requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. 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. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act (CAA) do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, 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 CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. Union Electric Co. v. EPA., 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2).

F. 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 annual 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 annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves 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.

G. 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).

H. Petitions for Judicial Review

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 19, 1999. 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 52

Environmental protection, Air pollution control, Carbon monoxide, Nitrogen oxide, Ozone, Volatile organic compounds.

Dated: February 2, 1999.

David A. Ullrich,

Acting Regional Administrator, Region V.

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 O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(146) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(146) On February 13, 1998, the Illinois Environmental Protection Agency (IEPA) submitted a revision to the Illinois State Implementation Plan (SIP). This revision amends certain sections of the Clean-Fuel Fleet Program (CFFP) in the Chicago ozone nonattainment area to reflect that fleet owners and operators will have an additional year to meet the purchase requirements of the CFFP. The amendment changes the first date by which owners or operators of fleets must submit annual reports to IEPA from November 1, 1998 to November 1, 1999. In addition, this revision corrects two credit values in the CFFP credit program.

(i) Incorporation by reference.

(A) 35 Illinois Administrative Code 241; Sections 241.113, 241.130, 241.140, 241.Appendix B.Table A, 241.Appendix B.Table D adopted in R95–12 at 19 Ill. Reg. 13265, effective September 11, 1995; amended in R98–8, at 21 Ill. Reg. 15767, effective November 25, 1997.

(ii) Other Material.

(A) February 13, 1998, letter and attachments from the Illinois Environmental Protection Agency's Bureau of Air Chief to the United States Environmental Protection Agency's Regional Air and Radiation Division Director submitting Illinois' amendments to the Clean Fuel Fleet regulations as a revision to the ozone State Implementation Plan.

[FR Doc. 99–3522 Filed 2–16–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MI67–02–7275; FRL–6302–3]

Approval and Promulgation of Implementation Plans; Michigan: Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a correction to the State Implementation Plan (SIP) for the State of Michigan regarding the State's emission limitations and prohibitions for air contaminant or water vapor. EPA has determined that Michigan's air quality Administrative Rule, R336.1901 (Rule 901) was erroneously incorporated into the SIP. EPA is removing this rule from the

approved Michigan SIP because the rule does not have a reasonable connection to the national ambient air quality standards (NAAQS) and related air quality goals of the Clean Air Act. The intended effect of this correction to the SIP is to make the SIP consistent with the requirements of the Clean Air Act, as amended in 1990 (''the Act''), regarding EPA action on SIP submittals and SIPs for national primary and secondary ambient air quality standards.

EFFECTIVE DATE: This final rule is effective on March 19, 1999.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Victoria Hayden at (312) 886–4023 before visiting the Region 5 Office.)

A copy of this SIP revision is available for inspection at the following location: Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), room M1500, United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: Victoria Hayden, Environmental Engineer, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604; Telephone Number (312) 886–4023.

SUPPLEMENTARY INFORMATION: On May 19, 1998, EPA published a direct final rule (63 FR 27492) approving the removal of Rule 901 of the Michigan air quality Administrative Rules from the approved Michigan SIP pursuant to section 110(k)(6) of the Act. The formal SIP correction request was submitted by the Michigan Department of Environmental Quality on January 29, 1998. In the May 19, 1998 direct final rulemaking, EPA stated that if adverse comments were received on the final approval within 30 days of its publication, EPA would publish a document announcing the withdrawal of its direct final rulemaking action. Because EPA received adverse comments on the direct final rulemaking within the prescribed comment period, EPA withdrew the May 19, 1998 final rulemaking action to remove Rule 901 from Michigan's approved SIP. This withdrawal document appeared in the **Federal Register** on July 29, 1998 [63 FR 40370]. A companion proposed rulemaking notice to approve the removal of Rule 901 from Michigan's approved SIP was published in the Proposed Rules section of the May 19, 1998 **Federal Register** (63 FR 27541).

Response to Comments

Several groups submitted letters commenting on the May 19, 1998 direct final rulemaking that were both opposed to and in favor of the removal of Rule 901 from the State of Michigan's approved SIP. About half of the letters received were from community organizations and environmental organizations from across the State that urged EPA to maintain Rule 901 as part of Michigan's approved SIP stating its importance to the citizens of Michigan's health, welfare and quality of life. Other letters received, largely representing industry, supported EPA's May 19, 1998 direct final rulemaking to remove Rule 901. EPA evaluated the comments, which have been incorporated into the docket for the rulemaking. The following discussion summarizes and responds to the comments received.

Comment: It is important to have broad environmental statutes like Rule 901 in the SIP to protect local air quality.

Response: Michigan Rule 901 is a general rule that prohibits the emission of an air contaminant which is injurious to human health or safety, animal life, plant life of significant economic value, property, or which causes unreasonable interference with the comfortable enjoyment of life and property. It is a State rule that has been primarily used to address odors and other local nuisances. Historically, the rule has not been used for purposes of attaining or maintaining any of the National Ambient Air Quality Standards (NAAQS). In accordance with the Clean Air Act, only rules pertaining to the attainment and maintenance of the NAAQS can be lawfully required as part of a SIP.

Comment: Communities need the assistance of federal agencies to challenge State and local authorities to do all that is in their power to reduce pollution in local neighborhoods. One commentor references a particular neighborhood that suffers from heavy odors from surrounding industrial and municipal sources.

