, not after the fact. Additionally, ambient air monitoring cannot reliably predict a single facility’s contribution to the ambient air quality. A monitor measures all emissions moving into an area from any emitting source. Even if BOEM sets forth a scientifically valid approach for apportioning monitor concentrations to a single facility’s contribution to the ambient concentration, BOEM has not shown how it will relate the concentration to the facility’s mass emissions in any given circumstance. Based on the lack of clear foundation for the proposed requirements in Section 550.311(a)(3), Chevron recommends that BOEM delete this provision from its final rule.	The Regional Supervisor determines that your projected emissions, or complex total emissions, for any criteria or precursor air pollutant, calculated on either an maximum projected annual basis or on the basis of a 12-month rolling sum, may significantly underestimate your actual emissions based either on historical data about your emissions sources or on ambient air monitoring.
	550.311(a)(4)	BOEM determines that your facility causes or contributes to an exceedance of the NAAQS in any State.	Only States are empowered to determine the sauce of a NAAQS exceedance through the SIP process. BOEM is charged with assessing OCS emissions for significant affects onshore. Therefore, Chevron requests that the proposed provisions of 30 CFR 550.311(a)(4) be removed from the re-proposed rule.	BOEM determines that your facility causes or contributes to an exceedance of the NAAQS in any State.
	550.311(b)	<i>Emissions reporting requirements.</i> If you are required to make the demonstration described in this section:	No comments on this provision.	N/A

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	550.311(b)(1)	Your measurement of actual emissions must include enough of your emissions sources to ensure that the actual emissions associated with facilities and MSCs operating under your approved plan are consistent with the projected emissions approved for your plan. You must consider every source that was included in your approved plan in addition to any source that would be classified as part of your projected emissions if your plan were resubmitted under the current regulations.	As discussed in the Joint Industry Trades’ comments BOEM should limit the monitoring of actual emissions to emission sources installed with BACT. It would be more appropriate for the designated operators to propose which specific sources will be monitored as part of plan submittals as already required by 550.205(k). Additionally, as explained in the Joint Industry Trades’ comments, BOEM does not have the legal authority to regulate MSCs. Therefore, we request that this provision be deleted.	Your measurement of actual emissions must include enough of your emissions sources to ensure that the actual emissions associated with facilities and MSCs operating under your approved plan are consistent with the projected emissions approved for your plan. You must consider every source that was included in your approved plan in addition to any source that would be classified as part of your projected emissions if your plan were resubmitted under the current regulations.
	550.311(b)(2)	BOEM will consider various alternatives for reporting of relevant emissions sources. One option would be to monitor only the following key pieces of equipment:	Due to the incomplete and ambiguous nature of the proposed rule language, Chevron requests that this paragraph be removed. The language does not provide the public a meaningful opportunity to comment.	BOEM will consider various alternatives for reporting of relevant emissions sources. One option would be to monitor only the following key pieces of equipment:
	550.311(b)(2)(i)	For facilities, the required monitoring and reporting of engines would typically include: (A) Onboard facility engines; (B) Power generation engines; (C) Hydraulic power units (HPU) engines; (D) Deck cranes; (E) Cementing units; (F) Engines with a maximum power rating exceeding 200 hp (149 kW).	See comment to § 550.311(b)(2) above.	For facilities, the required monitoring and reporting of engines would typically include: (A) Onboard facility engines; (B) Power generation engines; (C) Hydraulic power units (HPU) engines; (D) Deck cranes; (E) Cementing units; (F) Engines with a maximum power rating exceeding 200 hp (149 kW).
	550.311(b)(2)(ii)	For facilities, monitoring and reporting would typically exclude: (A) Propulsion engines; (B) Boilers and incinerators; (C) Emergency generators; (D) Lifeboat engines.	See comment to § 550.311(b)(2) above.	For facilities, monitoring and reporting would typically exclude: (A) Propulsion engines; (B) Boilers and incinerators; (C) Emergency generators; (D) Lifeboat engines.
