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.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

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 concern 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 relationships 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 Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

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. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07–122 is added to read as follows:

§ 165.T07–122 Security Zones; Ports Everglades, Fort Lauderdale, Florida.

(a) *Regulated area.* The Captain of the Port is establishing a temporary fixed security zone on the Intracoastal Waterway and prohibiting unauthorized vessels from entering the zone. The zone encompasses the waters of the Intracoastal Waterway between a line connecting point 26°05.41′ N, 080°06.97′ W on the northern tip of Port Everglades berth 22 near Burt and Jacks Restaurant and a point directly east across the Intracoastal Waterway to 26°05.41′ N, 080°06.74′ W; and a line drawn from the corner of Port Everglades berth 29 at point 26°04.72′ N, 080°06.92′ W, easterly across the Intracoastal Waterway to John U. Lloyd Beach, State Recreational Area at point 26°04.72′ N, 080°06.81′ W. This temporary fixed security zone is activated when a cruise ship or a vessel carrying cargoes of particular hazard, as defined in 33 CFR part 126, enter or moor within this zone.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port, a Coast Guard commissioned, warrant, or petty officer, or other law enforcement officer designated by him. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz) when the security zone is activated.

Vessels may transit the Intercoastal Waterway when cruise ships or vessels carrying cargoes of particular hazard are berthed, by staying east of the law enforcement boats and cruise ship tenders which will mark a transit lane in the Intercoastal Waterway. Periodically, vessels may be asked to temporarily hold their positions while large commercial traffic operates in this area. Vessels near this security zone must follow the orders of the law enforcement vessels on scene. When cruise ships are not berthed on the Intercoastal Waterway, the zone will remain in place, but navigation will be unrestricted. Law enforcement vessels can be contacted on VHF Marine Band Radio, Channel 16 (156.8 MHz).

(c) *Dates.* This section is effective from 8 a.m. on October 12, 2001 until 11:59 p.m. on June 15, 2002.

Dated: October 11, 2001.

J.A. Watson, IV,

Captain, U.S. Coast Guard, Captain of the Port Miami.

[FR Doc. 02–2153 Filed 1–28–02; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[FRL–7134–7]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; States of Kansas, Missouri, and Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the Commercial and Industrial Solid Waste Incineration (CISWI) section 111(d) negative declarations submitted by the states of Kansas, Missouri, and Nebraska. These negative declarations certify that CISWI units subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA) do not exist in these states.

DATES: This direct final rule will be effective April 1, 2002 unless EPA receives adverse comments by February 28, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents

should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Information regarding this action is presented in the following order:

What is a 111(d) plan?
What are the regulatory requirements for CISWIs?
Why is this action necessary?
What action are we taking in this notice?

What Is a 111(d) Plan?

Section 111(d) of the CAA requires states to submit plans to control certain pollutants (designated pollutants) at existing 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 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.

What Are the Regulatory Requirements for CISWIs?

On December 1, 2000 (65 FR 75338), EPA finalized the section 111(d) emission guidelines for existing CISWI units. The emission guidelines are codified at 40 CFR part 60, subpart DDDD.

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. Part 62 of the CFR provides the procedural framework for the submission of these plans. When designated facilities are located in a state, a state must develop and submit a plan for the control of the designated pollutant. However, 40 CFR 62.06 provides 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, or negative declaration, in lieu of a plan. The negative declaration exempts the state from the requirements of subpart B for that designated pollutant.

Why Is This Action Necessary?

The states of Kansas, Missouri, and Nebraska have determined there are no existing sources in their states subject to the CISWI emission guidelines (EG). Consequently, each state has submitted a letter of negative declaration certifying this fact. We are therefore announcing that these states do not have any sources subject to the EG. If at a later date such sources are identified, they will be subject to a Federal plan until a state has an approved 111(d) plan.

What Action Are We Taking in This Document?

We are processing this action as a final action because we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision is 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.

Administrative 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 negative declarations as meeting Federal requirements and imposes no additional requirements. 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 state negative declarations and does not impose any additional enforceable duty, 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). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). 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 (64 FR 43255, August 10, 1999), because it merely approves state negative declarations relating to 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 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing state plan submissions, our 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), we have no authority to disapprove state submissions for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews state submissions, to use VCS in place of state submissions that otherwise satisfy 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. 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, 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. We will submit a report containing this rule and other required information to the United States Senate, the United States 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 April 1, 2002. 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 40 CFR Part 62

Environmental protection, Administrative practice and procedures, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Sulfur oxides, Waste treatment and disposal.

Dated: January 14, 2002.

William Rice,

Acting Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

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

Subpart R—Kansas

2. Subpart R is amended by adding an undesignated center heading and § 62.4181 to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incineration Units

§ 62.4181 Identification of plan—negative declaration.

Letter from the Kansas Department of Health and Environment submitted November 16, 2001, certifying that there are no commercial and industrial solid waste incineration units subject to 40 CFR part 60, subpart DDDD.

Subpart AA—Missouri

3. Subpart AA is amended by adding an undesignated center heading and § 62.6360 to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incineration Units

§ 62.6360 Identification of plan—negative declaration.

Letter from the Missouri Department of Natural Resources submitted May 9, 2001, certifying that there are no commercial and industrial solid waste incineration units subject to 40 CFR part 60, subpart DDDD.

Subpart CC—Nebraska

4. Subpart CC is amended by adding an undesignated center heading and § 62.6916 to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incineration Units

§ 62.6915 Identification of plan—negative declaration.

Letter from the Nebraska Department of Environmental Quality submitted June 8, 2001, certifying that there are no commercial and industrial solid waste incineration units subject to 40 CFR part 60, subpart DDDD.

[FR Doc. 02–2119 Filed 1–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[PA001–1001; FRL–7134–9]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; City of Philadelphia; Department of Public Health Air Management Services

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation.

SUMMARY: EPA is taking direct final action to approve Philadelphia Department of Public Health Air Management Services's (AMS's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This approval will automatically delegate future amendments to these regulations. For sources which are required to obtain a Clean Air Act operating permit, this delegation addresses all existing hazardous pollutant regulations. For sources which are not required to obtain a Clean Air Act operating permit, this delegation presently addresses the hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning and secondary lead smelting. In addition, EPA is taking direct final action to approve of AMS's mechanism for receiving delegation of all future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails submission of a delegation request letter to EPA following EPA notification of a new Federal requirement. EPA is not waiving its notification and reporting requirements under this approval; therefore, sources will need to send notifications and reports to both AMS and EPA. This action pertains to affected sources, as defined by the Clean Air Act's (CAA or the Act's) hazardous air pollutant program. EPA is taking this action in accordance with the CAA.

DATES: This direct final rule will be effective April 1, 2002 unless EPA receives adverse or critical comments by February 28, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and Morris Fine, Director, Air Management Services, Department of Public Health, City of Philadelphia, 321 University Avenue, 2nd Floor, Philadelphia, PA 19104. 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 Air Management Services, Department of Public Health, City of Philadelphia, 321 University Avenue, 2nd Floor, Philadelphia, PA 19104.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street (3AP11), Philadelphia, PA 19103–2029, mcnally.dianne@epa.gov (telephone 215–814–3297). Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Act and 40 Code of Federal Regulations (CFR) part 63, subpart E authorize EPA to approve of State rules and programs to be implemented and enforced in place of certain CAA requirements, including the National Emission Standards for Hazardous Air Pollutants set forth at 40 CFR part 63. EPA promulgated the program approval regulations on November 26, 1993 (58 FR 62262) and subsequently amended these regulations on September 14, 2000 (65 FR 55810).