Federal SIP approval does not impose any new requirements, the Administrator certifies 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 regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

B. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

C. 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 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.

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 approves preexisting 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.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the 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).

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 April 3, 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 30, 1997.

Diane Callier,

Acting Regional Administrator, Region VII.

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 Q—Iowa

2. Section 52.820 is amended by adding paragraph (c)(66) to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

(66) On April 2, 1997, the Director of the Iowa Department of Natural Resources submitted revisions to the State Implementation Plan (SIP) for the State's two local agencies: the Polk County Public Works Department and Linn County Health Department.

(i) Incorporation by reference.

(A) Revised rules, ''Polk County Board of Health Rules and Regulations: Chapter V, Air Pollution,'' effective December 18, 1996. This revision approves all articles insofar as they pertain to the SIP. Article XIII is specifically excluded from this approval. No action is taken on Sections 5–16(n), 5–16(p), 5–20, and 5–27(3) and (4).

(B) Revised rules, ''Linn County Air Pollution Control Code of Ordinances,'' effective March 7, 1997. This revision approves all sections insofar as they pertain to the SIP. Sections 10.4(1.), 10.11, and 10.15 are specifically excluded from this approval. No action is taken on Sections 10.9(2.), 10.9(3.), 10.9(4.), and the definition of ''federally enforceable'' in Section 10.2.

(ii) Additional material.

(A) Letter from Allan E. Stokes, Iowa Department of Natural Resources, to William A. Spratlin, Environmental Protection Agency, dated May 15, 1997. This letter provides additional information regarding various administrative requirements outlined in 40 CFR part 51.

[FR Doc. 98–2493 Filed 1–30–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA9–1–5540, WA28–1–6613, WA34–1–6937; FRL–5951–2]

Approval and Promulgation of State Implementation Plans: Washington

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Washington State Implementation Plan (SIP) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM10) for the Yakima, Washington nonattainment area. On March 24, 1989, the Washington Department of Ecology (WDOE) submitted a plan for attaining and maintaining the National Ambient Air Quality Standard (NAAQS) for PM10 in the Yakima PM10 moderate nonattainment area and the plan was amended with additional submittals between 1992 and 1995. EPA proposed to approve and disapprove portions of the SIP submitted by the state of Washington on November 7, 1995. Subsequent to the November, 1995 proposal, EPA received two additional revisions from WDOE, dated November 3, and December 27, 1995 that resolved EPA's concerns in the proposed disapproval of portions of the Yakima PM10 nonattainment plan. Although EPA promulgated a new PM NAAQS, which became effective on September 16, 1997, the requirements which are

the subject of this document arise under the pre-existing PM NAAQS.

EFFECTIVE DATE: This action is effective on March 4, 1998.

ADDRESSES: Copies of the State's request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, and the Washington State Department of Ecology, 300 Desmond Drive, Lacey, WA 98503. Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, EPA, 401 M Street, SW., Washington, DC 20460, as well as the above addresses.

FOR FURTHER INFORMATION CONTACT: Regina C. Thompson, Office of Air Quality (OAQ–107), EPA, Seattle, Washington, (206) 553–1498.

SUPPLEMENTARY INFORMATION:

I. Background

On November 7, 1995, EPA published a document in the **Federal Register** proposing a limited approval and limited disapproval of the SIP submitted by the State of Washington for the purpose of bringing about attainment of the NAAQS for PM10 in Yakima, WA (60 FR 56129–56133).

In the Yakima nonattainment area, the Yakima Regional Clean Air Authority (YRCAA), formerly the Yakima County Clean Air Authority, is authorized under State law, as approved by EPA, to implement the CAA. EPA is clarifying that the approved SIP does not extend to lands which are within the boundaries of the Yakama Indian Nation.

The November 7, 1995 proposal provided information on requirements for PM10 nonattainment area SIPs and the history of this rulemaking action. The portions of the plan which did not meet EPA requirements and for which EPA proposed disapproval included: the attainment demonstration; the maintenance demonstration; provisions to assure that reasonably available control measures (RACM) are implemented; the quantitative milestones to be achieved every three years which demonstrate reasonable further progress towards attainment; and, the enforceability of the local authority regulations.

Subsequent to publishing the **Federal Register** proposal, EPA received two submittals from WDOE on November 3, 1995 and December 27, 1995. These submittals addressed the concerns that EPA had with the package as proposed. A Technical Support Document on file at the EPA Region 10 office contains additional analysis of the submittals.

II. Review of State Submittals

A. Attainment Demonstration

The State's November 3, 1995 submittal revised an analysis of emissions from a facility. Previously, the facility's actual emissions were used to estimate its impacts. This was revised so that the facility's allowable emissions were used. This analysis completed the demonstration of attainment and is, therefore, now approved by EPA.

B. Maintenance Demonstration and Quantitative Milestone

The State's November 3, 1995 submittal included a maintenance demonstration and quantitative milestone report. These included the revised emissions prepared for the attainment demonstration above. This completed the maintenance demonstration and quantitative milestone report and is, therefore, now approved by EPA.