	550.311(b)(2)(iii)	For MSCs the sources, monitoring and reporting would likely include: (A) Propulsion engines; (B) Power generation engines; (C) Marine auxiliary engines; or, (D) Engines with a maximum power rating exceeding 200 hp (149 kW).	See comment to § 550.311(b)(1) and (2) above.	For MSCs the sources, monitoring and reporting would likely include: (A) Propulsion engines; (B) Power generation engines; (C) Marine auxiliary engines; or, (D) Engines with a maximum power rating exceeding 200 hp (149 kW).
	550.311(b)(2)(iv)	MSCs monitoring and reporting would typically exclude boilers and incinerators, emergency generators, and any engines onboard science vessels, OSVs, or lifeboats.	See comment to § 550.311(b)(1) and (2) above.	MSCs monitoring and reporting would typically exclude boilers and incinerators, emergency generators, and any engines onboard science vessels, OSVs, or lifeboats.
	550.311(b)(3)	Your demonstration must reflect your actual operations on the OCS and must be based exclusively on data derived from your actual equipment and not only on the basis of ECEs or fuel logs or activity data.	See comment to § 550.311(b)(2) above	Your demonstration must reflect your actual operations on the OCS and must be based exclusively on data derived from your actual equipment and not only on the basis of ECEs or fuel logs or activity data.
	550.311(b)(4)	You must be able to demonstrate that the data submitted to BOEM under this section is consistent with any data provided to BOEM under the requirements of §550.187.	See comment to § 550.311(b)(2) above	You must be able to demonstrate that the data submitted to BOEM under this section is consistent with any data provided to BOEM under the requirements of §550.187.
	550.311(b)(5)	You must provide the information required for this demonstration in a manner and on a schedule determined by the Regional Supervisor.	See comment to § 550.311(b)(2) above The regulatory text is ambiguous and provides unfettered discretion to the Regional Supervisor.	You must provide the information required for this demonstration in a manner and on a schedule determined by the Regional Supervisor.
	550.311(c)	<i>Notification requirements.</i> If, on the basis of your demonstration of actual emissions, you determine at any time your actual emissions exceed your projected emissions for any pollutant you must notify BOEM and provide BOEM with the appropriate data regarding the exceedance.	As BOEM has greatly expanded the number of emissions sources that have to be identified in the plan submittal, each additional source represents a potential whereby, actual emissions of each emission source could exceed its projected emissions. If BOEM requires this level of granularity, the administrative burden on designated operators is substantial. As noted in the <i>OOC Comments on Information Collection Request Submittal for Proposed Air Quality Control, Reporting and Compliance</i> dated May 5, 2016, BOEM has significantly underestimated the costs associated with this task. We request that notifications of an exceedance of projected emissions should be based on the sum of the entire facility’s annual emissions.	<i>Notification requirements.</i> If, on the basis of your demonstration of actual emissions, you determine at any time your facility’s actual annual emissions exceed your projected annual emissions as described in your plan for any pollutant you must notify BOEM and provide BOEM with the appropriate data regarding the exceedance;

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	550.311(d)	<i>Data submittal requirements.</i> You must submit data and information in a format, and using the forms as specified by BOEM. You must submit information in an electronically-readable format, unless otherwise directed by the Regional Supervisor. If you transmit the information to BOEM electronically, you must use a delivery medium or transmission method authorized by BOEM.	Chevron requests that OCS designated operators be provided an opportunity to review and comment on any forms that may be implemented through the formal rule making process.	<i>Data submittal requirements.</i> You must submit data and information in a standard format, and using the forms as specified by BOEM. You must submit information in an electronically-readable format, unless otherwise directed by the Regional Supervisor. If you transmit the information to BOEM electronically, you must use a delivery medium or transmission method authorized by BOEM.
