the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. Comments received after the expiration of the comment period will be considered to the extent practicable. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Sarah Qureshi at the address listed above.

List of Subjects in 28 CFR Part 550

Prisoners.

Kathleen Hawk Sawyer,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(o), we propose to amend part 550 in subchapter C of 28 CFR, chapter V as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 550—DRUG PROGRAMS

1. The authority citation for 28 CFR part 550 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3521–3528, 3621, 3622, 3624, 4001, 4042, 4046, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 21 U.S.C. 848; 28 U.S.C. 509, 510; Title V, Pub. L. 91–452, 84 Stat. 933 (18 U.S.C. Chapter 223); 28 CFR 0.95–0.99.

Subpart B—[Removed and Reserved]

2. Subpart B, consisting of § 550.10, is removed and reserved.

3. Subpart D is revised to read as follows:

Subpart D—Inmate Drug Testing Programs

Sec.
550.30 Purpose and scope.
550.31 Procedures.

Subpart D—Inmate Drug Testing Programs

§ 550.30 Purpose and scope.

The Bureau of Prisons maintains a comprehensive surveillance program to detect the use of drugs, including alcohol, by inmates. This surveillance program includes random sample monitoring, testing of individual inmates suspected of using drugs, and testing of individual inmates or groups of inmates who are considered to be at risk for using drugs.

§ 550.31 Procedures.

(a) *Test methods.* The Warden is responsible for selecting the method or methods of drug testing from the list of approved drug test methods compiled by the Bureau's Central Office.

(b) *Test supervision.* Staff are responsible for directly supervising the drug test. If supervision of the drug test involves observation of intimate body parts or bodily functions (for example, the production of a urine sample), staff supervising the test must be the same gender as the inmate being tested.

(c) *Refusal to participate.* An inmate who refuses to participate in a drug test is subject to disciplinary action in accordance with 28 CFR part 541, subpart B. Refusal to participate can be demonstrated verbally or by actions. For example, an inmate who states that he or she will not take the test is refusing to participate. Examples of an inmate refusing to participate by actions include an inmate who tampers with his or her drug test or an inmate who fails to provide a urine sample despite being given a reasonable opportunity to do so. Staff are to document the circumstances pertaining to the inmate's refusal to participate.

(d) *Test results.* An inmate testing positive for prohibited drug use is subject to disciplinary action in accordance with 28 CFR part 541, subpart B.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[UT–001–0033; FRL–6873–9]

Clean Air Act Promulgation of Extension of Attainment Dates for PM_{10} Nonattainment Areas; Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to grant a one-year extension of the attainment date for the Salt Lake County, Utah nonattainment area for particulate matter with an aerodynamic diameter

less than or equal to a nominal 10 micrometers (PM_{10}). EPA is also proposing to grant two one-year extensions of the attainment date for the Utah County, Utah PM_{10} nonattainment area. Salt Lake and Utah Counties failed to attain the National Ambient Air Quality Standards (NAAQS) for PM_{10} by the applicable attainment date of December 31, 1994. The action is based on EPA's evaluation of air quality monitoring data and extension requests submitted by the State of Utah. EPA is also making the determination that Salt Lake County, Utah attained the PM_{10} NAAQS as of December 31, 1995 and Utah County, Utah attained the PM_{10} NAAQS as of December 31, 1996. Both areas are continuing to attain the PM_{10} NAAQS. The intended effect of this action is to approve requests from the Governor of Utah in accordance with section 188(d) of the Clean Air Act (CAA).

DATES: Written comments must be received on or before October 23, 2000.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202 and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Copies of the state documents relevant to this action are available for public inspection at the Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114–4820.

FOR FURTHER INFORMATION CONTACT: Cindy Rosenberg, EPA, Region VIII, (303) 312–6436.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' are used, we mean the Environmental Protection Agency (EPA).

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I. Background

A. Designation and Classification of PM_{10} Nonattainment Areas

Areas meeting the requirements of section 107(d)(4)(B) of the CAA were designated nonattainment for PM_{10} by operation of law and classified ''moderate'' upon enactment of the 1990 Clean Air Act Amendments. See generally, 42 U.S.C. 7407(d)(4)(B). These areas included all former Group I PM_{10} planning areas identified in 52 FR 29383 (August 7, 1987) as further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the national ambient air quality standards (NAAQS) for PM_{10} prior to January 1, 1989.[1] A **Federal Register** notice announcing the areas designated nonattainment for PM_{10} upon enactment of the 1990 Amendments, known as ''initial'' PM_{10} nonattainment areas, was published on March 15, 1991 (56 FR 11101) and a subsequent **Federal Register** document correcting the description of some of these areas was published on August 8, 1991 (56 FR 37654). *See* 40 CFR 81.345 (codified air quality designations and classifications for Utah).

