§ 291.9 What must the Secretary do at the end of the 60-day comment period if the State offers an alternative proposal for Class III gaming procedures?

Within 30 days of receiving the State's alternative proposal, the Secretary must appoint a mediator who:

(a) Has no official, financial, or personal conflict of interest with respect to the issues in controversy; and

(b) Must convene a process to resolve differences between the two proposals.

§ 291.10 What is the role of the mediator appointed by the Secretary?

(a) The mediator must ask the Indian tribe and the State to submit their last best proposal for Class III gaming procedures.

(b) After giving the Indian tribe and the State an opportunity to be heard and present information supporting their respective positions, the mediator must select from the two proposals the one that best comports with the terms of IGRA and any other applicable Federal law. The mediator must submit the proposal selected to the Indian tribe, the State, and the Secretary.

§ 291.11 What must the Secretary do upon receiving the proposal selected by the mediator?

Within 60 days of receiving the proposal selected by the mediator, the Secretary must do one of the following:

(a) Notify the Indian tribe, the Governor and the Attorney General in writing of his/her decision to approve the proposal for Class III gaming procedures selected by the mediator; or

(b) Notify the Indian tribe, the Governor and the Attorney General in writing of his/her decision to disapprove the proposal selected by the mediator for any of the following reasons:

(1) The requirements of § 291.4 are not adequately addressed;

(2) Gaming activities would not be conducted on Indian lands over which the Indian tribe has jurisdiction;

(3) Contemplated gaming activities are not permitted in the State for any purpose by any person, organization, or entity;

(4) The proposal is not consistent with relevant provisions of the laws of the State;

(5) The proposal is not consistent with the trust obligations of the United States to the Indian tribe;

(6) The proposal is not consistent with applicable provisions of IGRA; or

(7) The proposal is not consistent with provisions of other applicable Federal laws.

(c) If the Secretary rejects the mediator's proposal under paragraph (b) of this section, he/she must prescribe appropriate procedures within 60 days under which Class III gaming may take place that comport with the mediator's selected proposal as much as possible, the provisions of IGRA, and the relevant provisions of the laws of the State.

§ 291.12 Who will monitor and enforce tribal compliance with the Class III gaming procedures?

The Indian tribe and the State may have an agreement regarding monitoring and enforcement of tribal compliance with the Indian tribe's Class III gaming procedures. In addition, under existing law, the NIGC will monitor and enforce tribal compliance with the Indian tribe's Class III gaming procedures.

§ 291.13 When do Class III gaming procedures for an Indian tribe become effective?

Upon approval of Class III gaming procedures for the Indian tribe under either § 291.8(b), § 291.8(c), or § 291.11(a), the Indian tribe shall have 90 days in which to approve and execute the Secretarial procedures and forward its approval and execution to the Secretary, who shall publish notice of their approval in the **Federal Register**. The procedures take effect upon their publication in the **Federal Register**.

§ 291.14 How can Class III gaming procedures approved by the Secretary be amended?

An Indian tribe may ask the Secretary to amend approved Class III gaming procedures by submitting an amendment proposal to the Secretary. The Secretary must review the proposal by following the approval process for initial tribal proposals, except that the requirements of § 291.3 are not applicable and he/she may waive the requirements of § 291.4 to the extent they do not apply to the amendment request.

§ 291.15 How long do Class III gaming procedures remain in effect?

Class III gaming procedures remain in effect for the duration specified in the procedures or until amended pursuant to § 291.14.

Dated: April 1, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–8910 Filed 4–9–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 863

Leasing U.S. Air Force Aircraft and Related Equipment to Nongovernment Organizations

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule; removal.

SUMMARY: The Department of the Air Force is amending the Code of Federal Regulations (CFR) by removing its rule on Leasing U.S. Air Force Aircraft and Related Equipment to Nongovernmental Organizations. This rule is removed, as the current information contained in it does not reflect current policy of AFI 64–103, May 1997.

EFFECTIVE DATE: April 7, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Kattner, Headquarters, U.S. Air Force, SAF/AQCP, 1500 Wilson Blvd., 7th Floor, Arlington, VA 22209–2404, (703) 588–7059.

