C. 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.

The 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 imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in this **Federal Register**. This rule is not a ''major rule'' as defined by section 804(2).

E. 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 January 5, 1998. 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, Incorporation by reference, Intergovernmental relations.

Dated: August 13, 1997.

Michelle D. Jordan,

Acting Regional Administrator.

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. 7401–7642(q).

Subpart X—Michigan

2. Section 52.1170 is amended by adding paragraph (c)109 to read as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(109) On December 13, 1994 and January 19, 1996, Michigan submitted correspondence and Executive Orders 1991–31 and 1995–18 which indicated that the executive branch of government had been reorganized. As a result of the reorganization, delegation of the Governor's authority under the Clean Air Act was revised. The Environmental Protection Agency's approval of these Executive Orders is limited to those provisions affecting air pollution control. The Air Pollution Control Commission was abolished and its authority was initially transferred to the Director of the Michigan Department of Natural Resources (DNR). Subsequently, the Michigan Department of Natural Resources of Environmental Quality (DEQ) was created by elevating eight program divisions and two program offices previously located within the DNR. The authority then earlier vested to the Director of the Michigan DNR was then transferred to the Director of the Michigan DEQ with the exception of some administrative appeals decisions.

(i) Incorporation by reference.

(A) State of Michigan Executive Order 1991–31 Commission of Natural Resources, Department of Natural Resources, Michigan Department of Natural Resources Executive Reorganization. Introductory and concluding words of issuance and Title I: General; Part A: Sections 1, 2, 4 and 5, Part B. Title III: Environmental Protection; Part A: Sections 1 and 2, Part B. Title IV: Miscellaneous; Parts A and B, Part C: Sections 1, 2, 4, Part D. Signed by John Engler, Governor, November 8, 1991. Filed with the Secretary of State November 8, 1991. Effective January 7, 1992.

(B) State of Michigan Executive Order No. 1995–18 Michigan Department of Environmental Quality, Michigan Department of Natural Resources Executive Reorganization. Introductory and concluding words of issuance. Paragraphs 1, 2, 3(a) and (g), 4, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18. Signed by John Engler, Governor, July 31, 1995. Filed with the Secretary of State on August 1, 1995. Effective September 30, 1995.

[FR Doc. 97–29395 Filed 11–5–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 091–4050a; FRL–5918–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correcting amendment.

SUMMARY: This action corrects an interim final rule, which was published on January 28, 1997, regarding EPA conditional approval of Pennsylvania's enhanced inspection and maintenance (I/M) program. This action pertains to the consequences in the event that the Pennsylvania enhanced I/M program failed to commence per the deadlines set forth in EPA's interim final rule. EPA is taking this action for the purposes of consistency with rulemaking actions EPA has since taken on other states' inspection and maintenance programs. EPA is correcting its January 28 final rule through a direct final rule, without prior proposal, because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comment from the public. A detailed description of the correction is set forth in the **SUPPLEMENTARY INFORMATION** section, below. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on a parallel proposed rule, published elsewhere in this **Federal Register**. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by December 8, 1997. If no adverse comments to this action is received, the action will become effective January 5, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to David L. Arnold, Chief, Ozone/CO and Mobile Sources Section (Mailcode 3AT21), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Relevant documents are also available at the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Brian Rehn, (215) 566–2176.

SUPPLEMENTARY INFORMATION:

Background

On January 28, 1997 (62 FR 4004), EPA published an interim final rule approving a State Implementation Plan (SIP) revision submitted by Pennsylvania for an enhanced inspection and maintenance program for all subject areas in the Commonwealth.

Need for Correction

As published, the direct final rule contains an error, which may prove to be misleading. Therefore, EPA's action today serves to clarify that rulemaking, as described in the January 28, 1997 document, the National Highway Safety Designation Act (NHSDA) directs EPA to grant interim approval for a period of 18 months to approvable decentralized I/M submittals. The NHSDA requires such a state to gather data on the program during that time, and to assess the effectiveness of the program at the end of the 18-month period. Therefore, EPA believes that Congress intended for programs to be implemented as soon as possible, and that these programs must commence testing by November 15, 1997, so that at least six months worth of operational data can be collected for the purpose of evaluating the program.

Therefore, EPA set a strict timetable for states to begin testing under the NHSDA, and conditioned approval of Pennsylvania's I/M plan upon start up by November 15, 1997. EPA's January 28, 1997 (62 FR 4004) interim approval of Pennsylvania's plan was conditioned upon five major deficiencies—including start up of the program. In the Background section of the January 1997 rulemaking for Pennsylvania, EPA stated that if the Commonwealth failed to start its program according to schedule, the conditional interim approval would convert to a disapproval after a finding letter was sent by EPA to the state. However, in the Public Comments/Response to Comments section of EPA's January 1997 rule, EPA conversely stated that all conditions of the conditional approval automatically convert to disapprovals, by operation of law, if a state fails to remedy a deficiency upon which the plan is conditioned (by the date certain established under the conditional approval). EPA further added that in the event any condition is not fulfilled in a timely fashion, conversion to a disapproval is automatic. EPA would subsequently send a letter to the state notifying the state and the public that the approval had converted to a disapproval. These two sections seem to be inconsistent, and their meaning could be easily misinterpreted, if the responses in the Public Comments/ Response to Comments section are applied to the start condition, in addition to the other noted major deficiencies.