C. Implementation of RACM

In the evaluation conducted by EPA to prepare the proposed rule, a number of the YRCAA regulations were found to be less stringent than the Washington Administrative Code (WAC). The December 27, 1995 submittal from the State provided an amended set of YRCAA regulations, which included an acceptable woodsmoke control program. The regulations less stringent than the WAC were revised to make them at least as stringent as the state regulations. The regulations are, therefore, now approved by EPA.

D. Enforceability

The State requires that local agency rules be at least as stringent as the State's regulations. When the YRCAA rules were less stringent than the State rules, it was questionable whether such rules could be enforced, as the rules did not meet State requirements. As the YRCAA rules have been revised with the December 27, 1995 submittal, and are now as stringent as the State rules, the question of enforceability is resolved. The revision addresses EPA's earlier concerns and is, therefore, now approved by EPA.

E. Indian Country

By this approval in today's document, EPA is limiting its approval as not including any reference to authority of YRCAA over activities or air resources that are located within the exterior boundaries of the Yakama Indian Reservation. The WDOE submittal and the YRCAA rules do not specifically assert jurisdiction over air resources within the Yakama Reservation, and do not provide any information to demonstrate authority over such air resources. EPA is guided by Federal law and EPA's Indian Policy in making decisions affecting Tribes. In an earlier decision, EPA declined to approve WDOE programs within the State of Washington within Indian country under the Resource Conservation and Recovery Act, and EPA's decision was upheld in *Washington Department of Ecology* v. *EPA*, 752 F.2d 1465 (9th Cir. 1985). The court's conclusion was informed by ''well-settled principles of Indian law'' including the principle that ''States are generally precluded from exercising jurisdiction over Indians in Indian country unless Congress has clearly expressed an intention to permit it.'' *Washington Department of Ecology* v. *EPA*, 752 F.2d at 1469. In 1988, EPA concluded that the application of the State of Washington to operate the Underground Injection Control (UIC) program under the Safe Drinking Water Act was insufficient for EPA to authorize the State of Washington to regulate UIC activities within Indian reservations. See 53 FR 43080, October 25, 1988. More recently, EPA concluded that WDOE did not adequately demonstrate authority to regulate Title V sources located within reservation boundaries. See 59 FR 55813, November 29, 1994. Based on the approach articulated in these prior decisions, EPA concludes that WDOE has not adequately demonstrated authority over air resources located within the Yakama Indian Reservation. Therefore, EPA is by this document clarifying that its approval today does not include any portion of the YRCAA rules that would apply to areas within the exterior boundaries of the Yakama Indian Reservation.

III. Response To Comments

EPA received no comments on the proposed rulemaking of November 7, 1995. (60 FR 56129–56133)

IV. Final Action

EPA approves Washington State's PM10 attainment plan for the Yakima moderate PM10 nonattainment area. This plan is contained in documents submitted to EPA by the State on: March 24, 1989, the original Yakima plan (docket #WA9–1–5540); May 1, 1992, a supplement to the original plan with changes required by the 1990 Clean Air Act Amendments; August 19, 1992, a modeling and inventory supplement to the original plan; February 3, 1994, an addendum with contingency measures;

March 10, 1995, supplemental information primarily on emissions and modeling; June 27, 1995, a supplemental letter on monitoring, public notice and emissions; August 17, 1995, a supplemental emissions analysis; November 3, 1995, more emissions analysis and the maintenance demonstration; and December 27, 1995, revised regulations of the Yakima County Clean Air Authority.

The portions of the December 27, 1995 submittal which EPA approves as part of the SIP for Washington include: Article I on policy, a short title and definitions; Article II on general provisions, except Section 2.01; Article III on violations; Article IV on registration and notice of construction; Article V on emission standards and preventative measures, except Section 5.09; Article VIII on penalties and severability; Article IX on woodstoves and fireplaces; Article XI on the rules' effective date; Article XII on adoption of State regulations, except Section 12.02 on Federal regulations; and Article XIII on fee schedules and other charges, except Sections 13.04 and 13.05.

The portions of the December 27, 1995 submittal on which EPA is taking no action include: Article VI, which covers operating permits, as these were approved in a separate rulemaking process under Title V of the Clean Air Act; Section 5.09 of Article V, Article X, Section 12.02 of Article XII, and Sections 13.04 and 13.05 of Article XIII, as these provisions relate to pollutants other than the criteria pollutants, and cannot be addressed through the State Implementation plan process; and Section 2.01 of Article II and Article VII, as these relate to variances, and variance procedures cannot be approved as part of the state implementation plan.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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.

SIP approvals under section 110 and subchapter I, part D, of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies 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).

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 the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action 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.

D. Submission to Congress and the General Accounting Office

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 the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. 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 3, 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).)