List of Subjects in 32 CFR Part 863

Aircraft, Government Property

PART 863—[REMOVED]

Accordingly, and under the authority of 10 U.S.C. 2667, 32 CFR, Chapter VII is amended by removing Part 863.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–8981 Filed 4–9–99; 8:45 am]

BILLING CODE 5001–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WA 68–7143–a; FRL–6322–5]

Approval and Promulgation of Implementation Plans: Washington

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) approves the revisions to the Washington State Implementation Plan (SIP) submitted by the Washington Department of Ecology on March 2, 1999 amending two portions of the Spokane County Air Pollution Control Agency's (SCAPCA) Regulation I, Article IV. The revisions to the SIP for the Spokane particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM10) nonattainment area simply adds a

definition so that previously approved control measures would continue to be implemented should the area be redesignated as attainment or the pre-existing PM–10 standard is revoked.

DATES: This direct final rule is effective on June 11, 1999 without further notice, unless EPA receives adverse comment by May 12, 1999. If adverse comment is 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: Written comments should be addressed to: Montel Livingston, SIP Manager, Office of Air Quality (OAQ–107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ–107), Seattle, Washington 98101, and State of Washington Department of Ecology, 300 Desmond Drive, Lacey, Washington 98503.

FOR FURTHER INFORMATION CONTACT: George Lauderdale, Office of Air Quality (OAQ–107), EPA, Seattle, Washington 98101, (206) 553–6511.

SUPPLEMENTARY INFORMATION:

I. Background

Spokane, Washington, was designated a PM–10 nonattainment area on November 15, 1990. The major sources of particulate air pollution are fugitive dust and residential wood combustion. Industrial emissions are a minor source of PM–10 within the nonattainment area. On January 27, 1997, see 62 FR 3800, EPA approved the SIP for PM–10 for the Spokane nonattainment area. The approved attainment plan contains specific regulations which implement control measures for residential wood combustion, paved surfaces, unpaved roads, and other measures. These measures are being fully implemented and the area has not monitored PM–10, 24-hour or annual, violations since 1994. Some of the control measures in the approved SIP are contained in the Spokane County Air Pollution Control Authority (SCAPCA) regulations. Specifically SCAPCA Regulation I , includes standards of control for particulate matter on paved and unpaved surfaces and roads.

II. Summary of Action

SCAPCA amended SCAPCA Regulation I (effective February 13, 1999) and submitted the amendments to Ecology for inclusion in the SIP. The changes will preserve the applicability of Section 6.14 Standards for Control of Particulate Matter on Paved Surfaces, and Section 6.15 Standards for Control of Particulate Matter on Unpaved Roads, should the area be redesignated attainment or the pre-existing PM–10 standard be revoked for Spokane. SCAPCA has added a definition to both sections that requires continued implementation of the control measures in the Spokane PM–10 nonattainment area even if EPA were to redesignate the area to attainment or revoke the pre-existing PM–10 standard. On February 26, 1999, after full public hearing, Ecology adopted the revisions as part of the SIP and on March 2, 1999, submitted the revisions to EPA for approval.

EPA has reviewed the proposed SIP revision and determines that it is consistent with the Clean Air Act and applicable regulations and requirements. Therefore, EPA is approving the two minor rule changes to the SCAPCA Regulation I as a revision to the Washington PM–10 SIP for the Spokane nonattainment area.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 11, 1999 without further notice unless the Agency receives adverse comments by May 12, 1999.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 11, 1999 and no further action will be taken on the proposed rule.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, 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, or EPA consults with 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 any 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 create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects 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 rule is not subject to E.O. 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not

required by statute, that significantly 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, or EPA consults with those 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 officials 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. Accordingly, the 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 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 Clean Air Act, preparation of 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).

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**. 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 June 11, 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, Incorporation by reference, Particulate matter.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: March 31, 1999.

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)(79) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(79) February 22, 1999, letter from WDOE submitting a revision and replacement pages to the State Implementation Plan for the Spokane PM–10 Attainment Plan that will preserve the applicability of Section 6.14 Standards for Control of Particulate Matter on Paved Surfaces, and Section 6.15 Standards for Control of Particulate Matter on Unpaved Roads, should the area be redesignated as attainment or the pre-existing PM–10 standard is revoked for Spokane.

(i) Incorporation by reference.

(A) Spokane County Air Pollution Control Authority's Regulation I., Article VI: Section 6.14 Standards for Control of Particulate Matter on Paved Surfaces and; Section 6.15 Standards for Control of Particulate Matter on Unpaved Roads, effective February 13, 1999.

[FR Doc. 99–8942 Filed 4–9–99; 8:45 am]

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