

(1) [Reserved]

(2) [Reserved]

(1) 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]

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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

declaration should relevant adverse or critical comments be filed.

This rule will be effective December 9, 2003 without further notice unless the Agency receives relevant adverse comments by November 10, 2003. If EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. The 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, then EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. 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 certifications 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 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 State certifications 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 111(d)/129 plan 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 111(d)/129 plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a 111(d)/129 plan submission, to use VCS in place of a 111(d)/129 plan 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

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 approving the section 111(d)/129 negative declarations submitted by the air pollution control agencies in Nevada, American Samoa, and Northern Mariana Islands may not be challenged later in proceedings to enforce its requirements (*see* section 307(b)(2)).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfuric acid plants, Waste treatment and disposal.

Dated: September 25, 2003.

Deborah Jordan,

Acting Regional Administrator, Region IX.

■ Part 62, 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. 7401-7671q.

Subpart DD—Nevada

■ 2. Subpart DD is amended by adding an undesignated center heading and § 62.7135 to read as follows:

Emissions From Existing Hospital/Medical/Infectious Waste Incinerators

§ 62.7135 Identification of plan—negative declaration.

Letter from the Nevada Division of Environmental Protection, submitted on May 26, 1998, certifying that there are no existing hospital/medical/infectious waste incineration units subject to 40 CFR part 60, subpart Ce, of this chapter.

■ 3. Part 62 is amended by adding Subpart AAA to read as follows:

Subpart AAA—American Samoa

Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons per Day of Municipal Solid Waste

§ 62.12900 Identification of plan—negative declaration.

Letter from the American Samoa Environmental Protection Agency, submitted on January 20, 1998, certifying that there are no municipal waste combustion units subject to part 60, subpart Cb, of this chapter.

■ 4. Part 62 is amended by adding Subpart DDD to read as follows:

Subpart DDD—Northern Mariana Islands

Emissions From Existing Municipal Waste Combustors With the Capacity To Burn Greater Than 250 Tons per Day of Municipal Solid Waste

§ 62.13600 Identification of plan—negative declaration.

Letter from the Commonwealth of the Northern Mariana Islands Division of Environmental Quality, submitted on January 27, 1998, certifying that there are no municipal waste combustion

units subject to part 60, subpart Cb, of this chapter.

[FR Doc. 03–25802 Filed 10–9–03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[Docket ID No. OAR–2002–0043; FRL–7551–4]

RIN 2060–AH03

National Emission Standards for Hazardous Air Pollutants for Primary Magnesium Refining

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emission standards for hazardous air pollutants (NESHAP) for primary magnesium refining facilities. The EPA has identified primary magnesium refining facilities as a major source of hazardous air pollutant (HAP) emissions. The NESHAP implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emission standards reflecting application of the maximum achievable control technology (MACT).

The HAP emitted by facilities in the primary magnesium refining source category include chlorine, hydrochloric acid, dioxin/furan, and trace amounts of several HAP metals. Exposure to these substances has been demonstrated to cause adverse health effects, including chronic and acute disorders of the blood, heart, kidneys, reproductive system, and central nervous system. Some of these pollutants are considered to be carcinogens, and all can cause toxic effects in humans following sufficient exposure.

EFFECTIVE DATE: October 10, 2003.

ADDRESSES: The official public docket is the collection of materials used in developing the final rule and is available for public viewing at the EPA Docket Center (EPA/DC), EPA West, Room B–102, 1301 Constitution Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lula Melton, Metals Group, Emission Standards Division (C439–02), U.S. EPA, Research Triangle Park, NC 27711, telephone number: (919) 541–2910, electronic mail address: melton.lula@epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated Entities. Categories and entities potentially regulated by this action include:

Category	NAICS ¹	Examples of regulated entities
Industry	331419	Primary refiners of nonferrous metals (magnesium) by electrolytic methods.

¹ North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.9881 of the final rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Docket. The EPA has established an official public docket for this action including both Docket ID No. OAR–2002–0043 and Docket ID No. A–2002–0027. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. All items may not be listed under both docket numbers, so interested parties should inspect both docket numbers to ensure that they have received all materials relevant to the final rule. Although a part of the official

docket, the public docket does not include Confidential Business Information or other information whose disclosure is restricted by statute. The official public docket is available for public viewing at the EPA Docket Center (Air Docket), EPA West, Room B–102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Docket Access. You may access the final rule electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr/>. An electronic version of the public docket is available through EPA’s electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to view public

comments, access the index of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through EPA Dockets. Once in the system, select “search,” then key in the appropriate docket identification number.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the final rule will be posted on the TTN’s policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information