

[Federal Register: July 15, 1994]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL-5013-2]

Outer Continental Shelf Air Regulations; Delegation of Authority;  
South Coast Air Quality Management District, State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

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SUMMARY: The Regional Administrator for EPA Region 9, San Francisco, has delegated authority to implement and enforce the requirements of the Outer Continental Shelf (OCS) program within 25 miles of the state's seaward boundary to the South Coast Air Quality Management District (SCAQMD or District), California. EPA reviewed the District's rules and regulations and has found them to be adequate for delegation, provided that the District meets the requirements of 40 CFR 51.161(b) and 40 CFR part 124 by amending Rule 212, Standards for Approving Permits, to incorporate public notice and comment procedures for permitting of OCS facilities.

EFFECTIVE DATES: The effective date of the delegation of authority for SCAQMD is May 9, 1994.

ADDRESSES: Copies of the request for delegation of authority and EPA's letter of delegation are available for public inspection at EPA's Region 9 office during normal business hours and at the following location:

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765-4182.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Section (A-5-3), Air and Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105. (415) 744-1197.

SUPPLEMENTARY INFORMATION: The U.S. Environmental Protection Agency has delegated the authority to implement and enforce the requirements of the OCS rule (40 CFR part 55) to the SCAQMD. The final OCS rule was promulgated by EPA on September 4, 1992 pursuant to section 328 of the Clean Air Act (the Act). (57 FR 40792).

Under section 328(a) of the Act, EPA may delegate authority to implement and enforce the OCS air regulations to a state if that state is adjacent to an OCS source and the Administrator determines that the state's regulations are adequate. The State of California is adjacent to a number of OCS sources and the District's regulations have been reviewed by EPA. The following criteria for delegation are set forth at 40 CFR 55.11:\1\ (1) the state has adopted the appropriate portions of 40 CFR part 55 into law; (2) the state has adequate authority under state law to implement and enforce the requirements of part 55; (3) the state has adequate resources to implement and enforce the requirements of part 55; and (4) the state has adequate administrative procedures to

implement and enforce the requirements of part 55, including public notice and comment procedures.

\1\The term ``state'' as used in the delegation criteria refers to the local air pollution permitting agency--SCAQMD.

The following delegation agreement represents the terms and conditions of the delegation to the SCAQMD:

U.S. EPA--South Coast Air Quality Management District, Agreement for Delegation of Authority for Outer Continental Shelf Air Regulations (40 CFR Part 55)

The undersigned, on behalf of the South Coast Air Quality Management District (``SCAQMD'' or ``the District'') and the United States Environmental Protection Agency (``EPA''), hereby agree to the delegation of authority from EPA to the SCAQMD to implement and enforce the requirements of the Outer Continental Shelf (``OCS'') Air Regulations (40 CFR part 55) within 25 miles of the state's seaward boundary, pursuant to section 328(a)(3) of the Clean Air Act (``the Act''), subject to the terms and conditions below. EPA has reviewed SCAQMD's request for delegation and has found that SCAQMD's regulations meet the requirements for delegation set forth at 40 CFR 55.11, provided that the District meets the requirements of 40 CFR 51.161(b) and 40 CFR part 124 by amending Rule 212, Standards for Approving Permits, to incorporate public notice and comment procedures for permitting of OCS facilities. Until the District Board approves an amended Rule 212 that meets the requirements of 40 CFR 51.161(b) and 40 CFR part 124, the District shall interpret the current Rule 212 to incorporate the requirements of 40 CFR 51.161(b) and 40 CFR part 124. In addition, the District shall provide a copy of its Rule 212 interpretation to all OCS sources regulated by the District, and a copy to the Administrator through the EPA Regional Office (Attn: A-5-1). The public notice distribution, for purposes of all major modifications to off-shore sources, shall be to the broadest possible scope of interested parties and shall include as a minimum:

- <bullet> Availability for public inspection in at least one location in the area affected of the information submitted by the owner or operator and of the State or local agency's analysis of the effect on air quality;
- <bullet> A 30-day period for submittal of public comment; and
- <bullet> A notice by prominent advertisement in the area affected of the location of the source information and the analysis of the effect on air quality. This delegation includes authority for the following sections of the Outer Continental Shelf Air Regulations:

| Section   | Title  |
|-----------|--|
| 55.1..... | Statutory authority and scope.   |
| 55.2..... | Definitions.   |
| 55.3..... | Applicability.   |
| 55.4..... | Requirements to submit a notice of intent.   |
| 55.6..... | Permit requirements.   |
| 55.7..... | Exemptions.  |
| 55.8..... | Monitoring, reporting, inspections, and compliance.  |
| 55.9..... | Enforcement.   |
| 55.10.... | Fees.  |
| 55.13.... | Federal requirements that apply to OCS sources.  |
| 55.14.... | Requirements that apply to OCS sources located within 25 miles of states' seaward boundaries by state. |