What post-approval recordkeeping and reporting is required?	550.312(a)	<i>Stack testing.</i> If stack testing was used as a method to develop your emissions factors under § 550.205 or was used to develop any of the other information submitted pursuant to that section, then you must conduct the stack testing every three years and report the results, utilizing the General Provisions for Determining Standards of Performance for New Stationary Sources, Available at 40 CFR 60.8.	In most onshore permits and stack test provisions in federal standards, stack testing is limited to major emissions units and is limited to only initial testing or testing if modifications to the equipment are undertaken. Stack testing is far more complicated offshore than onshore due to safety considerations and space constraints, and should be limited accordingly. Considering the remoteness of the OCS facilities, and the safety considerations and space constraints, stack testing, at most, should be required only for the largest emissions units at a facility and then only initially or after significant modifications to the emissions unit that would make the previous testing invalid. Therefore we request that this provision be modified to eliminate the requirement to repeat testing every three years. Furthermore, we request the removal of the reference to 40 CFR 60.8 as this provision does not specify the reporting requirements associated with stack testing.	<i>Stack testing.</i> If stack testing was used as a method to develop your emissions factors under § 550.205 or was used to develop any of the other information submitted pursuant to that section, then you must conduct the stack testing every three years and report the results, utilizing the General Provisions for Determining Standards of Performance for New Stationary Sources, Available at 40 CFR 60.8.
	550.312(b)	<i>Fuel logs and activity data.</i> In order to demonstrate compliance with your plan, you must retain information on monthly fuel consumption, for each emissions source, including attributed emissions sources, showing the quantity, type, and sulphur content of fuel used; collect facility and equipment usage information, including hours of operation at each percent of capacity for each emissions source. Venting, flaring, flashing and any other release of any air pollutant emissions that would not otherwise be accounted for by fuel consumption must be reported for any emissions source that generates criteria air pollutants or precursor air pollutants in connection with OCS activities.	As discussed in the Joint Industry Trades’ comments the implementation of individual engine and emission source fuel or activity data monitoring is extremely costly and the benefits do not outweigh the costs. We request that BOEM revise these provisions to only require designated operators to be able to demonstrate compliance with the annual facility emissions included in the approved plan.	<i>Fuel logs and activity data.</i> In order to demonstrate compliance with your plan, you must retain information on monthly fuel consumption, for each emissions source, including attributed emissions sources, showing the quantity, type, and sulphur content of fuel used; collect facility and equipment usage information, including hours of operation at each percent of capacity for each emissions source. Venting, flaring, flashing and any other release of any air pollutant emissions that would not otherwise be accounted for by fuel consumption must be reported for any emissions source that generates criteria air pollutants or precursor air pollutants in connection with OCS activities.
	550.312(b)(1)	You must retain this information for a period of no less than ten years. You must submit this information to BOEM on a schedule set by the Regional Director.	A ten-year recordkeeping requirement is unprecedented, as EPA and States require facilities to retain information for periods ranging between two and five years. BOEM did not explain its basis for selecting a ten year period or why a facility must continue to keep copies of information for such a lengthy time when it already provides this information to BOEM on a periodic basis. Therefore it is requested that the recordkeeping time period be reduced to five years or the life of the plan, whichever is less.	You must retain this information for a period of no less than ten years five years or the life of your plan, whichever is less. You must submit this information to BOEM on a schedule set by the Regional Director.
	550.312(b)(2)	If BOEM obtains the relevant data for your attributed emissions from an independent third party, then the Regional Supervisor may waive the requirement to submit fuel logs or collect facility and equipment usage information for MSCs.	As explained in the Joint Industry Trades’ comments, BOEM does not have the legal authority to regulate MSCs. As such this provision should be removed.	If BOEM obtains the relevant data for your attributed emissions from an independent third party, then the Regional Supervisor may waive the requirement to submit fuel logs or collect facility and equipment usage information for MSCs.
