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be applicable if the source had a valid permit.

(iv) Any owner or operator subject to this subsection who continues to construct or operate an OCS source thirty days from promulgation of this part without submitting a TPA, or continues to construct or operate an OCS source not in accordance with the TPA submitted pursuant to paragraph (e) of this section, or constructs or operates an OCS source not in accordance with the schedule determined by the permitting authority, shall be in violation of this part.

(3) Upon the submittal of a permit application deemed to be complete by the permitting authority, the owner or operator of the source shall be subject to the permitting requirements of §§ 55.13 and 55.14 of this part that apply subsequent to the submission of a complete permit application. When a source receives the permit or permits required under this part, its TPA shall expire.

(4) Until the date that a source subject to this subsection receives the permit or permits required under this part, that source shall cease operation if, based on projected or actual emissions, the permitting authority determines that the source is currently or may in the future cause or contribute to a violation of a State or Federal ambient air quality standard or exceed any applicable increment.

[57 FR 40806, Sept. 4, 1992, as amended at 61 FR 34228, July 1, 1996; 62 FR 46409, Sept. 2, 1997]

§ 55.7 Exemptions.

(a) *Authority and criteria.* The Administrator or the delegated agency may exempt a source from a control technology requirement of this part if the Administrator or the delegated agency finds that compliance with the control technology requirement is technically infeasible or will cause an unreasonable threat to health and safety.

(b) *Request for an exemption—(1) Permit application required.* An applicant shall submit a request for an exemption from a control technology requirement at the same time as the applicant submits a preconstruction or operating permit application to the Administrator or delegated agency.

(2) *No permit application required.* If no permit or permit modification is required, a request for an exemption must be received by the Administrator or delegated agency within 60 days from the date the control technology requirement is promulgated by EPA.

(3) *Compliance plan.* An existing source that submits a compliance plan in accordance with § 55.6(b) of this part shall submit all requests for exemptions at the same time as the compliance plan. For the purpose of applying § 55.7 of this part, a request submitted with a compliance plan shall be treated in the same manner as a request that does not require a permit application.

(4) *Content of request.* (i) The request shall include information that demonstrates that compliance with a control technology requirement of this part would be technically infeasible or would cause an unreasonable threat to health and safety.

(ii) The request shall include a proposed substitute requirement(s) as close in stringency to the original requirement as possible.

(iii) The request shall include an estimate of emission reductions that would be achieved by compliance with the original requirement, an estimate of emission reductions that would be achieved by compliance with the proposed substitute requirement(s) and an estimate of residual emissions.

(iv) The request shall identify emission reductions of a sufficient quantity to offset the estimated residual emissions. Sources located beyond 25 miles from States' seaward boundaries shall consult with the Administrator to identify suitable emission reductions.

(c) *Consultation requirement.* If the authority to grant or deny exemptions has been delegated, the delegated agency shall consult with the Minerals Management Service of the U.S. Department of Interior and the U.S. Coast Guard to determine whether the exemption will be granted or denied.

(1) The delegated agency 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 if no permit is required, within 5 days of its receipt.

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(2) *Consensus.* If the delegated agency, the Minerals Management Service, and the U.S. Coast Guard reach a consensus decision on the request within 90 days from the date the delegated agency received the request, the delegated agency may issue a preliminary determination in accordance with the applicable requirements of paragraph (f) of this section.

(3) *No consensus.* If the delegated agency, the Minerals Management Service, and the U.S. Coast Guard do not reach a consensus decision within 90 days from the date the delegated agency received the request, the request shall automatically be referred to the Administrator who will process the referral in accordance with paragraph (f)(3) of this section. The delegated agency shall transmit to the Administrator, within 91 days of its receipt, the 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) If a request is referred to the Administrator and the delegated agency issues a preliminary determination on a permit application before the Administrator issues a final decision on the exemption, the delegated agency shall include a notice of the opportunity to comment on the Administrator's preliminary determination in accordance with the procedures of paragraph (f)(4) of this section.

(5) The Administrator's final decision on a request that has been referred pursuant to paragraph (c) of this section shall be incorporated into the final permit issued by the delegated agency. If no permit is required, the Administrator's final decision on the request shall be implemented and enforced by the delegated agency.

(d) *Preliminary determination.* The Administrator or delegated agency shall issue a preliminary determination in accordance with paragraph (f) of this section. A preliminary determination shall propose to grant or deny the request for exemption. A preliminary determination to grant the request shall include proposed substitute control requirements and offsets necessary to

comply with the requirements of paragraph (e) of this section.