EPA is not delegating the authority to implement and enforce sections 55.5 (Corresponding onshore area designation), 55.11 (Delegation), and 55.12 (Consistency updates), as authority for these sections is reserved to the Administrator. The District has also adopted Appendix A to 40 CFR part 55, Listing of State and Local Requirements Incorporated by Reference into part 55, by State. The authority to revise or amend this section is reserved to EPA Region 9. In addition, SCAQMD has not yet received delegation of authority from EPA for implementation and enforcement of the federal Prevention of Significant Deterioration Program (PSD). Therefore, EPA shall retain authority for the PSD provisions of part C of the Act and the regulations promulgated thereunder at 40 CFR 52.21.

Under section 328(a)(3) of the Act, EPA may delegate authority to implement and enforce the OCS air regulations to a state if that state is adjacent to an OCS source and the Administrator determines that the state's regulations are adequate. The State of California is adjacent to a number of OCS sources. For the OCS sources for which the South Coast has been designated the corresponding onshore area (COA), the State has submitted SCAQMD's regulations to EPA and requested that EPA delegate to SCAQMD authority to implement and enforce the OCS air regulations. SCAQMD's regulations have been reviewed by EPA and, in conjunction with the District's commitment to amend Rule 212 to (1) incorporate public notice and comment procedures for OCS facilities; and (2) to interpret the current Rule 212 to incorporate public notice and comment procedures for OCS facilities until Rule 212 is amended, EPA determined the regulations to be adequate for implementing and enforcing the delegable sections of 40 CFR part 55.

The OCS air regulations set forth the following criteria for delegation at 40 CFR 55.11:

(1) The state has adopted the appropriate portions of 40 CFR part 55 into state law--SCAQMD adopted Rule 1183, Outer Continental Shelf Air Regulations, on March 12, 1993. This rule incorporates the provisions of 40 CFR part 55 that EPA is delegating to the District. (NOTE: Secs. 55.5 (corresponding onshore area designations), 55.11 (delegation), 55.12 (consistency updates), Appendix A (Listing of State and Local Requirements) were adopted by SCAQMD but EPA will not delegate authority for these sections, as provided by Sec. 55.11(a)).

(2) The state has adequate authority under state law to implement and enforce the requirements of part 55--According to a letter dated January 25, 1993 and forwarded to EPA from the State Attorney General, SCAQMD has the authority to implement and enforce the requirements of part 55.

(3) The state has adequate resources to implement and enforce the requirements of part 55--SCAQMD has submitted information documenting that the District has adequate resources to implement and enforce the requirements of part 55.

(4) The state has adequate administrative procedures to implement and enforce the requirements of this part, including public notice and comment procedures--SCAQMD's administrative procedures have been reviewed by EPA and found to be adequate assuming that the District: (1) amends Rule 212 for OCS sources in accordance with 40 CFR Sec. 51.161(b) and 40 CFR 124; and (2) interprets the current Rule 212 for OCS sources in accordance with 40 CFR 51.161(b) and 40 CFR 124.

EPA is delegating authority to implement and enforce part 55 pursuant to the SCAQMD's use of the following administrative and procedural rules:

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|---------------|--|------------------|
| Rule 104..... | Reporting of Source Test Data and Analysis.                                      | January 9, 1976. |
| Rule 105..... | Authority to Arrest.....   | January 9, 1976. |
| Rule 106..... | Increments of Progress.....  | January 9, 1976. |
| Rule 109..... | Recordkeeping for Volatile Organic Compounds.                                    | March 6, 1992.   |
| Rule 110..... | Rule Adoption Procedure to Assure Protection and Enhancement of The Environment. | October 7, 1988. |

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Regulation II--Permits

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| Rule 201..... | Permit to Construct.....   | January 5, 1990.   |
| Rule 203..... | Permit to Operate.....   | January 5, 1990.   |
| Rule 204..... | Permit Conditions.....   | March 6, 1992.     |
| Rule 210..... | Applications.....  | January 5, 1990.   |
| Rule 212..... | Standards for Approving Permits (provided the Rule is interpreted and implemented to require public notice and comment for OCS sources). | September 6, 1991. |
| Rule 214..... | Denial of Permits.....   | January 5, 1990.   |
| Rule 216..... | Appeals.....   | January 5, 1990.   |
| Rule 221..... | Plans.....   | January 4, 1985.   |