	550.312(b)(3)	<i>Electronic Records.</i> Record-keeping and reporting must be consistent with the USEPA’s requirements for electronic reporting and recordkeeping requirements for new source performance standards.	It is requested that BOEM separate its reporting requirements from those of EPA. Adopting parts of the NSPS will create confusion and inconsistency in reporting.	<i>Electronic Records.</i> Record-keeping and reporting must be consistent with the BOEM’S USEPA’s standard requirements for electronic reporting and recordkeeping requirements for new source performance standards.
	550.312(c)	<i>Meteorological reporting.</i> The Regional Supervisor may require, for a period of time and in a manner approved or prescribed, that you collect and report meteorological data from any of your facilities. The Regional Supervisor may allow you to substitute facility-specific data for meteorological data derived from any other mutually agreed upon location.	As discussed in the Joint Industry Trades’ comments, this proposed provision fails to inform the regulated community of what is required, and consequently establishes a framework for rulemaking without due process. This provision must be sufficiently clear and specific so the regulated community has “fair notice” of the regulatory requirements. Case law demonstrates that regulated entities and the public need sufficient criteria in a regulation to be on notice of what is proposed (so that they can comment on it) and what is required. The “fair notice” or “fair warning” doctrine prohibits an agency from imposing penalties, requirements, or liability	<i>Meteorological reporting.</i> The Regional Supervisor may require, for a period of time and in a manner approved or prescribed, that you collect and report meteorological data from any of your facilities. The Regional Supervisor may allow you to substitute facility-specific data for meteorological data derived from any other mutually agreed upon location.

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			where the agency’s policy or interpretation does not provide regulated parties with prior notice of what is required. Case law also indicates that a regulator (such as the Regional Supervisor here) cannot have discretion to create a new substantive requirement that would be subject to notice and comment (just as the law prevents regulation by NTL, the law prevents regulation by email/phone call). Because the decisions of the Regional Supervisor would “have the force and effect of law,” they cannot be exempt from notice-and-comment requirements. As such it is requested that this provision be deleted as currently written.	
	550.312(d)	<i>Other information.</i> Notwithstanding any other provision within this subpart, the Regional Supervisor may require you to provide any other information within your possession, or otherwise reasonably obtainable, to support any finding or determination under this subpart.	These requirements would inappropriately allow BOEM to decide the scope, content, frequency, duration, and format for reporting on a case-by-case basis, outside the rulemaking process and without safe guards. There is no statutory authority for such a provision. Any required reporting must be no more than is “necessary and proper.” For example, it would be unnecessary and improper to require reporting of information with bearing on achieving compliance with the NAAQS, such as an OCS facility’s GHG or HAP emissions. Therefore, this provision is ambiguous and unclear and does not reasonably apprise the regulated community of the requirements with which it must comply. It is requested to be removed from the rule See comment on 30 CFR 550.312(c).	Other information. Notwithstanding any other provision within this subpart, the Regional Supervisor may require you to provide any other information within your possession, or otherwise reasonably obtainable, to support any finding or determination under this subpart.
	550.312(e)	<i>Additional requirements imposed by other agencies.</i> None of the provisions of this section would prevent the imposition of additional monitoring or reporting requirements on the part of BSEE or any other federal agency.	It is requested that this provision be deleted as additional monitoring and reporting requirements imposed by other agencies is not relevant to BOEMs authority and does not belong in this regulation.	Additional requirements imposed by other agencies. None of the provisions of this section would prevent the imposition of additional monitoring or reporting requirements on the part of BSEE or any other federal agency.
