

determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office

of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Public

Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T07–110 is added to read as follows:

#### § 165.T07–110 Fireworks Safety Zone; Shelter Cove, Hilton Head, SC.

(a) *Regulated area:* The Coast Guard is establishing a temporary safety zone on the navigable waters of the Upper Broad Creek for a fireworks display. The temporary safety zone covers all waters from surface to bottom and extends 800 feet in all directions from the fireworks launch barges located on the Upper Broad Creek, Hilton Head, SC in approximate position 32°11.009' N 080°43.695' W.

(b) *Definitions.* The following definitions apply to this section:  
*Designated representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port Charleston (COTP) in the enforcement of the regulated area.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in this zone is prohibited, except as provided for herein, or unless authorized by the Coast Guard Captain of the Port Charleston, South Carolina or his designated representative. Persons and vessels may request permission to enter the safety zone on VHF–FM channel 16 or via phone at (843) 724–7616.

(d) *Enforcement Period.* This regulated area will be enforced from 8:30 p.m. until 10 p.m. each Tuesday between June 6 and August 22, 2006.

(e) *Dates.* This rule is effective from 8:30 p.m. on June 6 until 10 p.m. on August 22, 2006.

Dated: May 23, 2006.

**John E. Cameron,**

*Captain, U.S. Coast Guard, Captain of the Port Charleston, SC.*

[FR Doc. E6–9867 Filed 6–21–06; 8:45 am]

**BILLING CODE 4910–15–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R04–OAR–2006–0376–200611a; FRL–8187–1]

#### Approval and Promulgation of Implementation Plans Alabama: Open Burning Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Alabama State Implementation Plan (SIP), submitted by the Alabama Department of Environmental Management (ADEM) on March 9, 2006. The revisions include modifications to Alabama's open burning rules found at Alabama Administrative Code (AAC) Chapter 335-3-3-.01. These revisions are part of Alabama's strategy to meet the national ambient air quality standards (NAAQS) for fine particulates (PM<sub>2.5</sub>) and ozone. Open burning creates smoke that contains fine particles, volatile organic compounds and nitrogen oxides, precursors to ozone. ADEM has found that elevated levels of PM<sub>2.5</sub> mirror the months when ozone levels are highest (May-September), and that PM<sub>2.5</sub> levels remain elevated into October. These rules are intended to help control levels of PM<sub>2.5</sub> and ozone precursors that contribute to high ozone and PM<sub>2.5</sub> levels. This action is being taken pursuant to section 110 of the Clean Air Act (CAA).

**DATES:** This direct final rule is effective August 21, 2006 without further notice, unless EPA receives adverse comment by July 24, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number, "EPA-R04-OAR-2006-0376," by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. E-mail: [difrank.stacy@epa.gov](mailto:difrank.stacy@epa.gov).

3. Fax: 404-562-9019.

4. Mail: "EPA-R04-OAR-2006-0376," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

5. Hand Delivery or Courier: Stacy DiFrank, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division 12th floor, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID Number, "EPA-R04-OAR-2006-0376." EPA's policy is that all

comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Stacy DiFrank, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9042. Ms. DiFrank can also be reached via electronic mail at [difrank.stacy@epa.gov](mailto:difrank.stacy@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Today's Action**

On March 9, 2006, ADEM submitted to EPA proposed SIP revisions for review and approval into the Alabama SIP. The proposed revisions include changes made by the State of Alabama to its open burning regulations, found at AAC Chapter 335-3-3-.01. These rules became state effective on April 4, 2006.

In summary, the revisions submitted by ADEM include changes to the duration and location of open burning, and add other specific requirements for open burning for 2006 only. The original provisions that were part of Chapter 335-3-3-.01(2) still exist, with the exception of subpart (d), which was modified to include the month of October and four additional counties. These requirements include expansion of the seasonal May, June, July, August and September ban on open burning to now include the month of October, and the additional counties of DeKalb, Etowah, Russell, and Talladega. In addition, a new provision, 335-3-3-.01(2)(e) was added. The new provision also describes additional requirements for open burning during 2006 only, which allows open burning during the months of May, June, July, August, September and October in DeKalb, Etowah, Russell, and Talladega Counties, provided an air curtain incinerator is used to conduct the open burning. The proposed revisions summarized above are approvable pursuant to section 110 of the CAA.

