## EPA APPROVED ALABAMA REGULATIONS—Continued

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**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\(_2\). 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.

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**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](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.

**SUPPLEMENTARY INFORMATION:**
I. Background

Throughout this document, the terms “we,” “us,” and “our” refer to U.S. EPA.

On July 6, 2005 (70 FR 38840), EPA proposed to incorporate requirements into the OCS Air Regulations pertaining to Santa Barbara County APCD and Ventura County APCD. On December 1, 2005 (70 FR 72094), EPA proposed to approve requirements into the OCS Air Regulations pertaining to South Coast AQMD and the State of California. These requirements are being promulgated in response to the submittal of rules from these California air pollution control agencies. EPA has evaluated the proposed requirements to ensure that they are rationally related to the attainment or maintenance of Federal or state ambient air quality standards or Part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure that they are not arbitrary or capricious. 40 CFR 55.12(e). In addition, EPA has excluded administrative or procedural rules.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states’ seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA’s flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA’s state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. Public Comments and EPA Responses

EPA’s proposed actions provided 30-day public comment periods. During these periods, we received no comments on the proposed actions. We received late comments from one party, the Western States Petroleum Association (WSPA), which submitted comments by letter dated January 31, 2006, over three weeks after the deadline. While EPA is not obligated to consider late comments, EPA has elected to do so in this instance. WSPA objects to the proposed promulgation of California’s Airborne Toxic Control Measure for Stationary Compression Ignition Engines (“ATCM”) under 40 CFR part 55. Our responses to WSPA’s specific comments are provided below.

Comment: WSPA had the understanding that the California Air Resources Board (CARB) did not intend to submit the ATCM to EPA for promulgation under the OCS regulations at 40 CFR part 55.

Response: We checked with CARB representatives who confirmed their intention to include the ATCM in the package of rules submitted to EPA for promulgation under 40 CFR part 55.

Comment: WSPA contends that promulgation of the ATCM under 40 CFR part 55 is unnecessary because the ATCM was developed to protect public health of receptors near the vicinity of stationary diesel engines and no such receptors are located in the vicinities of the platforms in the OCS.

Response: We recognize that the primary purpose of the ATCM is to reduce the general public’s exposure to diesel particulate matter (PM) from stationary diesel-fueled engines and that exposure of the general public to emissions from engines located on OCS platforms is minimal. However, we understand that CARB accounted for this relative lack of impact on nearby receptor locations by providing an exemption from operating requirements and emission standards for stationary diesel-fueled engines used solely on OCS platforms. See section 93115(c)(10) of title 17, California Code of Regulations. Also, we recognize, based on CARB’s Staff Report: Initial Statement of Reasons for Proposed Rulemaking (September 2003), that the ATCM serves other regulatory and planning purposes as well, such as establishing a record of where stationary compression-ignition (CI) engines are located, what fuel they use, and how they are operated and requiring new and in-use stationary CI engines to meet specified fuel requirements. Thus, the relative lack of impact on nearby receptor locations does not make promulgation of the ATCM under 40 CFR part 55 unnecessary or inappropriate.

Comment: WSPA contends that promulgation of the ATCM under 40 CFR part 55 is unnecessary because diesel engines operated on OCS platforms are exempt from the emissions control requirements of the ATCM.

Response: WSPA is correct that the ATCM exempts stationary diesel-fueled engines used solely on OCS platforms from operating requirements and emission standards (see section 93115(c)(10) of title 17, California Code of Regulations). However, such engines are not exempt from the fuels requirements of the ATCM nor are they exempt from the recordkeeping, reporting and monitoring requirements of the rule. Such requirements further legitimate air quality regulatory and planning purposes and thus the exemption for OCS sources from operating requirements and emission standards does not make promulgation of the ATCM under 40 CFR part 55 unnecessary or inappropriate.

Comment: WSPA contends that promulgation of the ATCM under 40 CFR part 55 is unnecessary because the ATCM would establish requirements related to fuel specifications and usage, engine operations, administrative recordkeeping and monitoring that have already been addressed in local air district rules or under federally enforceable permit conditions.