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Regulation III--Fees

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|---------------|-------------------------|----------------|
| Rule 301..... | Permit Fees.....        | June 11, 1993. |
| Rule 303..... | Hearing Board Fees..... | June 6, 1992.  |
| Rule 306..... | Plan Fees.....          | July 6, 1990.  |

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Regulation IV--Prohibitions

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| Rule 430..... | Breakdown Provisions..... | May 5, 1978. |
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Regulation V--Procedure Before the Hearing Board

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| Rule 501..... | General.....                                | February 5, 1988. |
| Rule 502..... | Filing Petitions.....                       | July 10, 1992.    |
| Rule 503..... | Petitions for Variances and Appeals.        | February 5, 1988. |
| Rule 503.1... | Ex Parte Petitions for Variances.           | February 5, 1988. |
| Rule 504..... | Rules from which Variances are not allowed. | January 5, 1990.  |
| Rule 506..... | Failure to Comply with Rules...             | February 5, 1988. |
| Rule 507..... | Pleadings.....                              | August 1, 1995.   |
| Rule 510..... | Notice of Hearing.....                      | February 5, 1988. |
| Rule 511..... | Evidence.....                               | February 5, 1988. |
| Rule 511.1... | Subpoenas.....                              | February 5, 1988. |
| Rule 513..... | Administrative Notice.....                  | February 5, 1988. |
| Rule 514..... | Continuances.....                           | February 5, 1988. |
| Rule 515..... | Findings and Decisions.....                 | March 6, 1992.    |
| Rule 517..... | Emergency Variances--                       | February 5, 1998. |

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Procedures--Breakdown.

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Regulation VII--Emergencies

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|---------------|---------------------------|----------------|
| Rule 703..... | Episode Criteria.....     | April 4, 1980. |
| Rule 704..... | Episode Declaration.....  | July 9, 1982.  |
| Rule 706..... | Episode Notification..... | April 4, 1980. |
| Rule 708..... | Plans.....                | July 9, 1982.  |

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Regulation VIII--Orders for Abatement

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| Rule 802..... | Order of Abatement.....         | August 1, 1975.   |
| Rule 803..... | Filing Petitions.....           | February 5, 1988. |
| Rule 806..... | Findings.....                   | February 5, 1988. |
| Rule 814..... | Official Notice.....            | August 1, 1975.   |
| Rule 816..... | Order and Decisions.....        | February 5, 1988. |
| Rule 817..... | Effective Date of Decision..... | August 1, 1975.   |

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Regulation IX--New Source Performance Standards

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April 9, 1993.....

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Regulation XII--Rules of Practice and Procedures Health and Safety Code  
Section 40509

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June, 1985.....

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Regulation XIII--New Source Review

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June 28, 1990.....

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Regulation XVII--Prevention of Significant Deterioration

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January 6, 1989.....

The District may use any administrative procedures it has under State law to implement and enforce the requirements of part 55. However, as stated in the preamble to part 55, as onshore, a variance will not shield a source from enforcement action by EPA.

Permits

Pursuant to Sec. 55.6:

(1) SCAQMD will require that the Applicant send a copy of any permit application required by 40 CFR 55.6 to the Administrator through the EPA Regional Office (Attn: A-5-1) at the same time as the application is submitted to SCAQMD.

(2) SCAQMD shall send a copy of any public comment notice required under Secs. 55.6, 55.13 or 55.14 to the Administrator through the EPA Regional Office (Attn: A-5-1) and to the Minerals Management Service.

(3) SCAQMD shall send a copy of any preliminary determination and

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any final permit action required under Secs. 55.6, 55.13, or 55.14 to the Administrator through the EPA Regional Office (Attn: A-5-1) at the time of the determination and shall make available to the Administrator any materials used in making the determination.

(4) SCAQMD shall provide written notice of any permit application from a source, the emissions from which may affect a Class I area, to the Federal Land Manager of that area.

(5) The District shall request EPA guidance on any matter involving the interpretation of section 328 of the Act, the delegated sections of the OCS regulations or any other provision of 40 CFR part 55 to the extent that implementation, review, administration or enforcement of these provisions has not been covered by determinations or guidance sent to the District.

(6) Pursuant to its authority under the Clean Air Act, EPA may review permits issued by the District under this agreement to ensure that the District's implementation of Rule 1183 is consistent with the time frames and requirements of the Federal regulations (40 CFR part 55).

### Exemptions

Pursuant to Sec. 55.7:

(1) SCAQMD shall transmit to the Administrator (through the Regional Office), the Minerals Management Service, and the U.S. Coast Guard, a copy of the permit application that includes an exemption request, or the request for exemption if no permit is required, within 5 days of its receipt.

