months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed provisional application. These time periods are not extendable. Except as provided in paragraph (a)(6) of this section, the failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(e) to such prior-filed provisional application. The time periods in this paragraph do not apply if the later-filed application is:

(A) An application filed under 35 U.S.C. 111(a) before November 29, 2000; or

(B) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.

(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence following the title.

(iv) If the prior-filed provisional application was filed in a language other than English and an English-language translation of the prior-filed provisional application and a statement that the translation is accurate were not previously filed in the prior-filed provisional application or the later-filed nonprovisional application, applicant will be notified and given a period of time within which to file an English-language translation of the non-English-language prior-filed provisional application and a statement that the translation is accurate. In a pending nonprovisional application, failure to timely reply to such a notice will result in abandonment of the application.

(6) If the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii) of this section, the claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application must be accompanied by:

(i) The reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, unless previously submitted;

(ii) The surcharge set forth in § 1.17(t); and

(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

* * * * *

5. Section 1.311 is amended by revising paragraph (a) to read as follows:

§ 1.311 Notice of allowance.

(a) If, on examination, it appears that the applicant is entitled to a patent under the law, a notice of allowance will be sent to the applicant at the correspondence address indicated in § 1.33. The notice of allowance shall specify a sum constituting the issue fee which must be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. The sum specified in the notice of allowance may also include the publication fee, in which case the issue fee and publication fee (§ 1.211(e)) must both be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. This three-month period is not extendable.

* * * * *

6. Section 1.434 is amended by revising paragraph (d)(2) to read as follows:

§ 1.434 The request.

* * * * *

(d) * * *

(2) A reference to any prior-filed national application or international application designating the United States of America, if the benefit of the filing date for the prior-filed application is to be claimed.

Dated: December 19, 2001.

James. E. Rogan,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 01–31872 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[AZ, CA, HI, NV–066–MSWa; FRL–7122–9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Negative Declarations; Municipal Waste Combustion; Arizona; California; Hawaii; Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is amending certain regulations to reflect the receipt of negative declarations from Arizona, California, Hawaii, and Nevada. These negative declarations certify that there are no small municipal waste combustion units in these States that would be subject to the control requirements of the federal emission guidelines.

DATES: This direct final rule is effective on February 26, 2002 without further notice, unless EPA receives relevant adverse comments by January 28, 2002. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the letters of negative declaration are available for public inspection at EPA's Region IX office during normal business hours. U.S. Environmental Protection Agency, Region IX, Rulemaking Office (AIR–4), Air Division, 75 Hawthorne Street, San Francisco, CA 94105–3901.

FOR FURTHER INFORMATION CONTACT: Mae Wang, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street (AIR–4), San Francisco, CA 94105–3901, Telephone: (415) 947–4124.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 111(d) of the Clean Air Act (CAA), EPA has established procedures whereby States submit plans to control certain existing sources of ''designated pollutants.'' Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111 but which are not ''criteria pollutants'' (i.e., pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the CAA) or hazardous air pollutants (HAPs) regulated under section 112 of the CAA. As required by CAA section 111(d), EPA established a

process at 40 CFR Part 60, Subpart B, which States must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates new source performance standards (NSPS) that control a designated pollutant, EPA establishes emission guidelines (EG) applicable to existing sources in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (i.e., the ''designated facility'' as defined at 40 CFR 60.21(b)). Thus, a State's section 111(d) plan for a designated facility must comply with the EG for that source category as well as 40 CFR part 60, subpart B (40 CFR 60.23 through 60.26).

On December 6, 2000, EPA promulgated EG for existing small municipal waste combustion units (MWCs) at 40 CFR part 60, Subpart BBBB, (Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999) (see 65 FR 76378). States are required to submit either a plan to implement and enforce the EG or, if there are no existing small MWCs subject to the EG in the State, a negative declaration letter. A negative declaration letter is a letter from a State authority certifying that there are no designated facilities (MWC units with a capacity to combust at least 35 tons per day but no more than 250 tons per day of municipal solid waste) in that State. The negative declaration letter is submitted in lieu of a State plan.

II. EPA Action

The States of Arizona, California, Hawaii, and Nevada have each submitted negative declaration letters certifying that there are no existing small MWCs that are subject to the control requirements of the emission guidelines within their State. The dates that these letters were submitted are identified in the table below.

State agency that submitted the negative declaration	Date of letter to EPA
Arizona Department of Environmental Quality.	March 15, 2001.
California Environmental Protection Agency, Air Resources Board.	July 20, 2001.
State of Hawaii, Department of Health.	March 13, 2001.
State of Nevada, Department of Conservation and Natural Resources, Division of Environmental Protection.	March 26, 1997.

EPA is amending part 62 to reflect the receipt of negative declaration letters from these States. Amendments are being made to 40 CFR part 62, subparts D (Arizona), F (California), M (Hawaii), and DD (Nevada).

III. 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). 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 negative declarations submitted by States, 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 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. 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 February 26, 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 in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: December 6, 2001.

Wayne Nastri,

Regional Administrator, Region IX.