Response: The Clean Air Act does not authorize the EPA to specifically require States to adopt rules to address odors and nuisances as part of their SIPs. Only rules that have a reasonable connection to the NAAQS and related air quality goals of the Clean Air Act are required. Rule 901 was never submitted for purposes of attaining or maintaining the NAAQS and was, therefore, incorrectly submitted to EPA for inclusion in the SIP. Although Rule 901 will be removed from the SIP, Rule 901 will remain as a State rule and still be enforceable at the State level. In addition, Michigan has submitted, and EPA has approved, regulations to attain the NAAQS under the Clean Air Act. These regulations are directly related to protecting human health and will continue to be federally enforceable.

Comment: Rule 901 is the only rule that provides basis for enforcement actions related to odor and nuisance offenses. A commentor hopes that the removal of Rule 901 results in a substitute rule that is more relevant and can be readily enforced by the State. Residents of the State of Michigan should have the protection from odors, fumes in high concentrations, blowing dust, and other negative air quality issues that the local and county municipal governments cannot or are unable to enforce because of the cost or because of the lack of expertise or jurisdiction.

Response: As stated previously, the Clean Air Act does not authorize EPA to specifically require the State to develop rules to address odor and nuisance offenses. The Clean Air Act does require States to develop rules to protect public health and welfare. If a pollution source or combination of sources is presenting an imminent and substantial endangerment to public health or welfare, or the environment, the State of Michigan, as well as the EPA, have the ability under section 303 of the Act to take action against that source. Because the Clean Air Act does not require State rules to address odors and nuisances, EPA is approving the removal of Rule 901 from Michigan's approved SIP.

Final Action

The EPA is approving the removal of Rule 901 of the Michigan air quality Administrative Rules from the approved Michigan SIP pursuant to section 110(k)(6) of the Act.

Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal

government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitle ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effect 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 final rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. 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. This final rule will not have a significant impact on a substantial number of small entities because it removes requirements from the SIP. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the 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 the private sector, of $100 million or more. Under Section 205, the 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 the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

This is an action to remove rules from the Michigan SIP. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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).

H. 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 April 19, 1999. 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 52

Environmental protection, Air pollution control, Reporting and recordkeeping.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 2, 1999.

David A. Ullrich,

Acting Regional Administrator.

40 CFR Part 52, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C 7401–7671q.

Subpart X-Michigan

2. Section 52.1174 is amended by adding paragraph (q) to read as follows:

§ 52.1174 Control strategy: Ozone.

* * * * *

(q) Correction of approved plan—Michigan air quality Administrative Rule, R336.1901 (Rule 901)—Air Contaminant or Water Vapor, has been removed from the approved plan pursuant to section 110(k)(6) of the Clean Air Act (as amended in 1990).

[FR Doc. 99–3837 Filed 2–16–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 61 and 63

[FRL–6233–6]

Approval of the Clean Air Act, Section 112(l), Delegation of Authority to Three Local Air Agencies in Washington; Correction and Clarification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation of authority; correction and clarification.

SUMMARY: This action provides a correction and clarification to a direct final **Federal Register** action published on December 1, 1998 (**see** 63 FR 66054), that granted Clean Air Act, section 112(l), delegation of authority for three local air agencies in Washington to implement and enforce specific 40 CFR parts 61 and 63 federal National Emission Standards for the Hazardous Air Pollutants (NESHAP) regulations which have been adopted into local law. This action corrects several typographical errors in the EPA Action section of the preamble of the December 1, 1998, direct final rule, and also clarifies the extent of that delegation with respect to Indian country.

DATES: This action is effective on February 17, 1999.

ADDRESSES: Copies of the requests for delegation and other supporting documentation are available for public inspection at the following location: U.S. Environmental Protection Agency, Region X, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, WA, 98101.

FOR FURTHER INFORMATION CONTACT: Andrea Wullenweber, US EPA, Region X (OAQ–107), 1200 Sixth Avenue, Seattle, WA, 98101, (206) 553–8760.

SUPPLEMENTARY INFORMATION:

I Administrative Requirements

Under Executive Order (E.O.) 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore, not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655, May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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).

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 19, 1999. 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)).

II Clarification

On December 1, 1998, EPA promulgated direct final approval of the Washington Department of Ecology (Ecology) request, on behalf of three local air agencies, for program approval and delegation of authority to implement and enforce specific 40 CFR parts 61 and 63 federal NESHAP regulations which have been adopted into local law (as apply to both Part 70 and non-Part 70 sources). The three local air agencies that will be implementing and enforcing these regulations are: the Northwest Air Pollution Authority (NWAPA); the Puget Sound Air Pollution Control Agency (PSAPCA); and the Southwest Air Pollution Control Authority (SWAPCA). In the direct final rule and delegation of authority, an explanation of the applicability of that action to sources and activities located in Indian country was inadvertently omitted. Beginning on page 66054, in the issue of Tuesday, December 1, 1998, make the following correction, in the EPA Action section of the preamble, at the end of the Delegation of Specific Standards subsection. On page 66057, in the second column, after the first paragraph, add the following statement:

''The delegation approved by this rule for NWAPA, PSAPCA, and SWAPCA to implement and enforce NESHAPs does not extend to sources or activities located in Indian country, as defined in 18 U.S.C. 1151. Consistent with previous federal program approvals or delegations, EPA will continue to implement the NESHAPs in Indian country because the local air agencies did not adequately demonstrate their authority over sources and activities located within the exterior boundaries of Indian reservations and other areas in Indian country.

The one exception to this limitation is within the boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local agencies, such as PSAPCA, authority over activities on non-trust lands within the 1873 Survey Area. After consulting with the Puyallup Tribe of Indians, EPA's delegation in this rule applies to sources and activities on non-trust lands within the 1873 Survey Area. Therefore, PSAPCA will implement and enforce