##### **II. Final Action**

EPA is now taking direct final action to approve the proposed revisions, specifically, AAC Chapter 335-3-3-.01, into the Alabama SIP. This revision was submitted by ADEM on March 9, 2006. These revisions include the entirety of Alabama's open burning rules and are part of the State's strategy to meet the NAAQS by reducing emissions of volatile organic compounds, fine particulates and nitrogen oxides.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse

comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective August 21, 2006 without further notice unless the Agency receives adverse comments by July 24, 2006.

If EPA receives such comments, EPA will then publish a document withdrawing the direct final rule and informing the public that such rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on August 21, 2006 and no further action will be taken on the proposed rule.

### III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 21, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 12, 2006.

#### A. Stanley Meiburg,

*Acting Regional Administrator, Region 4.*

■ 40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

*Authority:* 42 U.S.C. 7401 *et seq.*

#### Subpart B—Alabama

■ 2. Section 52.50(c) is amended by revising the entry for “Section 335–3.01” to read as follows:

#### § 52.50 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

### EPA APPROVED ALABAMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Chapter 335–3–3				Control of Open Burning and Incineration

EPA APPROVED ALABAMA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Section 335-3-3-.01	Open Burning .....	04/04/2006	06/22/2006 [Insert citation of publication]	
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[FR Doc. 06-5598 Filed 6-21-06; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R04-OAR-2005-KY-0002-200531(c); FRL-8187-4]

**Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of the Boyd County SO<sub>2</sub> Nonattainment Area; Correction**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule; correction.

**SUMMARY:** On May 24, 2006 (71 FR 29786), EPA published a direct final document redesignating the Boyd County, Kentucky area to attainment for SO<sub>2</sub>. The Federal Docket Management System (FDMS) docket number was incorrectly referenced. This document corrects the docket number.

**DATES:** This action is effective June 22, 2006.

**ADDRESSES:** Copies of the documentation used in the action being corrected are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Stacy DiFrank, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9042. Ms. DiFrank can also be reached via electronic mail at [difrank.stacy@epa.gov](mailto:difrank.stacy@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA is making a correction to the document published on May 24, 2006, (71 FR 29786), approving a Kentucky SIP revision which redesignated the Boyd County Area to attainment for SO<sub>2</sub>. The FDMS docket number "R04-OAR-2005-KY-0002" was inadvertently stated in the May 24, 2006, document. The FDMS docket number in the heading and the **ADDRESSES** section on page 29786 (in columns one and two) of the final rule should read as follows: "EPA-R04-OAR-2005-KY-0002."

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: June 12, 2006.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 06-5602 Filed 6-21-06; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 55**

[OAR-2004-0091; FRL-8052-3]

**Outer Continental Shelf Air Regulations; Consistency Update for California**

**AGENCY:** Environmental Protection Agency ("EPA").

**ACTION:** Final rule—consistency update.

**SUMMARY:** EPA is finalizing the updates of the Outer Continental Shelf ("OCS") Air Regulations proposed in the **Federal Register** on December 1, 2005 and July 6, 2005. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area ("COA"), as mandated by section 328(a)(1) of the Clean Air Act Amendments of 1990

("the Act"). The portions of the OCS air regulations that are being updated pertain to the requirements for OCS sources for which the Santa Barbara County Air Pollution Control District, South Coast Air Quality Management District, State of California and Ventura County Air Pollution Control District are the designated COAs. The intended effect of approving the requirements contained in "Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources" (February, 2006), "South Coast Air Quality Management District Requirements Applicable to OCS Sources" (Parts I, II and III) (February, 2006), "State of California Requirements Applicable to OCS Sources" (February, 2006), and "Ventura County Air Pollution Control District Requirements Applicable to OCS Sources" (February, 2006) is to regulate emissions from OCS sources in accordance with the requirements onshore.

**DATES: Effective Date:** This rule is effective on July 24, 2006.

The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of July 24, 2006.

**ADDRESSES:** EPA has established docket number OAR-2006-0091 for this action. The index to the docket is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Allen, Air Division, U.S. EPA Region IX, (415) 947-4120, [allen.cynthia@epa.gov](mailto:allen.cynthia@epa.gov).

**SUPPLEMENTARY INFORMATION:**