

U. S. EPA - Ventura County APCD Agreement
for Delegation of Authority for
Outer Continental Shelf Air Regulations (40 CFR Part 55)

The undersigned, on behalf of the Ventura County Air Pollution Control District ("VCAPCD" or "the District") and the United States Environmental Protection Agency ("EPA"), hereby agree to the delegation of authority from EPA to VCAPCD to implement and enforce the requirements of the Outer Continental Shelf Air Regulations ("OCS") (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 VCAPCD's request for delegation and has found that VCAPCD's regulations meet the requirements for delegation set forth at 40 CFR § 55.11.

This delegation includes authority for the following sections of the Outer Continental Shelf Air Regulations:

| <u>Section</u> | <u>Title</u> |
|----------------|--|
| 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. In addition, VCAPCD does not have SIP-approved PSD regulations, nor has it received delegation of authority from EPA for implementation and enforcement of the federal PSD program. Therefore, EPA shall retain authority for the PSD provisions of part C of the Act and the regulations promulgated thereunder at 40 C.F.R. § 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 Ventura County APCD has been designated the corresponding onshore area (COA), the State has submitted VCAPCD's regulations to EPA and requested that EPA delegate authority to VCAPCD to implement and enforce the OCS air regulations. VCAPCD's regulations have been reviewed by EPA and determined to be adequate for implementing and enforcing the delegable sections of 40 CFR Part 55.

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

1) **The state has adopted the appropriate portions of 40 C.F.R. Part 55 into state law - VCAPCD adopted Rule 72.1, Outer Continental Shelf Air Regulations, on December 22, 1992. This rule incorporates the provisions of 40 CFR Part 55 that EPA is delegating to the District. (NOTE: section 55.5, corresponding onshore area**

designations, was adopted by VCAPCD but EPA will not delegate authority for this section, as provided by section 55.11(a)).

2) **The state has adequate authority under state law to implement and enforce the requirements of part 55** - According to the State Attorney General's January 12, 1993 letter which was forwarded to EPA, VCAPCD 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** - VCAPCD 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 part 55, including public notice and comment procedures** - VCAPCD's administrative procedures have been reviewed by EPA and found to be adequate. The following rules were submitted by VCAPCD for review to meet this requirement:

- Rule 8 Access to Facilities (Adopted 5/23/72, renumbered 11/21/78)
- Rule 9 Arrest Authority (Adopted 11/21/78)
- Rule 17 Disclosure of Air Toxics (Adopted 4/17/90)
- *Rule 25 Action on Applications (Adopted 1/10/84)
- Rule 26.7 New Source Review (Adopted 12/22/92)
- Rule 29 Conditions on Permits (Adopted 10/22/91)
- Rule 31 Public Disclosure of Data (Adopted 11/22/77)
- Regulation VIII Emergency Action (Adopted 11/22/77)

*District Rule 25 contains procedures for processing permit applications. When an exemption request is submitted, section 55.6(a)(2) will supersede Rule 25.

EPA maintains that the District may use any administrative procedures it has under State law to implement and enforce the requirements of part 55, such as a variance.

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 § 55.6:

(1) VCAPCD 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 VCAPCD.

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

(3) VCAPCD shall send a copy of any preliminary determination and any final permit action required under sections 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) VCAPCD 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 will request EPA guidance on any matter involving the interpretation of section 328 of the Act, the delegated sections of the OCS air 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 72.1 is consistent with the time frames and requirements of the federal regulations.

Exemptions

Pursuant to § 55.7:

(1) VCAPCD 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, or the request for exemption if no permit is required, within 5 days of its receipt.

(2) VCAPCD 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 VCAPCD, the Minerals Management Service, and the U.S. Coast Guard do not reach a consensus decision within 90 days from the day the VCAPCD 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). VCAPCD 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) VCAPCD will process exemption requests submitted with an approval to construct or permit to operate application in accordance with the procedures outlined in 40 CFR § 55.6(a)(2), which supersedes District Rule 25.

Monitoring, Reporting, Inspections, and Compliance

VCAPCD may use any authority it possesses under state law to require monitoring and reporting, and to conduct inspections. The Administrator or VCAPCD 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 VCAPCD to conduct unannounced inspections.

General Conditions

(1) VCAPCD agrees to 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.

(2) The primary responsibility for enforcement of the OCS air regulations delegated to the District will rest with the VCAPCD. Nothing in this agreement shall prohibit EPA from enforcing the OCS requirements of the Clean Air Act, the OCS air 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 states' seaward boundaries.

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

(6) If VCAPCD 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) If the U.S. EPA determines that: (a) the requirements of the OCS air regulations are not being adequately implemented or enforced by VCAPCD; or (b) VCAPCD no longer has adequate regulations as required by 40 CFR § 55.11(b) in accordance with the terms and conditions of this delegation, the requirements of 40 CFR Part 55, or the Clean Air Act, this delegation, after consultation with the VCAPCD, may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the VCAPCD.

(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.

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January 18, 1994
Dated

Judy Howard
Ventura County Air Pollution Control District

1.27.94
Dated

John Wise
Felicia Marcus *for*
Regional Administrator, Region 9