<i>Under what circumstances will BOEM impose additional requirements on facilities operating under already approved plans?</i>	550.313(a)	BOEM may impose additional air quality requirements on facilities operating under already approved plans if an applicable AAQSB changes or if BOEM determines:	As discussed in the Joint Industry Trades’ comments, we request that the provisions of § 550.313 be deleted in its entirety or rewritten to provided much needed clarification and ensure that the statutory authority of section 5(a)(8) of OCSLA is not exceeded.	BOEM may impose additional air quality requirements on facilities operating under already approved plans if an applicable AAQSB changes or if BOEM determines:
	550.313(a)(1)	Your operations are causing or contributing to a violation of the NAAQS, either individually or in combination with any other offshore operations;	See comment to § 550.313(a) above.	Your operations are causing or contributing to a violation of the NAAQS, either individually or in combination with any other offshore operations;
	550.313(a)(2)	Your plan was approved with either a NO_x waiver or a VOC wavier, and the air quality conditions in the affected State have changed to such an extent that your emissions of NO_x or VOCs would contribute to an increase in the ambient O₃ concentration such that the NAAQS for O₃ may be exceeded (in an attainment area), or the NAAQS for O₃ would continue to be exceeded (in an area that is non-attainment for O₃).	See comment to § 550.313(a) above.	Your plan was approved with either a NO_x waiver or a VOC wavier, and the air quality conditions in the affected State have changed to such an extent that your emissions of NO_x or VOCs would contribute to an increase in the ambient O₃ concentration such that the NAAQS for O₃ may be exceeded (in an attainment area), or the NAAQS for O₃ would continue to be exceeded (in an area that is non-attainment for O₃).
	550.313(a)(3)	Your plan was approved with a NO_x waiver, and the air quality conditions in the affected State have changed to such an extent that your emissions of NO_x would contribute to an increase in the ambient concentration of NO_x such that the NAAQS for NO_x may be exceeded (in an attainment area), or the NAAQS for NO_x would continue to be exceeded (in an area that is non-attainment for NO_x).	See comment to § 550.313(a) above.	Your plan was approved with a NO_x waiver, and the air quality conditions in the affected State have changed to such an extent that your emissions of NO_x would contribute to an increase in the ambient concentration of NO_x such that the NAAQS for NO_x may be exceeded (in an attainment area), or the NAAQS for NO_x would continue to be exceeded (in an area that is non-attainment for NO_x).
	550.313(a)(4)	Your operation is emitting unauthorized air pollutants;	See comment to § 550.313(a) above. Furthermore, as noted in other comments, specificity should be added to this paragraph that clarifies the pollutants subject to this provision are criteria air pollutants above levels approved in the plan for the facility.	Your operation is emitting unauthorized air pollutants;
	550.313(a)(5)	Your operation is creating conditions posing an unreasonable risk to public health or welfare; or	See comment to § 550.313(a) above.	Your operation is creating conditions posing an unreasonable risk to public health or welfare; or

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	550.313(a)(6)	Your operation is violating any applicable federal, State or tribal law related to air quality.	See comment to § 550.313(a) above. Furthermore, as discussed in the Joint Industry Trades’ comments, BOEM lacks the authority to impose requirements unrelated to compliance with the NAAQS on any OCS facility. As such BOEM has no legal authority to enforce violations of regulations under the jurisdiction of other agencies.	Your operation is violating any applicable federal, State or tribal law related to air quality.
	550.313(b)	If a plan was approved for a short-term facility that becomes a long-term facility, a new air quality plan must be submitted for the facility under the standards applicable to a long-term facility. If this reclassification resulted from adverse weather conditions, or other circumstances beyond your control, that prevented operations in your lease area, the Regional Director may grant a temporary exception for a period not to exceed the number of months that you were unable to operate.	See comment to § 550.313(a) above. Furthermore, a facility that has an approved plan as a short-term facility that than becomes a long-term facility would be operating outside of their approved plan and would be required to submit be authorized a new plan as a long-term facility under the rule requirements.	If a plan was approved for a short-term facility that becomes a long-term facility, a new air quality plan must be submitted for the facility under the standards applicable to a long-term facility. If this reclassification resulted from adverse weather conditions, or other circumstances beyond your control, that prevented operations in your lease area, the Regional Director may grant a temporary exception for a period not to exceed the number of months that you were unable to operate.