All initial moderate PM_{10} nonattainment areas had the same applicable attainment date of December 31, 1994. Section 188(d) provides the Administrator the authority to grant up to two one-year extensions to the attainment date provided certain requirements are met as described below. States containing initial moderate PM_{10} nonattainment areas were required to develop and submit to EPA by November 15, 1991, a SIP revision providing for, among other things, implementation of reasonably available control measures (RACM), including reasonably available control technology (RACT), and a demonstration of whether attainment of the PM_{10} NAAQS by the December 31, 1994 attainment date was practicable. See section 189(a).

B. How Does EPA Make Attainment Determinations?

All PM_{10} nonattainment areas are initially classified ''moderate'' by operation of law when they are designated nonattainment. See section 188(a). Pursuant to sections 179(c) and 188(b)(2) of the Act, we have the responsibility of determining within six months of the applicable attainment date whether, based on air quality data, PM_{10} nonattainment areas attained the NAAQS by that date. Determinations under section 179(c)(1) of the Act are to be based upon an area's ''air quality as of the attainment date.'' Section 188(b)(2) is consistent with this requirement.

Generally, we will determine whether an area's air quality is meeting the PM_{10} NAAQS for purposes of section 179(c)(1) and 188(b)(2) based upon data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring sites (NAMS) in the nonattainment area and entered into the Aerometric Information Retrieval System (AIRS). Data entered into the AIRS has been determined to meet federal monitoring requirements (see 40 CFR 50.6, 40 CFR part 50, appendix J, 40 CFR part 53, 40 CFR part 58, appendix A & B) and may be used to determine the attainment status of areas. We will also consider air quality data from other air monitoring stations in the nonattainment area provided that the stations meet the federal monitoring requirements for SLAMS. All data are reviewed to determine the area's air quality status in accordance with our guidance at 40 CFR part 50, appendix K.

Attainment of the annual PM_{10} standard is achieved when the annual arithmetic mean PM_{10} concentration over a three year period (for example, 1993, 1994, 1995 for areas with a December 31, 1995 attainment date) is equal to or less than 50 micrograms per cubic meter ($\mu g/m^3$). Attainment of the 24-hour standard is determined by calculating the expected number of days in a year with PM_{10} concentrations greater than 150 $\mu g/m^3$. The 24-hour standard is attained when the expected number of days with levels above 150 $\mu g/m^3$ (averaged over a three year period) is less than or equal to one. Three consecutive years of air quality data is generally necessary to show attainment of the 24-hour and annual

[1] Many of these other areas were identified in footnote 4 of the October 31, 1990 **Federal Register** document.

standard for PM_{10}. See 40 CFR part 50 and appendix K.

C. What Are the CAA Requirements for an Attainment Date Extension That Apply to Utah?

The Act provides the Administrator the discretion to grant up to two one-year extensions of the attainment date for a moderate PM_{10} nonattainment area provided certain criteria are met. The CAA sets forth two criteria that a moderate nonattainment area must satisfy in order to obtain an extension: (1) The State has complied with all the requirements and commitments pertaining to the area in the applicable implementation plan; and (2) The area has no more than one exceedance of the 24-hour PM_{10} standard in the year preceding the extension year, and the annual mean concentration of PM_{10} in the area for the year preceding the extension year is less than or equal to the standard. See section 188(d).

The authority delegated to the Administrator to extend attainment dates for moderate PM_{10} nonattainment areas is discretionary. Section 188(d) of the Act provides that the Administrator ''may'' extend the attainment date for areas that meet the minimum requirements specified above. The provision doesn't dictate or compel that we grant extensions to such areas.

We have stated in guidance that in exercising this discretionary authority for PM_{10} nonattainment areas, we will examine the air quality planning progress made in the moderate area. We will be disinclined to grant an attainment date extension unless a State has, in substantial part, addressed its moderate PM_{10} nonattainment area planning obligations. In order to determine whether the State has substantially met these planning requirements we will review the State's application for the attainment date extension to determine whether the State has: (1) Adopted and substantially implemented control measures that represent RACM/RACT in the moderate nonattainment area; and (2) Demonstrated that the area has made emission reductions amounting to RFP toward attainment of the PM_{10} NAAQS as defined in section 171(1) of the Act. RFP for PM_{10} nonattainment areas is defined in section 171(1) of the Act as annual incremental emission reductions to ensure attainment of the applicable NAAQS (PM_{10}) by the attainment date.