Response: We may reasonably presume based on the fact that CARB submitted the ATCM to EPA for promulgation under 40 CFR part 55 that the ATCM is not entirely duplicative of local air district rules or federally enforable permit conditions. Even if all OCS sources currently voluntarily comply with the ATCM fuel and recordkeeping requirements (which WSPA has not demonstrated), it would still be reasonable to assure compliance continues by incorporating the requirements into part 55.

Comment: WSPA contends that, depending upon how Santa Barbara County Air Pollution Control District (SBCAPCD) implements the ATCM, promulgation of the ATCM under 40 CFR part 55 could preclude the ability of companies to conduct normal business projects by imposing permit and offset requirements on engines that are used for drilling operations in the OCS and that are currently exempt from such requirements.

Response: Today’s action, i.e., promulgation of the ATCM under 40 CFR part 55, does not result in any changes to permit exemptions or offset requirements as they relate to OCS sources. If SBCAPCD decides to modify the local rules and regulations so as to extend permitting and offset applicability to engines used in offshore drilling operations that are currently exempt, the modifications in the rules will not apply to OCS sources.
until the rules are submitted and approved by EPA in a future part 55 rulemaking. The mere hypothetical possibility of purported adverse consequences for future off-shore drilling operations in the OCS in the wake of one possible regulatory response by SBCAPCD provides us with no basis upon which to decline to promulgate the ATCM under 40 CFR part 55.

III. EPA Action

In this document, EPA takes final action to incorporate the proposed changes into 40 CFR part 55. No changes were made to the proposed actions. EPA is approving the proposed actions under section 328(a)(1) of the Act, 42 U.S.C. 7627. Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states’ seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore.

IV. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled “Regulatory Planning and Review.”

B. Paperwork Reduction Act

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.).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. As was stated in the final OCS regulation, the OCS rule does not apply to any small entities, and the structure of the rule averts direct impacts and mitigates indirect impacts on small entities. This consistency update merely incorporates onshore requirements into the OCS rule to maintain consistency with onshore regulations as required by section 328 of the Act and does not alter the structure of the rule.

The EPA certifies that this notice of final rulemaking will not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that 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.” Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will 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, because it merely approves a state rule implementing a state or federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, 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. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Protection of Children From Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve
decisions intended to mitigate environmental health or safety risks.

**H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use**

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

**I. National Technology Transfer and Advancement Act**

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to perform activities conducive to the use of VCS.

**J. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 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). This action will be effective July 24, 2006.

**K. Petitions for Judicial Review**

Under section 307(b)(1) of the Clean Air Act, 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 action does not affect the finality of this action 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 55**

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

**Editorial Note:** This document was received at the Office of the Federal Register on June 16, 2006.

Wayne Nastri,
Regional Administrator, Region IX.


**PART 55—[AMENDED]**

1. The authority citation for part 55 continues to read as follows:

   **Authority:** Section 328 of the Clean Air Act (42 U.S.C. 7401 et seq.) as amended by Public Law 101–549.

2. Section 55.14 is amended by revising paragraphs (e)(3)(i)(A), (e)(3)(ii)(F), (e)(3)(ii)(G), and (e)(3)(ii)(H) to read as follows:

**§ 55.14 Requirements that apply to OCS sources located within 25 miles of states seaward boundaries, by state.**

* * * * *

(e) * * * *

(3) * * * *

(i) * * * *

(A) State of California Requirements Applicable to OCS Sources, February 2006.

(ii) * * * *

(F) Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources, February 2006.

(G) South Coast Air Quality Management District Requirements Applicable to OCS Sources (Part I, II and Part III), February 2006.

(H) Ventura County Air Pollution Control District Requirements Applicable to OCS Sources, February 2006.

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3. Appendix A to CFR part 55 is amended by revising paragraphs (a)(1) and (b)(6), (7), and (8) under the heading “California” to read as follows:

**Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State**

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SUMMARY: The United States Environmental Protection Agency (EPA) Region 6 is publishing a direct final notice of deletion of the Dixie Oil Processors, Inc. Superfund Site from the National Priorities List.

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the Dixie Oil Processors, Inc. Superfund Site (Site), located in Friendswood, Texas, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final notice of deletion is being published by EPA with the concurrence of the State of Texas, through the Texas Commission on Environmental Quality (TCEQ), because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final notice of deletion will be effective August 21, 2006 unless EPA receives adverse comments by July 24, 2006. If adverse comments are received, EPA will publish a timely withdrawal of the