(e) *Grant of exemption.* (1) The source shall comply with a substitute requirement(s), equal to or as close in stringency to the original requirement as possible, as determined by the Administrator or delegated agency.

(2) An OCS source located within 25 miles of States' seaward boundaries shall offset residual emissions resulting from the grant of an exemption request in accordance with the requirements of the Act and the regulations thereunder. The source shall obtain offsets in accordance with the applicable requirements as follows:

(i) If offsets are required in the COA, a new source shall offset residual emissions in the same manner as all other new source emissions in accordance with the requirements of § 55.5(d) of this part.

(ii) If offsets are not required in the COA, a new source shall comply with an offset ratio of 1:1.

(iii) An existing OCS source shall comply with an offset at a ratio of 1:1.

(3) An OCS source located beyond 25 miles from States' seaward boundaries shall obtain emission reductions at a ratio determined by the Administrator to be adequate to protect State and Federal ambient air quality standards and to comply with part C of title I of the Act.

(f) *Administrative procedures and public participation—*(1) *Request submitted with a permit application.* If a request is submitted with a permit application, the request shall be considered part of the permit application and shall be processed accordingly for the purpose of administrative procedures and public notice and comment requirements. The Administrator shall comply with the requirements of 40 CFR part 124 and the requirements set forth at § 55.6 of this part. If the Administrator has delegated authority to a State, the delegated agency shall use its own procedures as deemed adequate by the Administrator in accordance with § 55.11 of this part. These procedures must provide for public notice and comment on the preliminary determination.

(2) *Request submitted without a permit or with a compliance plan.* If a permit is not required, the Administrator or the

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delegated agency shall issue a preliminary determination within 90 days from the date the request was received, and shall use the procedures set forth at paragraph (f)(4) of this section for processing a request.

(3) *Referral.* If a request is referred to the Administrator pursuant to paragraph (c) of this section, the Administrator shall make a preliminary determination no later than 30 days after receipt of the request and any accompanying materials transmitted by the delegated agency. The Administrator shall use the procedures set forth at paragraph (f)(4) of this section for processing a request.

(4) The Administrator or the delegated agency shall comply with the following requirements for processing requests submitted without a permit, with a compliance plan, and requests referred to the Administrator:

(i) Issue a preliminary determination to grant or deny the request. A preliminary determination by the Administrator to deny a request shall be considered a final decision and will be accompanied by the reasons for the decision. As such, it is not subject to any further public notice, comment, or hearings. Written notice of the denial shall be given to the requester.

(ii) Make available, in at least one location in the COA and NOA, a copy of all materials submitted by the requester, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

(iii) Notify the public, by prominent advertisement in a newspaper of general circulation in the COA and NOA, of a 30-day opportunity for written public comment on the information submitted by the owner or operator and on the preliminary determination.

(iv) Send a copy of the notice required pursuant to paragraph (f)(4)(iii) of this section to the requester, the affected source, each person from whom a written request of such notice has been received, and the following officials and agencies having jurisdiction over the COA and NOA: State and local air pollution control agencies, the chief executive of the city and county, the Federal Land Manager of poten-

tially affected Class I areas, and any Indian governing body whose lands may be affected by emissions from the OCS source.

(v) Consider written public comments received within 30 days after the date the public notice is made available when making the final decision on the request. All comments will be made available for public inspection. At the time that any final decision is issued, the Administrator or delegated agency will issue a response to comments.

(vi) Make a final decision on the request within 30 days after the close of the public comment period. The Administrator or the delegated agency will notify, in writing, the applicant and each person who has submitted written comments, or from whom a written request of such notice has been received, of the final decision and will set forth the reasons. Such notification will be made available for public inspection.

(5) Within 30 days after the final decision has been made on a request, the requester, or any person who filed comments on the preliminary determination, may petition the Administrator to review any aspect of the decision. Any person who failed to file comments on the preliminary decision may petition for administrative review only on the changes from the preliminary to the final determination.

§ 55.8 Monitoring, reporting, inspections, and compliance.

(a) The Administrator may require monitoring or reporting and may authorize inspections pursuant to section 114 of the Act and the regulations thereunder. Sources shall also be subject to the requirements set forth in §§ 55.13 and 55.14 of this part.

(b) All monitoring, reporting, inspection and compliance requirements authorized under the Act shall apply.

(c) An existing OCS source that is not required to obtain a permit to operate within 24 months of the date of promulgation of this part shall submit a compliance report to the Administrator or delegated agency within 25 months of promulgation of this part. The compliance report shall specify all the applicable OCS requirements of this part and a description of how the