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 determined it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides 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 because this rule is not expected to result in any significant adverse environmental impact as described in NEPA. Paragraph (34)(g) is applicable because this rule is establishing a safety zone that will be effective for a period greater than one week. 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; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 103–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T08–129 is added to read as follows:

§ 165.T08–129 Safety Zone; Ohio River, Miles 469.6 to 470.5, Extending 900 feet from the Ohio shoreline, Cincinnati, OH.

(a) *Location.* The following area is safety zone: All waters of the Ohio River extending 900 feet from the Ohio shoreline beginning at mile marker 469.6 and ending at mile marker 470.5.

(b) *Effective date.* This section is effective from 8 a.m. on October 14, 2003 until 1 p.m. on October 20, 2003.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Louisville or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Louisville or a designated representative. They may be contacted on VHF Channel 13 or 16.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Louisville and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: September 12, 2003.

T.D. Gilbreath,

Commander, U.S. Coast Guard, Captain of the Port Louisville.

[FR Doc. 03–25683 Filed 10–9–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 201–4401a; FRL–7570–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revised MOBILE6-Based Motor Vehicle Emission Budget for the Pennsylvania Portion of the Philadelphia-Wilmington-Trenton Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Pennsylvania State Implementation Plan (SIP). Specifically, EPA is acting to approve a revised 2005 highway motor vehicle emission inventory for the Pennsylvania portion of the Philadelphia-Wilmington-Trenton (the Philadelphia area) 1-hour ozone attainment plan. This revised highway vehicle emissions inventory also serves as the 2005 motor vehicle emissions budget for purposes of determining transportation conformity under the Clean Air Act. The revised mobile emissions budget was developed using MOBILE6—the most recent available version of the EPA-developed MOBILE highway motor vehicle emission factor model. Revision of the mobile budget was a requirement of EPA's prior approval of the Commonwealth's 1-hour ozone National Ambient Air Quality Standard (NAAQS) attainment demonstration for the Philadelphia severe ozone nonattainment area. The intended effect of this direct final approval action is to approve a SIP revision that will assist Pennsylvania in attaining and conforming to attainment of the 1-hour ozone NAAQS standard in the Philadelphia area. This action is being taken by EPA in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on December 9, 2003 without further notice, unless EPA receives adverse written comment by November 10, 2003. If EPA receives such comments, it 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: Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to *morris.makeba@epa.gov* or to *http://www.regulations.gov*, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in Part III of the SUPPLEMENTARY INFORMATION section. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, Air Quality Planning Branch, U.S. EPA, 1650 Arch Street, Mail Code 3AP21, Philadelphia, Pennsylvania 19103–2029, by telephone at (215) 814–2176, or by e-mail at *rehn.brian@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Pennsylvania's SIP-Approved Attainment Demonstration and Mobile Budget

On October 21, 2001, EPA approved Pennsylvania's 1-hour ozone attainment demonstration SIP for the Philadelphia area (66 FR 54143). As part of that approval action, EPA required the Commonwealth to revise the SIP to include a recalculated 2005 attainment year motor vehicle transportation conformity emission budget. This 2005 highway mobile budget was to be updated using the latest version EPA's newest emission factor model (MOBILE6) within one year of the availability of that new version of the model. EPA released the MOBILE6 model on January 29, 2002, and therefore Pennsylvania was required to submit its revised mobile budget SIP for the Philadelphia area by January 29, 2003.

On January 17, 2003, Pennsylvania formally submitted a revision to its SIP containing the updated mobile budget, revising using MOBILE6, for the Philadelphia ozone nonattainment area. On May 28, 2003, EPA published a notice in the **Federal Register** (68 FR 31700) declaring this revised Philadelphia mobile budget adequate for transportation conformity purposes.

B. Background on the MOBILE Emission Factor Model and Related EPA Policy

MOBILE is an EPA emissions factor model for estimating pollution from on-road motor vehicles in states (with the exception of California, which has developed its own model). The MOBILE model calculates emissions of volatile organic compounds (VOCs), nitrogen oxides (NO_X) and carbon monoxide (CO) from passenger cars, motorcycles, buses, and light-duty and heavy-duty trucks. The model accounts for the emission impacts of factors such as changes in vehicle emission standards, changes in vehicle populations and activity, and variation in local conditions such as temperature, humidity, fuel quality, and air quality programs. Among other uses, the MOBILE model helps to calculate current and future inventories of motor vehicle emissions at the national and local level. These inventories are used to make decisions about air pollution policy and programs at the local, state and national level. Inventories based on MOBILE are also used to meet the federal Clean Air Act's SIP and transportation conformity requirements.