(2) SCAQMD shall consult with the Minerals Management Service of the U.S. Department of the Interior and the U.S. Coast Guard to determine whether the exemption will be granted or denied.

(3) If SCAQMD, the Minerals Management Service, and the U.S. Coast Guard do not reach a consensus decision within 90 days from the day the SCAQMD received the exemption request, the request shall automatically be referred to the Administrator, who will process the referral in accordance with 40 CFR 55.7(f)(3). SCAQMD shall transmit to the Administrator, within 91 days of its receipt, the exemption request and all materials submitted with the request, such as the permit application or the compliance plan, and any other information considered or developed during the consultation process.

(4) SCAQMD will process exemption requests submitted with an approval to construct or permit to operate application in accordance with the procedures outlined in 40 CFR part 55.

### Monitoring, Reporting, Inspections, and Compliance

SCAQMD may use any authority it possesses under state law to require monitoring and reporting, and to conduct inspections. The Administrator or SCAQMD shall consult with the Minerals Management Service and the U.S. Coast Guard prior to inspections. This shall in no way interfere with the ability of EPA or SCAQMD to conduct unannounced inspections.

### General Conditions

(1) SCAQMD shall implement and enforce the Federal requirements of 40 CFR 55.13 as well as the applicable state and local requirements contained in 40 CFR 55.14. Notwithstanding the above, EPA retains authority for implementation and enforcement of the PSD requirements of part C of the Act and 40 CFR 52.21. The District shall notify sources that may be subject to part C of the Act and 40 CFR 52.21 that they must apply to EPA for a permit. The District's failure to notify sources shall not affect EPA's exercise of its enforcement and implementation authority.

(2) The primary responsibility for enforcement of the OCS air regulations delegated to the District shall rest with the SCAQMD. Nothing in this agreement shall prohibit EPA from enforcing the OCS requirements of the Clean Air Act, the OCS regulations, or the terms and conditions of any permit issued by the District pursuant to this agreement.

(3) In the event that the District is unwilling or unable to enforce a provision of this delegation with respect to a source subject to the OCS air regulations, the District will immediately notify the EPA Region 9 Regional Administrator. Failure to notify the Regional Administrator does not preclude EPA from exercising its enforcement authority.

(4) EPA shall retain authority to implement and enforce all requirements for OCS sources located beyond 25 miles from the state's seaward boundaries.

(5) This delegation may be amended at any time by the formal written agreement of both the SCAQMD and EPA including amendments to add, change, or remove conditions or terms of this agreement.

(6) If SCAQMD adopts revisions to the District regulations reviewed by EPA and found to meet the requirements set forth at 40 CFR 55.11 for delegation, the parties may amend the agreement pursuant to condition 5 above, or EPA may take steps to revoke the delegation in whole or in part pursuant to condition 7 below. Any amendments to regulations submitted by the District to meet the requirements of 40 CFR 55.11 shall not be applied under this agreement until EPA has reviewed such amendments and determined that they are still adequate to implement and enforce the delegable portions of 40 CFR part 55.

(7) This delegation, after consultation with the SCAQMD, may be revoked in whole or in part if EPA determines that the SCAQMD no longer meets the requirements for delegation set forth at 40 CFR 55.11(b)(1-4). Any such revocation shall be effective as of the date specified in a Notice of Revocation to the SCAQMD. In addition, this agreement shall be revoked if: (1) the District does not amend Rule 212, Standards for Approving Permits, to incorporate public notice and comment requirements for OCS sources by August 15, 1994; (2) the District fails to interpret the current Rule 212 to incorporate public notice and comment for OCS sources.

(8) This delegation of authority becomes effective upon the date of the signature of both parties to this Agreement.

(9) A notice of this delegated authority will be published in the Federal Register.

Dated: May 9, 1994.  
John Wise,  
Acting Regional Administrator, Region 9.

Dated: May 3, 1994.  
Dr. James Lents,  
Executive Officer, South Coast Air Quality Management District.

Dated: May 2, 1994.  
Peter M. Greenwald,  
District Counsel, SCAQMD.

#### EPA Action

The EPA hereby notifies the public that it has delegated the authority to implement and enforce the requirements of the OCS air regulations (40 CFR part 55) promulgated by EPA on September 4, 1992 to the above-referenced local agency.

The Office of Management and Budget has exempted this rulemaking from the requirements of section 6 of Executive Order 12866.

This notice is issued under the authority of section 328 of the

Clean Air Act, 42 U.S.C. 7627. S.C. Delegation.txt

Dated: June 16, 1994.  
John Wise,  
Acting Regional Administrator, Region 9.  
[FR Doc. 94-17296 Filed 7-14-94; 8:45 am]  
BILLING CODE 6560-50-P