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 3, 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), 42 U.S.C. 7607(b)(2))

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: January 6, 1998.

Chuck Clarke,

Regional Administrator, Region 10.

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 WW—Washington

2. Section 52.2470 is amended by adding paragraph (c) (76) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(76) On March 24, 1989, the Washington Department of Ecology submitted a plan for attaining and maintaining the NAAQS for PM10 in the Yakima PM10 moderate nonattainment area requesting EPA's review and approval. The plan was amended with additional submittals between 1992 and 1995.

(i) Incorporation by reference.

(A) The attainment plan is contained in the following documents: a submittal of March 24, 1989, adopted that same date, from Washington State Department of Ecology, titled, *State Implementation Plan for Particulate Matter—Yakima Area A Plan for Attaining and Maintaining the National Ambient Air Quality Standard for PM10*; a supplement to the plan adopted August 19, 1992, titled, *Supplement State Implementation Plan for Particulate Matter (PM10) in Yakima, WA* and an addendum adopted February 3, 1994 on contingency measures.

(B) Portions of Restated Regulation I of the Yakima County Clean Air Authority, effective December 15, 1995, including Article I; Article II except Section 2.01; Article III; Article IV; Article V except Section 5.09; Article VIII; Article IX; Article XI; Article XII except Section 12.02; and, Article XIII except Sections 13.04 and 13.05.

(ii) Additional material:

(A) August 19, 1992: A modeling and inventory supplement to the original plan.

(B) March 10, 1995: A supplemental information package primarily on emissions and modeling.

(C) June 27, 1995: A supplemental letter on monitoring, public notice and emissions.

(D) August 17, 1995: A supplemental emissions analysis.

(E) November 3, 1995: More emissions analysis and the maintenance demonstration.

[FR Doc. 98–2492 Filed 1–30–98; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF ENERGY

48 CFR Parts 932 and 970

RIN 1991–AB29

Acquisition Regulation: Contract Financing; Management and Operating Contracts

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) amends its Acquisition Regulation to incorporate coverage required by the Federal Acquisition Streamlining Act of 1994. These amendments will clarify the allowability of costs reimbursed under Department of Energy contracts and establish the responsibilities of the remedy coordination official within the Department.

DATES: This final rule is effective March 4, 1998.

FOR FURTHER INFORMATION CONTACT: Terrence D. Sheppard, Office of Policy (HR–51), Office of Procurement and Assistance Policy, Department of Energy, 1000 Independence Avenue S.W., Washington, D.C. 20585, (202) 586–8193 (Phone), (202) 586–0545 (Facsimile), terry.sheppard@hq.doe.gov (Internet).

SUPPLEMENTARY INFORMATION:

I. Background

On June 4, 1997 the Department of Energy published in the **Federal Register** (62 FR 30558) a notice of proposed rulemaking to amend the Department's acquisition regulations based on selected provisions in Sections 2051, 2151, and 2192 of the Federal Acquisition Streamlining Act of 1994 (the Act). These amendments establish certification of cost submissions and assessment of penalties on unallowable costs; a remedy coordination official for payment requests suspected to be based on substantial evidence of fraud; parameters for resolution of questioned costs; guidance for application of cost principles; general prohibitions on severance payments to foreign nationals and compensation costs associated with a change in management control or ownership; clarification of employee morale, recreation, entertainment, executive branch lobbying, company furnished automobiles, and insurance costs which protect the contractor against defects in material or workmanship.

The public comment period closed August 4, 1997. The Department received comments from three entities. Today's final rulemaking adopts the amendments in the notice of proposed rulemaking with certain changes discussed under the Resolution of Comments section.

II. Resolution of Comments

Three entities responded with 20 total comments. A comment resolution package has been prepared and is part of the file. The Department has considered and evaluated all the comments received during the comment period. Comments that resulted in changes to the proposed rulemaking are summarized below.

Comment: It was stated that, as written, the proposed language under Political Activity Costs addressing unallowable costs associated with attempting to influence executive or legislative actions could be construed to make unallowable the costs of negotiations.

Response: Concur. DOE has modified its coverage by deleting a portion of the last sentence of the proposed coverage. The final rule makes the following changes to the June 4, 1997, proposed rulemaking: 970.3102–7(b), 970.5204–13(e)(31)(ii), 970.5204–14(e)(29)(ii), and 970.5204–17(a)(6) were revised by deleting language which addressed costs associated with proposals.

Comment: Proposed changes to the Payments and Advances clause, 970.5204–16, would complicate other DOE efforts at streamlining.

Response: Concur. The proposed change has been deleted from the final rulemaking.

Comment: As written, DOE appears to disallow the cost of local travel at 970.3102–17.

Response: It was not our intent to disallow the costs of local business travel and we do not believe we have done so. However, the coverage could be clearer. Accordingly, DOE has modified its proposed coverage to ensure a distinction between company-furnished automobiles used for company business, which can be allowable if approved by the contracting officer and personal use of company