The MOBILE model, first developed in 1978, has been updated many times to reflect changes to motor vehicles and fuel composition, to incorporate better understanding of vehicle emissions, and to reflect new emissions programs. EPA announced the release of the MOBILE6 version of the MOBILE model in the January 29, 2002 edition of the **Federal Register** (67 FR 4254), as a replacement for a MOBILE5 version of the model.

In November of 1999, EPA issued two memoranda [1] to articulate its policy regarding states that incorporated MOBILE5-based interim Tier 2 standard [2] benefits into their attainment demonstration plans and those plans' associated motor vehicle emissions budgets (or budgets).

EPA has implemented this policy in all ozone nonattainment areas where a state assumed federal Tier 2 benefits in its attainment demonstration plans according to EPA's April 2000 MOBILE5 guidance, "MOBILE5 Information Sheet #8: Tier 2 Benefits Using MOBILE5." States whose attainment demonstrations or maintenance plans include interim MOBILE5-based estimates of the Tier 2 standards were required to revise and resubmit their budgets within either one or two years of the final release of MOBILE6.

EPA's October 21, 2001 (66 FR 54143) approval of Pennsylvania's 1-hour ozone attainment demonstration plan for the Philadelphia area was based upon an interim mobile budget, with projected reductions from Tier 2 motor vehicle standards estimated using the MOBILE5 model. EPA's October 2001 approval of Pennsylvania's 1-hour ozone attainment demonstration for the Philadelphia area required a MOBILE6-based motor vehicle emissions budget SIP revision within one year after EPA released the MOBILE6 model. EPA released the MOBILE6 model on January 29, 2002, therefore Pennsylvania's MOBILE6 mobile budget SIP was due January 29, 2003.

II. Summary of SIP Revision and EPA's Review

On January 17, 2003, the Commonwealth of Pennsylvania submitted a SIP revision containing updated inventories of emissions of the ozone precursors VOC and NO_X from highway mobile sources operating in the Philadelphia ozone attainment area. These summertime inventories were generated for summertime periods in 1990 and for 2005, the year Philadelphia is to attain the 1-hour ozone standard. This updated motor vehicle emissions modeling was generated through use of the newly released MOBILE6 model. The 2005 motor vehicle emissions inventory projection also serves as the motor vehicle emissions budget, or mobile budget, for transportation conformity planning. The Commonwealth's January 2003 SIP revision is intended to demonstrate that the updated projections of motor vehicle emissions (calculated using the MOBILE6 emissions factor model) continue to support the demonstrations of attainment of the 1-hour ozone NAAQS for the Philadelphia area by 2005.

Table 1 below contrasts Pennsylvania's revised MOBILE6-based motor vehicle emissions inventories with the previously approved MOBILE5-based inventories for the Philadelphia area, by pollutant, expressed in units of tons per summer day (tpd). These revised inventories were developed using the latest available planning assumptions, including 1999 Pennsylvania Department of Transportation vehicle registration data and 1999 traffic data and information vehicle miles traveled (VMT). Updated information was used for atmospheric model input (*i.e.*, temperature and humidity conditions). Rates of growth for highway mobile sources have also been updated.

[1] Memoranda, "Guidance on Motor Vehicle Emissions Budgets in 1-Hour Ozone Attainment Demonstrations," issued November 3, 1999, and "1-Hour Ozone Attainment Demonstrations and Tier2/Sulfur Rulemaking," issued November 8, 1999. Copies of these memoranda can be found on EPA's Web site at *http://www.epa.gov/otaq/transp/traqconf.htm.*

[2] The final rule on Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements ("Tier 2 standards") for passenger cars, light trucks, and larger passenger vehicles was published on February 10, 2000 (65 FR 6698).