Title 40, chapter I, part 62 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 D—Arizona

2. Subpart D is amended by adding an undesignated center heading and § 62.640 to read as follows:

Emissions From Small Existing Municipal Waste Combustion Units

§ 62.640 Identification of plan—negative declaration.

Letter from the Arizona Department of Environmental Quality, submitted on March 15, 2001, certifying that there are no small municipal waste combustion units subject to part 60, subpart BBBB, of this chapter.

Subpart F—California

3. Subpart F is amended by adding an undesignated center heading and § 62.1125 to read as follows:

Emissions From Small Existing Municipal Waste Combustion Units

§ 62.1125 Identification of plan—negative declaration.

Letter from the California Air Resources Board, submitted on July 20, 2001, certifying that there are no small municipal waste combustion units subject to part 60, subpart BBBB, of this chapter.

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

Subpart M—Hawaii

Emissions From Small Existing Municipal Waste Combustion Units

§ 62.2850 Identification of plan—negative declaration.

Letter from the State of Hawaii Department of Health, submitted on March 13, 2001, certifying that there are no small municipal waste combustion units subject to part 60, subpart BBBB, of this chapter.

Subpart DD—Nevada

5. Subpart DD is amended by adding an undesignated center heading and § 62.7125 to read as follows:

Emissions From Small Existing Municipal Waste Combustion Units

§ 62.7125 Identification of plan—negative declaration.

Letter from the Nevada Division of Environmental Protection, submitted on March 26, 1997, certifying that there are no existing municipal waste combustion units subject to part 60, subpart BBBB, of this chapter.

[FR Doc. 01–31943 Filed 12–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–7122–5]

RIN 2060–AG76

Regulation of Fuels and Fuel Additives: Modifications to Standards and Requirements for Reformulated and Conventional Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: With today's action EPA is finalizing certain proposed modifications to the reformulated gasoline (RFG) and conventional gasoline regulations. Through the 1990 amendments to the Clean Air Act (CAA), Congress directed EPA to publish rules requiring that gasoline sold in certain areas be reformulated to reduce vehicle emissions of toxic and ozone-forming compounds. Congress also directed EPA to establish rules setting anti-dumping standards for non-reformulated, or ''conventional'' gasoline. EPA published rules for the certification and enforcement of RFG and provisions for conventional gasoline on February 16, 1994 at 59 FR 7716.

Based on experience gained since the promulgation of these regulations, on July 11, 1997, we proposed a variety of revisions to the regulations relating to emissions standards, emissions models, compliance-related requirements and enforcement provisions. In a final rule published on December 31, 1997, we took final action on several of the proposed revisions. Today's action finalizes certain other of the proposed revisions.

The revisions in this final rule involve both RFG and conventional gasoline. This rule finalizes procedures for combining finished gasoline with other products to produce new blends of gasoline. These procedures allow refiners to use conventional gasoline to produce RFG, and to reclassify RFG with regard to VOC classification, activities which were previously prohibited under the regulations. This rule also identifies procedures and requirements regarding the change of service of gasoline storage tanks. The emissions benefits achieved from the RFG and conventional gasoline programs will not be reduced as a result of this final rule.

On May 17, 2001 the National Energy Policy Development Group (NEPD) recommended that EPA ''study opportunities to maintain or improve the environmental benefits of state and local 'boutique' clean fuel programs while exploring ways to increase the flexibility of the fuels distribution infrastructure, improve fungibility, and provide added market liquidity.'' In response to the NEPD charge, EPA included in its boutique fuel report a series of regulatory actions, including today's action regarding the use of finished gasoline to produce new blends of gasoline, intended to better facilitate seasonal gasoline transition and address gasoline supply and fungibility concerns during periods of low gasoline inventories. We are able to finalize this action now, in advance of other intended EPA actions, because it was previously proposed by EPA. We expect the flexibilities provided via today's action will promote improved availability of fuel meeting the range of environmental and market needs. Action on the other boutique fuel regulatory recommendations targeted at facilitating the transition from winter to summer fuel should be completed in advance of next year's ozone season.

DATES: This rule is effective on December 28, 2001.

ADDRESSES: Materials relevant to this FRM are contained in Public Docket No. A–97–03, Waterside Mall (Room M–1500), Environmental Protection Agency, Air Docket Section, 401 M Street, S.W., Washington, D.C. 20460. Materials relevant to the final rule establishing standards for RFG and anti-dumping standards for conventional gasoline are contained in Public Dockets—A–92–01 and A–92–12, and are incorporated by reference.

FOR FURTHER INFORMATION CONTACT: Marilyn Bennett, Transportation and Regional Programs Division, U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W. (6406J), Washington, D.C. 20460; telephone: (202) 564–8989; FAX (202) 565–2085; e-mail *mbennett@epa.gov*.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially affected by this action include those involved with the production and importation of gasoline motor fuel.

The table below gives some examples of entities that may have to comply with the regulations. However, since these are only examples, you should carefully examine these and other existing regulations in 40 CFR part 80. If you have any questions, please call the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.