determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Although 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. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the 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, and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07–132 is added to read as follows:

§ 165.T07–132 Security Zones; Port of San Juan, Puerto Rico.

(a) *Regulated area.* Temporary moving security zones are established 50 yards around all cruise ships entering or departing the Port of San Juan. These moving security zones are activated when the subject vessel is one mile north of the #3 buoy at approximate position 18°28′17.19″ N, 066°-07′45.7″ W when entering the Port of San Juan and deactivated when the vessel passes this buoy on its departure from the Port of San Juan. Temporary fixed security zones are also established 50 yards around all cruise ships when they are moored in the Port of San Juan.

(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, or a Coast Guard commissioned, warrant, or petty officer designated by him. The Captain of the Port will notify the public of any changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(c) *Dates.* This rule is effective at 11:59 p.m. on October 31, 2002 until 11:59 p.m. on April 30, 2003.

Dated: October 31, 2002.

D.A. Greene,

Lieutenant Commander, U.S. Coast Guard, Acting Captain of the Port, San Juan.

[FR Doc. 02–28836 Filed 11–12–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 080–0060; FRL–7261–6]

Revisions to the Arizona State Implementation Plan, Pinal County Air Quality Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a full disapproval of revisions to the Pinal County Air Quality Control District's (PCAQCDs) portion of the Arizona State Implementation Plan (SIP). These revisions concern the incorporation by reference of external documents into the SIP. We are also finalizing a full approval of a revision to the PCAQCD portion of the Arizona SIP concerning definitions and a removal of rules previously approved in error. We are finalizing action on local rules under the Clean Air Act as amended in 1990 (CAA or the Act).

EFFECTIVE DATE: This rule is effective on December 13, 2002.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted rule revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, AZ 85007.

Pinal County Air Quality Control District, Building F, 31 North Pinal Street (P.O. Box 987), Florence, AZ 85232.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; (415) 947–4118.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Proposed Action

On November 19, 2001 (66 FR 57914), EPA proposed a full disapproval of the rules in Table 1 that were submitted for incorporation into the Arizona SIP.

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Amended	Submitted
PCAQCD	1–2–110	Adopted Documents	07/29/98	10/07/98
PCAQCD	1–3–130	Adopted Documents	05/14/97	10/07/98
PCAQCD	3–1–020	Adopted Documents	05/14/97	10/07/98
PCAQCD	4–1–010	Adopted Documents	05/14/97	10/07/98

We proposed a full disapproval because we determined that these rules have limited enforceability due to relying on references to rules not contained in the SIP. Our proposed action contains more information on the rules and our evaluation.

On November 19, 2001 (66 FR 57914), EPA proposed a full approval of the rule in Table 2 that was submitted for incorporation into the Arizona SIP, because we believe it fulfills all relevant CAA requirements.

TABLE 2.—SUBMITTED RULE

Local agency	Rule No.	Rule Title	Amended	Submitted
PCAQCD	1–3–140	Definitions	07/29/98	10/07/98

On November 19, 2001 (66 FR 57914), EPA proposed the removal from the Arizona SIP of rules in Table 3 that were originally approved in error.

TABLE 3.—RULES FOR REMOVAL FROM THE SIP

[Previously Approved on April 9, 1996 (61 FR 15717), as Clarified on December 20, 2000 (65 FR 79742]

Local agency	Rule No.	Rule title	Amended	Submitted
PCAQCD	1–3–130	Adopted Documents	10/12/95	11/27/95
PCAQCD	3–1–020	Adopted Documents	06/29/93	11/27/95

We proposed removing these rules from the SIP because we determined that these rules have limited enforceability due to relying on references to rules not contained in the SIP. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we did not receive any comments.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in sections 110(k)(3) and 301(a), EPA is finalizing a full disapproval of Rules 1–2–110, 1–3–130, 3–1–020, and 4–1–010. As a result, these rules will not be in the Arizona SIP and sanctions will not be imposed under section 179 of the CAA as described in 59 FR 39832 (August 4, 1994).

As authorized in sections 110(k)(3) and 301(a) of the CAA, EPA is finalizing a full approval of Rule 1–3–140. This action incorporates the submitted rule into the Arizona SIP.

As authorized in section 110(k)(6), EPA is finalizing the removal from the Arizona SIP of Rules 1–3–130 and 3–1–020.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13211

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.

C. Executive Order 13045

Executive Order 13045, entitled 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.