TABLE 1.—COMPARISON OF PENNSYLVANIA'S MOBILE5 AND REVISED MOBILE6-BASED HIGHWAY MOBILE EMISSIONS INVENTORIES FOR THE PHILADELPHIA 1-HOUR OZONE ATTAINMENT PLAN

Philadelphia 5-county area	1990		2005	
	VOC (tpd)	NO_X (tpd)	VOC (tpd)	NO_X (tpd)
MOBILE5-based inventory	187.90	158.33	60.18	77.46
MOBILE6-based (revised) inventory	239.95	252.93	79.69	144.73

EPA's articulated its policy regarding its policy on the use of MOBILE6 modeling for purposes of SIP development in several guidance documents entitled "Policy Guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity"[3] and "Clarification of Policy Guidance for MOBILE6 in Mid-course Review Areas."[4]

Pennsylvania's January 17, 2003 SIP revision includes an explanation of the differences between the MOBILE5 and MOBILE6-based inventories. The SIP also provides a comparison of the relative reduction, by percentage, between the 1990 and 2005 inventories generated using the two different versions of the models to ensure that the approved Philadelphia 1-hour ozone attainment demonstration will continue to demonstrate attainment by 2005. The methodology for this relative reduction comparison consists of comparing the revised MOBILE6 baseline and attainment case inventories, by pollutant, with the previously approved (66 FR 54143) MOBILE5 inventory totals for the 5-county Philadelphia area to determine if attainment can still be predicted by the attainment date. The Commonwealth then compared these relative reduction percentages for the MOBILE5 versus MOBILE6 inventories for 1995 and 2005. It should be noted that since the latest available planning assumptions were used the revised, MOBILE6-based modeling, this relative reduction comparison is not an exact comparison of only the differences between the different versions of the MOBILE models.

Pennsylvania's relative reduction comparison shows that the reduction in VOC emissions, on a percentage basis, is greater in the revised MOBILE 6-based inventories than in the previously approved MOBILE5 inventories. However, the there is a slight increase, on a percentage basis, in NO_X in the revised MOBILE6-based inventories compared to the previous MOBILE5 inventories. The Commonwealth argues that the benefit of additional reduction in VOCs outweighs the slight NO_X increase—which the Commonwealth justifies quantitatively by using a 1.3 to 1 VOC to NO_X substitution ratio to weigh directly the actual VOC to NO_X emissions resultant from the MOBILE5 and MOBILE6-based inventories. This method of weighting VOC versus NO_X emissions shows that the increased reductions in VOC emissions outweigh the increase in NO_X emissions demonstrated by the MOBILE6-based inventories. Pennsylvania's choice of VOC to NO_X substitution ratios for this comparison stems from its use in New Source Review emission trading in the Philadelphia ozone nonattainment area.

EPA's relevant policy guidance also required the Commonwealth to consider whether growth and control strategy assumptions for other sources (*i.e.*, point, area, and non-road mobile sources) were still accurate at the time the revised MOBILE6 budget SIP submission (*i.e.*, January 2003). Pennsylvania's SIP revision states that growth and control strategy assumptions for these other emissions sources have been reevaluated, with the conclusion that these assumptions for growth and control strategies continue to be valid for the Philadelphia 1-hour ozone attainment demonstration.

Pennsylvania's January 17, 2003 SIP revision satisfies the conditions outlined in EPA's MOBILE6 Policy guidance, and demonstrates that the new levels of motor vehicle emissions calculated using MOBILE6 continue to support achievement of the projected attainment of the 1-Hour Ozone NAAQS by the attainment date of 2005 for Pennsylvania portion of the Philadelphia-Wilmington-Trenton area.

The Revised Mobile Budget

For Pennsylvania's Philadelphia area attainment plan, the mobile budgets are the on-road components of VOC and NO_X emissions of the 2005 attainment inventories. Table 2 below summarizes Pennsylvania's revised budgets contained in the January 17, 2003 submittal. These budgets were developed using the latest planning assumptions, including 1999 vehicle registration data and VMT. Because Pennsylvania's January 2003 submittal satisfies the conditions outlined in EPA's MOBILE6 Policy guidance, and demonstrates that the new levels of motor vehicle emissions calculated using MOBILE6 continue to support achievement of the projected attainment of the 1-Hour Ozone NAAQS, EPA is taking rulemaking action to approve this mobile emissions budget.

