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§ 55.11 Delegation.

(a) The Governor or the Governor's designee of any State adjacent to an OCS source subject to the requirements of this part may submit a request, purusant to section 328(a)(3) of the Act, to the Administrator for the authority to implement and enforce the requirements of this OCS program: Within 25 miles of the State's seaward boundary; and/or Beyond 25 miles of the State's seaward boundary. Authority to implement and enforce §§ 55.5, 55.11, and 55.12 of this part will not be delegated.

(b) The Administrator will delegate implementation and enforcement authority to a State if the State has an adjacent OCS source and the Administrator determines that the State's regulations are adequate, including a demonstration by the State that the State has:

(1) Adopted the appropriate portions of this part into State law;

(2) Adequate authority under State law to implement and enforce the requirements of this part. A letter from the State Attorney General shall be required stating that the requesting agency has such authority;

(3) Adequate resources to implement and enforce the requirements of this part; and

(4) Adequate administrative procedures to implement and enforce the requirements of this part, including public notice and comment procedures.

(c) The Administrator will notify in writing the Governor or the Governor's designee of the Administrator's final action on a request for delegation within 6 months of the receipt of the request.

(d) If the Administrator finds that the State regulations are adequate, the Administrator will authorize the State to implement and enforce the OCS requirements under State law. If the Administrator finds that only part of the State regulations are adequate, he will authorize the State to implement and enforce only that portion of this part.

(e) Upon delegation, a State may use any authority it possesses under State law to enforce any permit condition or any other requirement of this part for which the agency has delegated authority under this part. A State may use any authority it possesses under State law to require monitoring and reporting and to conduct inspections.

(f) Nothing in this part shall prohibit the Administrator from enforcing any requirement of this part.

(g) The Administrator will withdraw a delegation of any authority to implement and enforce any or all of this part if the Administrator determines that: (1) The requirements of this part are not being adequately implemented or enforced by the delegated agency, or (2) The delegated agency no longer has adequate regulations as required by § 55.11(b) of this part.

(h) *Sharing of information.* Any information obtained or used in the administration of a delegated program shall be made available to EPA upon request without restriction. If the information has been submitted to the delegated agency under a claim of confidentiality, the delegated agency must notify the source of this obligation and submit that claim to EPA. Any information obtained from a delegated agency accompanied by a claim of confidentiality will be treated in accordance with the requirements of 40 CFR part 2.

(i) *Grant of exemptions.* A decision by a delegated agency to grant or deny an exemption request may be appealed to the Administrator in accordance with § 55.7 of this part.

(j) *Delegated authority.* The delegated agency in the COA for sources located within 25 miles of the State's seaward boundary or the delegated agency in the NOA for sources located beyond 25 miles of the State's seaward boundary will exercise all delegated authority. If there is no delegated agency in the COA for sources located within 25 miles of the State's seaward boundary, or in the NOA for sources located beyond 25 miles of the State's seaward boundary, the EPA will issue the permit and implement and enforce the requirements of this part. For sources located within 25 miles of the State's seaward boundary, the Administrator may retain the authority for implementing and enforcing the requirements of this part if the NOA and COA are in different States.

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