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on regulatory objectives, such as discouraging emissions. If the fee requirements are based on cost recovery objectives, however, EPA will adjust the fees to reflect the costs to EPA to issue permits and administer the permit program.

(3) Upon delegation, the delegated agency will collect fees from OCS sources calculated in accordance with the fee requirements imposed in the COA. Upon delegation of authority to implement and enforce any portion of this part, EPA will cease to collect fees imposed in conjunction with that portion.

(b) The OCS sources located beyond 25 miles of States' seaward boundaries. The EPA will calculate and collect operating permit fees from OCS sources in accordance with the requirements of 40 CFR part 71.

[57 FR 40806, Sept. 4, 1992, as amended at 61 FR 34228, July 1, 1996]

§ 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.

[57 FR 40806, Sept. 4, 1992, as amended at 62 FR 46409, Sept. 2, 1997]

§ 55.12 Consistency updates.

(a) The Administrator will update this part as necessary to maintain consistency with the regulations of onshore areas in order to attain and maintain Federal and State ambient standards and comply with part C of title I of the Act.

(b) Where an OCS activity is occurring within 25 miles of a State seaward boundary, consistency reviews will occur at least annually. In addition, in accordance with paragraphs (c) and (d) of this section, consistency reviews will occur upon receipt of an NOI and when a State or local agency submits a rule to EPA to be considered for incorporation by reference in this part 55.

(1) Upon initiation of a consistency review, the Administrator will evaluate the requirements of part 55 to determine whether they are consistent with the current onshore requirements.

(2) If the Administrator finds that part 55 is inconsistent with the requirements in effect in the onshore area, EPA will conduct a notice and comment rulemaking to update part 55 accordingly.

(c) *Consistency reviews triggered by receipt of an NOI*. Upon receipt of an NOI, the Administrator will initiate a consistency review of regulations in the onshore area.

(1) If the NOI is submitted by a source for which the COA has previously been assigned, EPA will publish a proposed consistency update in the FEDERAL REGISTER no later than 60 days after the receipt of the NOI, if an update is deemed necessary by the Administrator:

(2) If the NOI is submitted by a source requiring a COA designation, EPA will publish a proposed consistency update in the FEDERAL REGISTER, if an update is deemed necessary by the Administrator:

(i) No later than 75 days after receipt of the NOI if no adjacent areas submit a request for COA designation and the NOA becomes the COA by default, or

(ii) No later than 105 days after receipt of the NOI if an adjacent area submits a request to be designated as COA but fails to submit the required demonstration within 90 days of receipt of the NOI, or

(iii) No later than 15 days after the date of the final COA determination if one or more demonstrations are received.

(d) *Consistency reviews triggered by State and local air pollution control agencies submitting rules directly to EPA for inclusion into part 55*. (1) EPA will propose in the FEDERAL REGISTER to approve applicable rules submitted by State or local regulatory agencies for incorporation by reference into § 55.14 of this part by the end of the calendar quarter following the quarter in which the submittal is received by EPA.

(2) State and local rules submitted for inclusion in part 55 must be rationally related to the attainment and maintenance of Federal or State ambient air quality standards or to the requirements of part C of title I of the Act. The submittal must be legible and unmarked, with the adoption date and the name of the agency on each page, and must be accompanied by proof of adoption.

(e) No rule or regulation that EPA finds to be arbitrary or capricious will be incorporated into this part.

(f) A source may not submit a complete permit application until any update the Administrator deems necessary to make part 55 consistent with the COA's rules has been proposed.