Correction of Publication

Although it is unclear in the January 28, 1997 rulemaking, EPA did not intend for I/M program implementation (or start up) to be a condition, the failure of which would automatically convert the Commonwealth's SIP approval to a disapproval. The I/M program start up condition is not imposed pursuant to a commitment to correct a deficient SIP under section 110(k)(4) of the Clean Air Act. Instead, EPA is imposing the start date condition under its general SIP approval authority under section 110(k)(3) of the Clean Air Act, which does not require automatic conversion in the event the condition is not satisfied in a timely manner [see EPA's Interim Final Rule approving Virginia's enhanced I/M program (62 FR 26746)] .

Unlike the other specified conditions of Pennsylvania's interim approval, which are explicit conditions under section 110(k)(4) of the Clean Air Act, and which will trigger an automatic disapproval should the Commonwealth fail to meet its commitments, the start date provision will trigger a disapproval upon EPA's notification to the Commonwealth via letter that the program did not start per the specified deadlines imposed by EPA in its final rule—by no later than November 15, 1997 for the five-county Philadelphia area and no later than November 15, 1999 for the remaining 16 counties in Pennsylvania. In the event the program did not start in a timely manner, such a letter would notify the Commonwealth that this rulemaking action has been converted to a disapproval and that the first sanction associated with such a disapproval has been triggered, per the proposed interim final determination document published on October 3, 1996 (61 FR 31598). As explained in that document, the 18-month sanctions clock for Pennsylvania's I/M program SIP has already expired, with sanctions suspended while EPA undertook SIP rulemaking action.

Although the January 28, 1997 final rule does not make the distinction clear between program start up and the other conditions placed upon the interim SIP approval, EPA intended to distinguish the failure for timely start up from all other major deficiencies, as explained above. Accordingly, the publication on January 28, 1997 (62 FR 4004) of 40 CFR 52.2026 is being amended by revising paragraph (a) and (a)(1) to address the start date condition.

Final Action

EPA is today correcting an error in its January 28, 1997 interim conditional approval of Pennsylvania's enhanced I/M program SIP revision. EPA is taking this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse public comments on this action. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective January 5, 1998 unless, within 30 days of publication, adverse or critical comments are received.

If EPA receives such comments, this correction action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the parallel proposal action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on January 5, 1998.

Administrative Requirements

Under Executive Order 12866 (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 correction action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with state officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

However, conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that a state is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. 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 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).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new Federal requirement.

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this correction action must be filed in the United States Court of Appeals for the appropriate circuit by January 5, 1998. 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, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: October 29, 1997.

William T. Wisnieski,

Acting Regional Administrator, Region III.

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. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2026 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 52.2026 Conditional Approval.

* * * * *

(a) If the Commonwealth fails to start its program according to the schedule it provided (i.e., by no later than November 15, 1997 for the five-county Philadelphia area and no later than November 15, 1999 for the remaining sixteen counties), this conditional approval will convert to a disapproval after EPA sends a letter to the state. If the Commonwealth fails to satisfy the following conditions per the deadlines listed within each condition, this conditional approval will automatically convert to a disapproval as explained under section 110(k) of the Clean Air Act. The conditions for approvability are as follows:

(1) By no later than September 15, 1997, a notice must be published in the *Pennsylvania Bulletin* by the Secretary of the Pennsylvania Department of Transportation which certifies that the enhanced I/M program is required in order to comply with Federal law and also certifies the geographic areas which are subject to the enhanced I/M program (the geographic coverage must be identical to that listed in Appendix A–1 of the March 22, 1996 SIP submittal), and certifies the commencement date of the enhanced I/M program.

* * * * *

[FR Doc. 97–29388 Filed 11–5–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–5917–9]

Removal of Requirement in Gasoline Deposit Control Additives Rule Regarding the Identification of the Oxygenate Content of Transferred Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is amending the gasoline deposit control additives program, (the ''detergent rule'') to remove the requirement that certain information on the oxygenate content of transferred gasoline must be included in the gasoline's product transfer document. EPA is taking this action to avoid unnecessary disruption to the gasoline distribution system and because the Agency believes that it will result in no negative environmental impact.

In the proposed rules section of today's **Federal Register**, EPA is proposing the same action covered by this direct final rule (*i.e.*, to amend the detergent rule to remove the requirement that certain information on the oxygenate content of transferred gasoline must be included in the gasoline's product transfer document), as well as several other actions impacting the detergent rule. If adverse comment or a request for a public hearing is received on this direct final rule, EPA will withdraw the direct final rule and address the comments received in a subsequent final rule on the related proposed rule. No additional