TABLE 2.—PHILADELPHIA MOTOR VEHICLE EMISSIONS BUDGET

Type of Control Strategy SIP	VOC (tpd)	NO_X (tpd)
1-Hour ozone attainment demonstration SIP	79.69	144.73

III. Final Action

Pennsylvania has adequately demonstrated to EPA that its 1-hour attainment demonstration SIP for the Philadelphia area (as revised in by the January 2003 MOBILE6-based highway emissions inventory) will continue to demonstrate attainment of the ozone NAAQS with the incorporation of the

[3] Memorandum, "Policy Guidance on the Use of MOBILE6 for SIP development and Transportation Conformity," issued January 18, 2002. A copy of this memorandum can be found on EPA's Web site at *http://www.epa.gov/otaq/transp/traqconf.htm.*

[4] Memorandum, "Clarification of Policy Guidance for MOBILE6 SIPs in Mid-course Review Areas," issued February 12, 2003. A copy of this memorandum can be found on EPA's Web site at *http://www.epa.gov/otaq/transp/traqconf.htm.*

updated highway emissions inventory. EPA is therefore approving the Pennsylvania SIP revision submitted on January 17, 2003 to revise the Philadelphia 1990 and 2005 highway mobile VOC and NO_X emissions inventories and the revised 2005 motor vehicle emissions budget.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment, as this revision serves the purpose of updating the highway mobile emissions inventory using the latest version of EPA's mobile source emission factor model and the most recently available emissions modeling planning assumptions. This SIP revision is the result of a requirement to update the highway mobile inventory using MOBILE6 specified by EPA's October 26, 2001 approval of the Pennsylvania's 1-hour ozone attainment demonstration for the Philadelphia area. Also, EPA declared the mobile source inventory adequate for transportation conformity purposes on May 28, 2003.

However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve this SIP revision if adverse comments are filed. This rule will be effective on December 9, 2003 without further notice unless EPA receives adverse comment by November 10, 2003. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number (PA 201–4401) in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. 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.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to: *morris.makeba@epa.gov,* attention PA 201–4401. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through Regulations.gov , EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

ii. *Regulations.gov.* Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to *http://www.regulations.gov,* then select "Environmental Protection Agency" at the top of the page and use the "go" button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the ADDRESSES section of this document. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Written comments should be addressed to the EPA Regional office listed in the ADDRESSES section of this document. For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

Submittal of CBI Comments

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the FOR FURTHER INFORMATION CONTACT section.

Considerations When Preparing Comments to EPA

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

IV. Statutory and Executive Order Reviews

A. General Requirements

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 (Public Law 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 Clean Air Act. 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 Clean Air Act. 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 Clean Air Act. 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.*).

B. Submission to Congress and the Comptroller General

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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. 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 December 9, 2003. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 29, 2003.

James W. Newsom,

Acting Regional Administrator, Region III.

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 NN—Pennsylvania

2. Section 52.2037 is amended by:

a. Removing and reserving paragraph (j)(2);

b. Revising paragraph (k);

c. Adding paragraph (l).

The revision and addition read as follows:

§ 52.2037 Control strategy and rate-of-progress plans: ozone.

* * * * *

(j) * * *

(2) [Reserved]

* * * * *

(k) EPA approves the following mobile budgets of the post-1996 rate of progress plans and the 2005 attainment plan:

TRANSPORTATION CONFORMITY BUDGETS FOR THE PHILADELPHIA AREA

Type of control strategy SIP	Year	VOC (tpd)	NO_X	Date of adequacy determination
Post-1996 ROP Plan	1999	88.6	109.6	June 23, 2000 (65 FR 36438, June 8, 2000)
Post-1996 ROP Plan	2002	69.52	93.13	June 23, 2000 (65 FR 36438, June 8, 2000)
Post-1996 ROP Plan	2005	61.76	86.42	June 23, 2000 (65 FR 36438, June 8, 2000)
Attainment Demonstration	2005	79.69	144.73	June 12, 2003 (68 FR 31700, May 28, 2003)

(1) [Reserved]

(2) [Reserved]

(l) EPA approves the Commonwealth of Pennsylvania's revised 1990 and the 2005 VOC and NO_X highway mobile emissions inventories and the 2005 motor vehicle emissions budgets for the 1-hour ozone attainment SIP for the Philadelphia-Wilmington-Trenton severe ozone nonattainment area. These revisions were submitted by the Pennsylvania Department of Environmental Protection on January 17, 2003. Submission of these revised MOBILE6-based motor vehicle emissions inventories was a requirement of EPA's approval of the attainment demonstration under paragraph (j) of this section.