<i>Under what circumstances will the Regional Supervisor review the projected emissions from my existing facility or facilities?</i>	550.314(a)	A State, or a Federally-recognized Indian tribe, may request the Regional Supervisor to supply it with the air pollution data regarding an existing facility’s projected emissions, when such data are needed either for the updating of the State’s emissions inventory or because a State believes an existing facility’s projected emissions may cause or contribute to a violation of the NAAQS.	As discussed in the Joint Industry Trades’ comments, all proposed rule provisions related to Class I areas, Sensitive Class II areas, and consultation with FLMs or Federally-recognized Indian tribes should be removed. As noted in the OOC <i>Comments on Information Collection Request Submittal for Proposed Air Quality Control, Reporting and Compliance</i> dated May 5, 2016, the proposed collection of information goes beyond that necessary to properly perform BOEM’s functions under OCSLA Section 5(a)(8), and BOEM has not shown that it has taken every reasonable step to ensure that it is imposing the least burden necessary to perform such functions. Furthermore it is requested that the term <i>believes</i> be replaced with the term <i>determined</i> in the re-proposed rule.	A State, or a Federally-recognized Indian tribe, may request the Regional Supervisor to supply it with the air pollution data regarding an existing facility’s projected emissions, when such data are needed either for the updating of the State’s emissions inventory or because a State determined believes an existing facility’s projected emissions significantly affects the air quality of the State for NAAQS compliance may cause or contribute to a violation of the NAAQS.
	550.314(b)	The Regional Supervisor may require you to submit air pollutant emissions data to the State, or a Federally-recognized Indian tribe, submitting such a request.	See comments to § 550.314(a) above.	The Regional Supervisor may require you to submit air pollutant emissions data to the State, or a Federally-recognized Indian tribe, submitting such a request.
	550.314(c)	The State, or a Federally-recognized Indian tribe, submitting a request may submit information to BOEM that it believes indicates projected emissions from an existing facility may cause or contribute to a violation of the NAAQS. You will be given the opportunity to present information to the Regional Supervisor that demonstrates that your facility’s projected emissions do not cause such an effect.	See comments to § 550.314(a) above.	The State, or a Federally-recognized Indian tribe, submitting a request may submit information to BOEM that it believes indicates projected emissions from an existing facility significantly affects the air quality of the State for NAAQS compliance may cause or contribute to a violation of the NAAQS. You will be given the opportunity to present information to the Regional Supervisor that demonstrates that your facility’s projected emissions do not cause such an effect.
	550.314(d)	The Regional Supervisor will evaluate the new information submitted and will determine, based on the emissions data, the available meteorological data, and the distance of the facility from the SSB whether your actual emissions, including your attributed emissions, has the potential to cause or contribute to a violation of the NAAQS.	The requested changes are proposed to provide further clarity and to be consistent with previously discussed changes.	The Regional Supervisor will evaluate the new information submitted and will determine, based on the emissions data, the available meteorological data, and the distance of the facility from the SSB shoreline whether your facility’s projected-actual emissions, including your attributed emissions, has the potential to cause or contribute to a violation of the NAAQS significantly affect the air quality of the State for NAAQS compliance.
	550.314(d)(1)	If the Regional Supervisor determines that your existing facility’s projected emissions are unlikely to cause or contribute to a violation of the NAAQS, the Regional Supervisor will notify the requesting State, or a Federally-recognized Indian tribe, and you and explain the reasons for this finding.	See comments to § 550.314(a) above.	If the Regional Supervisor determines that your existing facility’s projected emissions are unlikely to significantly affect the air quality of the State for NAAQS compliance cause or contribute to a violation of the NAAQS, the Regional Supervisor will notify the requesting State, or a Federally-recognized Indian tribe, and you and explain the reasons for this finding.