D. Executive Order 13132

Executive Order 13132, entitled 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 acts on 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 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.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

F. 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.

EPA's disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

G. Unfunded Mandates

Under section 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 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. This Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

H. 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.

EPA believes that VCS are inapplicable to today's action because it does not require the public to perform activities conducive to the use of VCS.

I. 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

J. 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 January 13, 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 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, Incorporation by reference, Intergovernmental relations,

Reporting and recordkeeping requirements.

Dated: August 2, 2002.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations 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 D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(84)(i)(G), (c)(84)(i)(H), and (c)(107) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(84) * * *

(i) * * *

(G) Previously approved on April 9, 1996 in paragraph (c)(84)(i)(A) of this section and now deleted without replacement, Rule 3–1–020.

(H) Previously approved on April 9, 1996 in paragraph (c)(84)(i)(D) of this section and now deleted without replacement, Rule 1–3–130.

* * * * *

(107) Amended rules for the following agency were submitted on October 7, 1998 by the Governor's designee.

(i) Incorporation by reference.

(A) Pinal County Air Quality Control District.

(*1*) Rule 1–3–140, adopted on June 29, 1993 and amended on July 29, 1998.

* * * * *

3. Section 52.133 is amended by adding paragraphs (f) and (g) to read as follows:

§ 52.133 Rules and regulations.

* * * * *

(f) Rules 1–3–130 and 3–1–020 submitted on November 27, 1995 of the Pinal County Air Quality Control District regulations have limited enforceability because they reference rules not contained in the Arizona State Implementation Plan. Therefore, these rules are removed from the Arizona State Implementation Plan.

(g) Rules 1–2–110, 1–3–130, 3–1–020, and 4–1–010 submitted on October 7, 1998 of the Pinal County Air Quality Control District regulations have limited enforceability because they reference rules not contained in the Arizona State Implementation Plan. Therefore, these rules are disapproved.

[FR Doc. 02–28351 Filed 11–12–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52

[SC–041, 046–200211(a); FRL–7406–7]

Approval and Promulgation of Implementation Plans; South Carolina; Adoption of Revision Governing Credible Evidence and Removal of Standard 3

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a revision to the State Implementation Plan (SIP) submitted on October 1, 2002, by the State of South Carolina, Department of Health and Environmental Control (Department). This revision consisted of an addition to Regulation 61–62.1, Definitions and General Requirements, entitled ''Section V—Credible Evidence.'' The submission of Section V—Credible Evidence by South Carolina is to meet the requirements for credible evidence set forth in EPA's May 23, 1994, SIP call letter. EPA is also approving a correction to the SIP regarding removal of Standard 3 ''Emissions from Incinerators'' from the SIP as requested by the State of South Carolina.

DATES: This direct final rule is effective January 13, 2003 without further notice, unless EPA receives adverse comment by December 13, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Sean Lakeman, EPA Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Copies of the State submittal is available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Sean Lakeman, 404/562–9043. South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201–1708.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman at 404/562–9043, or by electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background On Credible Evidence

On October 22, 1993, the EPA published a **Federal Register** document proposing an Enhanced Monitoring Program Rule. In that document, the EPA proposed both new regulations and amendments to several existing air pollution program regulations. To address the revisions to the Clean Air Act (CAA) regarding the use of any credible evidence the EPA issued a SIP call to all states in a letter dated May 23, 1994. The purpose of this letter was to require the states to revise their SIP to allow for the use of enhanced monitoring as a means of establishing compliance and ''any credible evidence'' to prove violations. A Federal Implementation Plan (FIP) was to be promulgated if the states failed to correct the deficiencies in the SIP by June 30, 1995. However, during the time between which the Enhanced Monitoring Program Rule was proposed and the FIP was to be in place, EPA separated the enhanced monitoring rule into two new parts: ''any credible evidence'' and ''compliance assured monitoring'' (CAM); and promulgated them in separate **Federal Register** documents. The final rule for ''any credible evidence'' was promulgated on February 24, 1997.

II. South Carolina's Response to Credible Evidence

In response to the May 23, 1994, SIP call, the Department submitted a revision to South Carolina's SIP on October 1, 2002. This revision consisted of the addition of Section V—Credible Evidence to Regulation 61–62.1 Definitions and General Requirements. The purpose of Section V regarding the demonstration of compliance or noncompliance, or the certification of compliance is:

- to clarify that any credible evidence can be used,
- to eliminate any potential ambiguity in language regarding exclusive reliance on reference test methods, and
- to curtail language that limits the types of testing or monitoring data that may be used. Section V specifically allows for the use of any credible evidence ''in the determination of non-