entities: the owners and operators of vessels intending to transit or anchor in a portion of the Maumee River off Toledo, Ohio.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for less than 10 hours for one event and vessel traffic can pass safely around the safety zone. In the event that shipping is affected by this temporary safety zone, commercial vessels may request permission from the Captain of the Port Toledo to transit through the safety zone.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Toledo (see **ADDRESSES**).

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

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.

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.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1C, 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.**

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 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 regulatory 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), 6.04–6, 160.5; 49 CFR 1.46.

2. Add a new temporary § 165.T09–991 to read as follows:

§ 165.T09–991 Safety zone: Maumee River, Toledo, Ohio.

(a) *Location.* All waters and the adjacent shoreline of the Maumee River, Toledo, Ohio, extending from the bow of the museum ship SS WILLIS B. BOYER at 41°38′35″N, 083°31′54″W, then north north-east to the south end of the City of Toledo Street at 41°38′51″N, 083°31′50″W, then south-west to the Maumee River Buoy #64 (LLNR 6361) at approximate position 41°38′48″N, 083°31′58″W, then returning south south-east to the museum ship SS WILLIS B. BOYER. All geographic coordinated are North American Datum of 1983 (NAD 1983).

(b) *Effective period.* This section is effective from 12:30 p.m. until 10 p.m., September 2, 2001.

(c) *Regulations.* 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.

Dated: August 6, 2001.

David L. Scott,

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

[FR Doc. 01–20427 Filed 8–13–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 118–1118a; FRL–7032–2]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the state of Missouri. This approval pertains to revisions to a rule which controls emissions from the manufacture of paints, varnishes, lacquers, enamels, and other allied surface coating products in the St. Louis, Missouri, area. The effect of this approval is to ensure Federal enforceability of the state air program rules and to maintain consistency between the state-adopted rules and the approved SIP.

DATES: This direct final rule will be effective on October 15, 2001 unless EPA receives adverse comments by September 13, 2001. If adverse comments are 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: Comments may be mailed to Wayne Kaiser, 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. This section provides additional information by addressing the following questions:

What is a SIP?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation mean to me?
What is being addressed in this action?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally enforceable SIP.

Each Federally approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

On September 27, 2000, we received a request from the Missouri Department of Natural Resources to approve as a SIP revision rule 10 CSR 10–5.390, ''Control of Emissions From Manufacture of Paints, Varnishes, Lacquers, Enamels, and Other Allied Surface Coating Products.''

This rule specifies operating equipment requirements and operating procedures for the reduction of volatile organic compounds from the manufacture of paints, varnishes, lacquers, enamels, and other allied surface coating products in the St. Louis metropolitan area.

The rule was revised to clarify the intent of the rule and to clearly define the requirements of compliance. Consequently, paragraph (4)(F)(1) was revised to make the requirements clear for both batch and continuous processes and to clearly state a 95 percent overall removal efficiency, which is consistent with reasonably available control technology requirements. No other revisions were made to the rule. There will be no emissions increase from the single source affected by this revision.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are processing this action as a final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments.

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 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 preexisting 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). 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 a state rule implementing 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 SIP 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 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 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 October 15, 2001. 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 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: July 27, 2001.

William Rice,

Acting Regional Administrator, Region 7.

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 AA—Missouri

2. In § 52.1320(c) the table is amended under Chapter 5 by revising the entry for ''10–5.390'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA—APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area				
*	*	*	*	*
10–5.390	Control of Emissions From Manufacture of Paints, Varnishes, Lacquers, Enamels, and Other Allied Surface Coating Products.	08/30/00	08/14/01 66 FR 42607.	
*	*	*	*	*

* * * * *

[FR Doc. 01–20257 Filed 8–13–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL–7033–8]

RIN 2060–AJ22

Standards of Performance for Electric Utility Steam Generating Units for Which Construction Is Commenced After September 18, 1978; and Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; removal of provisions.

SUMMARY: This action removes certain provisions of the nitrogen oxides (NO_X) emission standards for new electric utility steam generating units and industrial-commercial-institutional steam generating units, which were promulgated on September 16, 1998. Specifically, we are removing the provisions of the final rules applicable to electric utility steam generating units and industrial-commercial-institutional steam generating units for which modification was commenced after July 9, 1997. The removal of the provisions is based on the issuance of an order by the United States Court of Appeals for the District of Columbia Circuit in *Lignite Energy Council, et al.,* v. *Environmental Protection Agency,* No. 98–1525 (and consolidated cases) on September 21, 1999, granting summary vacatur of the provisions. Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for removal of these provisions without prior proposal and opportunity for comment because the changes to the rules are minor, noncontroversial in nature, and do not substantively change the requirements of the revised NO_X NSPS. Thus, notice and public procedure are unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

EFFECTIVE DATE: August 14, 2001.

ADDRESSES: Docket number A–92–71, containing supporting information used in the development of the rulemaking is available for public inspection and copying between 8 a.m. and 5:30 p.m., Monday through Friday (excluding Federal holidays) at the following address: U.S. EPA, Air and Radiation Docket and Information Center (6102), 401 M Street, SW., Washington, DC 20460; telephone number (202) 260–7548. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. James Eddinger, Combustion Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5426; facsimile number (919) 541–5450; electronic mail address ''eddinger.jim@epa.gov''.

SUPPLEMENTARY INFORMATION: *Docket.* The dockets are organized and complete files of all the information submitted to or otherwise considered by EPA in the development of the standards. The docket is a dynamic file because material is added throughout the rulemaking process. The principal purposes of the docket are to allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process; and to serve as the record in case of judicial review.

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

Category	Examples of regulated entities
Industry * * *	Electric utility steam generating units, industrial steam generating units, commercial steam generating units and institutional steam generating units.

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 carefully examine the applicability criteria in §§ 60.40a and 60.40b of the rules. 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.

Judicial Review. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of this nationally applicable final action is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by October 15, 2001. Under section 307(b)(2) of the CAA, the requirements that are subject to this action may not be challenged later in civil or criminal proceedings brought by EPA to enforce the requirements.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of this final rule will also be available through the Technology Transfer Network (TTN). Following promulgation, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules (http://www.epa.gov/ttn/oarpg/t3pfpr.html). The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

I. Why Are We Taking This Action?

Acting in accordance with sections 407(c) and 111 of the CAA, the EPA published proposed revisions to the emission standards for NO_X contained in the standards of performance for new electric utility steam generating units and industrial-commercial-institutional steam generating units, 40 CFR part 60, subparts Da and Db, respectively, at 62 FR 36948 on July 9, 1997. Under section 111(a)(2) of the CAA, any stationary source, as identified in a proposed new source performance standard (NSPS), on which construction, modification or reconstruction is commenced after the date of proposal of that NSPS is subject to any final standards promulgated by EPA. See *United States of America* v. *City of Painesville, Ohio,* 644 F.2d 1186 (6th Cir. 1981). Thus, any affected facility, as defined in the proposed rule, on which construction, modification or reconstruction was or is commenced after July 9, 1997, would normally be subject to the standards of performance as promulgated. Modification means ''any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted.'' (see CAA section 111(a)(4)). See also 40 CFR 60.14, ''a physical or operational change to an existing facility which results in an increase in the emission rate to the atmosphere of any pollutant to which a standard applies shall be considered a modification within the meaning of section 111 of the Act.''

On September 16, 1998 (63 FR 49553), we published final rules revising the nitrogen oxides emission standards in subparts Da and Db. Following