If the State doesn't have the requisite number of years of clean air quality data to show attainment and doesn't apply or qualify for an attainment date extension, the area will be reclassified to serious by operation of law under section 188(b)(2) of the Act. If an extension to the attainment date is granted, at the end of the extension year we will again determine whether the area has attained the PM_{10} NAAQS. If the requisite three consecutive years of clean air quality data needed to determine attainment are not met for the area, the State may apply for a second one-year extension of the attainment date. In order to qualify for the second one-year extension of the attainment date, the State must satisfy the same requirements listed above for the first extension. We will also consider the State's PM_{10} planning progress for the area in the year for which the first extension was granted. If a second extension is granted and the area doesn't have the requisite three consecutive years of clean air quality data needed to demonstrate attainment at the end of the second extension, no further extensions of the attainment date can be granted. Once a final determination to this effect is made by us through the **Federal Register**, the area will be reclassified as serious by operation of law. See section 188(d).

II. EPA's Proposed Action

A. What Is EPA Proposing To Approve?

In response to requests from the Governor of Utah, we are proposing to grant a one-year attainment date extension for the Salt Lake County, Utah PM_{10} nonattainment area and two one-year attainment date extensions for the Utah County, Utah PM_{10} nonattainment area in order to address CAA requirements. The effect of these actions would be to extend the attainment date for the Salt Lake County, Utah PM_{10} nonattainment area from December 31, 1994 to December 31, 1995 and the attainment date for the Utah County, Utah PM_{10} nonattainment area from December 31, 1994 to December 31, 1995 and from December 31, 1995 to December 31, 1996. The proposed action to extend the attainment date for Salt Lake County is based on monitored air quality data for the national ambient air quality standard (NAAQS) for PM_{10} from the years 1992–94 and the action for Utah County is based on data from the years 1992–94 and 1993–1995. In addition, based on quality-assured data meeting the requirements of 40 CFR part 50, appendix K, we are proposing to find that, as of December 31, 1995, Salt Lake County attained the PM_{10} NAAQS, and that, as of December 31, 1996, Utah County attained the PM_{10} NAAQS. Both areas are continuing to attain the PM_{10} NAAQS. If we finalize this proposal, consistent with CAA section 188, the areas will remain moderate PM_{10} nonattainment areas and avoid the additional planning requirements that apply to serious PM_{10} nonattainment areas.

This action should not be confused with a redesignation to attainment under CAA section 107(d) because Utah hasn't submitted a maintenance plan as required under section 175(A) of the CAA or met the other CAA requirements for redesignation. The designation status in 40 CFR part 81 will remain moderate nonattainment for both areas until such time as Utah meets the CAA requirements for redesignations to attainment.

We are soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

B. What is The History Behind this Proposal?

As initial moderate PM_{10} nonattainment areas, both Salt Lake and Utah Counties were required by CAA section 188 to attain the PM_{10} NAAQS by December 31, 1994. As noted above, section 188 of the CAA requires EPA to determine whether such moderate areas have attained the NAAQS or not within six months of the attainment date. In the event an area doesn't attain the NAAQS by the attainment date, section 188 also allows States to request and EPA to approve attainment date extensions if certain criteria are met. On May 11, 1995, the State of Utah requested a one-year extension of the attainment date for both Salt Lake and Utah Counties. On October 18, 1995, we indicated that we were granting the requested one-year extensions. We also indicated in a letter dated January 25, 1996 that we would publish a rulemaking action on the extension requests ''in the very near future,'' but we didn't do so. Nor did we publish determinations in the **Federal Register** that the areas had not attained the NAAQS as of December 31, 1994. On March 27, 1996, the State of Utah requested a second one-year extension of the attainment date for Utah County. We didn't publish a determination in the **Federal Register** that Utah County had not attained the NAAQS as of December 31, 1995.

EPA is now proposing to extend the attainment date from December 31, 1994 to December 31, 1995 for the Salt Lake County PM_{10} nonattainment area and the Utah County PM_{10} nonattainment area. EPA is also proposing to extend the attainment date for the Utah County

PM_{10} nonattainment area for an additional year—until December 31, 1996. As we explain more fully below, we believe these extensions are warranted under CAA section 188(d). In addition, we are finding that the Salt Lake County PM_{10} nonattainment area attained the PM_{10} NAAQS as of December 31, 1995 and the Utah County PM_{10} nonattainment area attained the PM_{10} NAAQS as of December 31, 1996.