[FR Doc. 03–25634 Filed 10–9–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[NV–AM–NMI–103–NEGDECa; FRL–7572–5]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Control of Emissions From Existing Hospital/Medical/Infectious Waste Incinerator Units; Control of Emissions From Existing Large Municipal Waste Combustors; Nevada; American Samoa; Northern Mariana Islands

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve negative declarations submitted by American Samoa, Northern Mariana Islands, and Nevada. The negative declarations from American Samoa and Northern Mariana Islands certify that large municipal waste combustors, subject to the requirements of sections 111(d) and 129 of the Clean Air Act, do not exist within the air pollution control jurisdiction of these agencies. The negative declaration from Nevada certifies that there are no existing hospital/medical/infectious waste incinerator units within the Nevada Division of Environmental Protection's air pollution control jurisdiction.

DATES: This rule is effective on December 9, 2003 without further notice, unless EPA receives adverse comments by November 10, 2003. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Send comments to Andrew Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, or e-mail to *steckel.andrew@epa.gov*, or submit comments at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mae Wang, EPA Region IX, (415) 947–4124, *wang.mae@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Sections 111(d) and 129 of the Clean Air Act (CAA or the Act) require States to submit plans to control certain pollutants (designated pollutants) at existing solid waste combustor facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines (EG) for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources. However, section 129 of the CAA also requires EPA to promulgate EG for hospital/medical/infectious waste incinerator units (HMIWIs) and large municipal waste combustors (MWCs) that emit a mixture of air pollutants. These pollutants include particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans. The EG for HMIWI were published in final form on September 15, 1997 (62 FR 48348), and are located at 40 CFR part 60, subpart Ce. The EG for large MWC were promulgated on December 19, 1995, and are located at 40 CFR part 60, subpart Cb (*see* 60 FR 65387). On August 25, 1997, EPA amended subpart Cb to apply only to MWC units with an individual capacity to combust more than 250 tpd of MSW (*see* 62 FR 45116).

Subpart B of 40 CFR part 60 establishes procedures to be followed and requirements to be met in the development and submission of State plans for controlling designated pollutants. Also, 40 CFR part 62 provides the procedural framework for the submission of these plans. When designated facilities are located in a State, the State must then develop and submit a plan for the control of the designated pollutant. However, 40 CFR 60.23(b) and 62.06 provide that if there are no existing sources of the designated pollutant in the State, the State may submit a letter of certification to that effect (*i.e.*, negative declaration) in lieu of a plan. The negative declaration exempts the State from the requirements of subpart B for the submittal of a 111(d)/129 plan.

II. Final EPA Action

The Nevada Division of Environmental Protection has determined that there are no designated facilities subject to the HMIWI EG requirements in its air pollution control jurisdiction. The American Samoa Environmental Protection Agency and the Commonwealth of the Northern Mariana Islands Division of Environmental Quality have determined that there are no designated facilities subject to the large MWC EG requirements in their respective air pollution control jurisdictions. Accordingly, each air pollution control agency has submitted to EPA a negative declaration letter certifying this fact. EPA is amending part 62 to reflect the receipt of these negative declaration letters from the noted air pollution control agencies. The submittal dates of these letters are listed in the following table:

Air pollution control agency	Date of negative declaration
Nevada DEP (HMIWI)	May 26, 1998.
American Samoa (large MWC).	Jan. 20, 1998.
Northern Mariana Islands (large MWC).	Jan. 27, 1998.

After publication of this **Federal Register** notice, if a large MWC or HMIWI facility is later found within these jurisdictions, then the overlooked facility will become subject to the requirements of the appropriate Federal 111(d)/129 plan, contained in 40 CFR part 62. The Federal plan would no longer apply if EPA subsequently were to receive and approve a 111(d)/129 plan from the jurisdiction with the overlooked facility.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action simply reflects already existing Federal requirements for State air pollution control agencies under 40 CFR parts 60 and 62. In the Proposed Rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve each negative