	550.314(d)(2)	If the Regional Supervisor determines that your existing facility’s projected emissions have the potential to cause or contribute to a violation of the NAAQS, you must submit the additional information that the Regional Supervisor requests in order for BOEM to determine whether or not your existing facility causes or contributes to a violation of the NAAQS. You must submit this information within 120 days of the Regional Supervisor’s request, or within a longer period of time at the Regional Supervisor’s discretion.	As discussed elsewhere, the test is not “cause or contribute” but rather significantly affect air quality for NAAQS compliance. “Cause or contribute” should be deleted throughout. In addition, BOEM cannot undo the approval of a plant. Its <i>only</i> remedy should be that if it establishes a change in onshore conditions has occurred, it can request a reopening of the plan and provide an appropriate process for doing so.	If the Regional Supervisor determines that your existing facility’s projected emissions have the potential to cause or contribute to a violation of the NAAQS, you must submit the additional information that the Regional Supervisor requests in order for BOEM to determine whether or not your existing facility causes or contributes to a violation of the NAAQS. You must submit this information within 120 days of the Regional Supervisor’s request, or within a longer period of time at the Regional Supervisor’s discretion.
<i>What are the air quality requirements for pipeline rights-of-way holders?</i>	550.1012(a)	When you apply for or acquire a ROW in any part of the OCS under the air quality regulatory jurisdiction of the Department, you must:	It is requested that pipeline ROW be excluded from the requirements of Subpart C because their emissions are de minimis and would not cause significant air quality effects for air compliance or contribute to an exceedance of NAAQs.	When you apply for or acquire a ROW in any part of the OCS under the air quality regulatory jurisdiction of the Department, you must:
	550.1012(a)(1)	Include in your application the information required by § 550.205; and	See comments to § 550.1012(a) above.	Include in your application the information required by § 550.205; and

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	550.1012(a)(2)	Demonstrate that your activities will comply with the requirements of subpart C of this part.	See comments to § 550.1012(a) above.	Demonstrate that your activities will comply with the requirements of subpart C of this part.
	550.1012(b)	For the purpose of this section:	See comments to § 550.1012(a) above.	For the purpose of this section:
	550.1012(b)(1)	Any requirement in either § 550.205 or subpart C of this part that refers to plans should be interpreted to apply equally to ROW applications except for the provision regarding the consolidation of multiple facilities (§ 550.303(d)) and for the periodic resubmission of plans (§ 550.310(c));	See comments to § 550.1012(a) above.	Any requirement in either § 550.205 or subpart C of this part that refers to plans should be interpreted to apply equally to ROW applications except for the provision regarding the consolidation of multiple facilities (§ 550.303(d)) and for the periodic resubmission of plans (§ 550.310(c));
	550.1012(b)(2)	Any requirement in either § 550.205 or subpart C of this part that refers to lessees or operators applies equally to ROW holders or grantees, except that no additional requirements apply to any proposed or existing pipeline ROW or lease term pipeline holders, that are already included within the scope of an existing or proposed exploration or development plan.	See comments to § 550.1012(a) above.	Any requirement in either § 550.205 or subpart C of this part that refers to lessees or operators applies equally to ROW holders or grantees, except that no additional requirements apply to any proposed or existing pipeline ROW or lease term pipeline holders, that are already included within the scope of an existing or proposed exploration or development plan.
	550.1012(b)(3)	BOEM will notify BSEE of its determination that you have provided the information required by § 550.205 and met the requirements of subpart C of this part. If necessary, BOEM will notify BSEE of additional conditions necessary to ensure that your activities will comply with subpart C of this part.	See comments to § 550.1012(a) above.	BOEM will notify BSEE of its determination that you have provided the information required by § 550.205 and met the requirements of subpart C of this part. If necessary, BOEM will notify BSEE of additional conditions necessary to ensure that your activities will comply with subpart C of this part.