III. Basis for EPA's Proposed Action

A. Salt Lake County

1. Explanation of the Attainment Date Extension for the Salt Lake County PM_{10} Nonattainment Area

a. Air Quality Data. We are using data from calendar year 1994 to determine whether the area met the air quality criteria for granting a one-year extension to the attainment date under section 188(d) of the CAA.

The Salt Lake County PM_{10} nonattainment area includes the entire county. In 1994, Utah's Department of Air Quality (UDAQ or Utah) operated six PM_{10} monitors, which were SLAMS and NAMS, in Salt Lake County. We deemed the data from these sites valid and the data were submitted by Utah to be included in AIRS.

In 1994, there were eight exceedances of the 24-hour PM_{10} NAAQS at one monitor (North Salt Lake Site) and one exceedance of the 24-hour NAAQS at another monitor (AMC Site). Based on nearby construction activity, Utah requested that the eight exceedances recorded at the North Salt Lake Site in 1994 be excluded under our ''Guideline on the Identification and Use of Air Quality Data Affected By Exceptional Events,'' (EPA–450/4–86–007). We determined that the North Salt Lake monitor was influenced by highly localized, fugitive dust events caused by the construction activity occurring in the immediate area. The Guideline allows consideration of the influence of certain events, such as construction, near air monitoring stations in determining if data should be used for regulatory purposes. Because of those impacts from localized construction near the North Salt Lake site, all data from June 8 to November 23, 1994 were excluded from the data set used in calculations for attainment/nonattainment purposes.

With the exclusion of the above-mentioned block of data, there was only one exceedance recorded at one other monitor (AMC site). Therefore, with only one exceedance of the PM_{10} NAAQS recorded in 1994, the area met one of the requirements to qualify for an attainment date extension under section 188(d).[2]

b. Compliance with the Applicable SIP. The State of Utah submitted the PM_{10} SIP for Salt Lake County on November 14, 1991. On December 18, 1992 (57 FR 60149), EPA proposed to approve the plan as satisfying those moderate PM_{10} nonattainment area requirements that were due November 15, 1991. On July 8, 1994 (59 FR 35036), EPA took final action approving the Salt Lake County PM_{10} SIP. The SIP control strategies consist of controls for stationary sources and area sources (including controls for woodburning, mobile sources, and road salting and sanding) of primary PM_{10} emissions as well as sulfur oxide (SO_X) and nitrogen oxide (NO_X) emissions, which are secondary sources of particulate emissions.

Based on information the State submitted in 1995, we believe that Utah was in compliance with the requirements and commitments in the applicable implementation plan that pertained to the Salt Lake County PM_{10} nonattainment area when the State submitted its extension request. The milestone report indicates that Utah had implemented most of its adopted control measures, and therefore we believe Utah substantially implemented its RACM/RACT requirements.

c. Emission Reduction Progress. With its May 11, 1995, request for a one-year attainment date extension for Salt Lake County, the State of Utah also submitted a milestone report as required by section 189(c)(2) of the Act to demonstrate annual incremental emission reductions and reasonable further progress (RFP). On September 29, 1995, Utah submitted a revised version of the milestone report. The revised 1995 milestone report estimated current emissions from all source categories covered by the SIP and compared those estimates to 1988 actual emissions. These estimates of current emissions indicated that total emissions of PM_{10}, SO_2, and NO_X had been reduced by approximately 60,752 tons per year, from a 1988 value of 150,292 tons per year to a current value of 89,540 tons per year.

The effect of these emission reductions appears to be reflected in ambient measurements at the monitoring sites. Data from these sites show no violations of either the annual or the 24-hour PM_{10} standard since the 1992–1994 period. Furthermore, in 1994 there was only one exceedance of the 24-hour standard and the highest monitored annual standard at any monitor was $47\mu/m^3$. This is evidence that the State's implementation of PM_{10} SIP control measures resulted in emission reductions amounting to reasonable further progress in the Salt Lake County PM_{10} nonattainment area.

2. Determination that the Salt Lake County PM_{10} Nonattainment Area Attained the PM_{10} NAAQS as of December 31, 1995

Whether an area has attained the PM_{10} NAAQS is based exclusively upon measured air quality levels over the most recent and complete three calendar year period. See 40 CFR part 50 and 40 CFR part 50, appendix K. If we finalize this action, the extended attainment date for Salt Lake County will be December 31, 1995, and the three year period will cover calendar years 1993, 1994, and 1995.

The PM_{10} concentrations reported at six different monitoring sites showed one measured exceedance of the 24-hour PM_{10} NAAQS between 1993 and 1995. Because data collection was less than 100% at these monitoring sites, the expected exceedance rate for 1994 was 1.03. For 1993 and 1995, it was 0.0. Thus, the three-year average was less than 1.0, which indicates Salt Lake County attained the 24-hour PM_{10} NAAQS as of December 31, 1995.

Review of the annual standard for calendar years 1993, 1994 and 1995 reveals that Utah also attained the annual PM_{10} NAAQS by December 31, 1995. There was no violation of the annual standard for the three year period from 1993 through 1995.

B. Utah County

1. Explanation of the Attainment Date Extension for the Utah County PM_{10} Nonattainment Area

a. Air Quality Data. The Utah County PM_{10} nonattainment area includes the entire county. In 1994 and 1995, UDAQ operated four PM_{10} monitoring sites, which were either SLAMS or NAMS, in Utah County. We deemed the data from these sites valid and the data was submitted by Utah to be included in AIRS.

We are using data from calendar year 1994 to determine whether the area met the air quality criteria for granting a one-year extension of the attainment date, from December 31, 1994 to December 31, 1995, under section 188(d) of the CAA. We are using calendar year 1995

[2] The Act states that no more than one exceedance may have occurred in the area (see section 189(d)(2)). The EPA interprets this to prohibit extensions if there is more than one measured exceedance of the 24-hour standard at any monitoring site in the nonattainment area. The number of exceedances will not be adjusted to expected exceedances as long as the minimum required sampling frequencies have been met.

data to determine whether the Utah County area met the air quality criteria for granting an extension of the attainment date from December 31, 1995 to December 31, 1996.

In 1994, there were no exceedances of the 24-hour or annual PM_{10} NAAQS in Utah County. Since no exceedances of the PM_{10} NAAQS were recorded in 1994, the area met one of the requirements to qualify for a one-year attainment date extension under section 188(d).[3] In 1995, there were no exceedances of the 24-hour or annual PM_{10} NAAQS in Utah County. Since no exceedances of the PM_{10} NAAQS were recorded in 1995, the area met one of the requirements to qualify for a second one-year attainment date extension under section 188(d).

b. Compliance with the Applicable SIP. The State of Utah submitted the PM_{10} SIP for Utah County on November 14, 1991. On December 18, 1992 (57 FR 60149), EPA proposed to approve the plan as satisfying those moderate PM_{10} nonattainment area requirements due November 15, 1991. On July 8, 1994 (59 FR 35036), EPA took final action approving the Utah County PM_{10} SIP. The SIP control strategies consist of controls for stationary sources and area sources (including controls for woodburning, mobile sources, and road salting and sanding) of primary PM_{10} emissions as well as sulfur oxide (SO_X) and nitrogen oxide (NO_X) emissions, which are secondary sources of particulate emissions.

Based on information the State submitted in 1995, we believe that Utah was in compliance with the requirements and commitments in the applicable implementation plan that pertained to the Utah County PM_{10} nonattainment area when Utah submitted its first extension request. The milestone report indicates that Utah County had implemented most of its adopted control measures, and therefore we believe Utah substantially implemented its RACM/RACT requirements. Based on information the State submitted in 1996, we believe that Utah was in compliance with the requirements and commitments in the applicable implementation plan that pertained to the Utah County PM_{10} nonattainment area when the State submitted its second extension request. The milestone report indicates that the State continued to implement its adopted control measures, and therefore we believe Utah substantially implemented its RACM/RACT requirements.

c. Emission Reduction Progress. With its May 11, 1995, request for a one-year attainment date extension for Utah County, the State of Utah also submitted a milestone report as required by section 189(c)(2) of the Act to demonstrate annual incremental emission reductions and RFP. On September 29, 1995, Utah submitted a revised version of the milestone report. The revised 1995 milestone report estimated current emissions from all source categories covered by the SIP and compared those estimates to 1988 actual emissions. These estimates of current emissions indicated that total emissions of PM_{10}, SO_2, and NO_X had been reduced by approximately 3,129 tons per year, from a 1988 value of 25,920 tons per year to a then current value of 22,791 tons per year.

With its March 27, 1996 request for an additional one-year attainment date extension for Utah County, the State of Utah submitted another milestone report. Utah submitted a revised version of this milestone report on May 17, 1996. The March 27, 1996 milestone report estimated current emissions from all source categories covered by the SIP and compared those estimates to 1988 actual emissions. These estimates of current emissions indicated that total emissions of PM_{10}, SO_2, and NO_X had been reduced from the 1988 total by approximately 8,391 tons per year.

The effect of these emission reductions appears to be reflected in ambient measurements at the monitoring sites. Data from these sites show no exceedances of either the annual or the 24-hour PM_{10} standard in 1994 or 1995. The vast majority of monitored values were well below the 24-hour standard. The highest annual value recorded at any monitor during 1994 and 1995 was 39μ/m3. This is evidence that the State's implementation of PM_{10} SIP control measures resulted in emission reductions amounting to RFP in the Utah County PM_{10} nonattainment area.

2. Determination that the Utah County PM_{10} Nonattainment Area Attained the PM_{10} NAAQS as of December 31, 1996.

Whether an area has attained the PM_{10} NAAQS is based exclusively upon measured air quality levels over the most recent and complete three calendar year period. See 40 CFR part 50 and 40 CFR part 50, appendix K. If we finalize this action, the extended attainment date for Utah County will be December 31, 1996, and the three year period will cover calendar years 1994, 1995, and 1996.

The PM_{10} concentrations reported at four different monitoring sites showed no measured exceedances of the 24-hour PM_{10} NAAQS between 1994 and 1996, which indicates Utah County attained the 24-hour PM_{10} NAAQS as of December 31, 1996.

Review of the annual standard for calendar years 1994, 1995 and 1996 reveals that Utah also attained the annual PM_{10} NAAQS by December 31, 1996. No monitoring sites showed a violation of the annual standard in the three year period from 1994 through 1996.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This proposed action merely approves a state request as meeting federal requirements and imposes no requirements. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this proposed rule would not impose any enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state request for an attainment date extension, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to

[3] The Act states that no more than one exceedance may have occurred in the area (see section 189(d)(2)). The EPA interprets this to prohibit extensions if there is more than one measured exceedance of the 24-hour standard at any monitoring site in the nonattainment area. The number of exceedances will not be adjusted to expected exceedances as long as the minimum required sampling frequencies have been met.

eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

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

Dated: September 13, 2000.

Patricia D. Hull,

Acting Regional Administrator, Region VIII.

[FR Doc. 00–24310 Filed 9–20–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

42 CFR Part 52h

RIN 0925–AA20

Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects

AGENCY: National Institutes of Health, Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Institutes of Health (NIH) is proposing to revise the regulations governing scientific peer review of research grant applications and research and development contract projects and contract proposals to clarify the review criteria, revise the conflict of interest requirements to reflect the fact that members of Scientific Review Groups do not become Federal employees by reason of that membership, and make other changes required to update the regulations.

DATES: The NIH invites written comments on the proposed regulations and requests that comments identify the regulatory provision to which they relate. Comments must be received on or before November 20, 2000.

ADDRESSES: Comments should be sent to Jerry Moore, NIH Regulations Officer, National Institutes of Health, 6011 Executive Boulevard, Room 601, MSC 7669, Rockville, MD 20852. Comments also may be sent electronically by facsimile (301–402–0169) or e-mail (jm40z@nih.gov).

FOR FURTHER INFORMATION CONTACT: Jerry Moore at the address above, or telephone (301) 496–4607 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Applications to NIH for grants for biomedical and behavioral research and NIH research and development contract project concepts and contract proposals are reviewed under a two-level scientific peer review system, often referred to as the dual review system. This dual review system separates the scientific assessment of proposed projects from policy decisions about scientific areas to be supported and the level of resources to be allocated, which permits a more objective and complete evaluation than would result from a single level of review. The review system is designed to provide NIH officials with the best available advice about scientific and technical merit as well as program priorities and policy considerations.

The review system consists of two sequential levels of review for each application that will be considered for funding. For most grant and cooperative agreement (hereafter referred to as grant) applications, the initial or first level review involves panels of experts established according to scientific disciplines or medical specialty areas, whose primary function is to evaluate the scientific merit of grant applications. These panels are referred to as Scientific Review Groups (SRGs), a generic term that includes both regular study sections and special emphasis panels (SEPs). In some cases, SRGs in scientifically related areas are organizationally combined into Initial Review Groups (IRGs).

The second level of review of grant applications is performed by National Advisory Boards or Councils composed of both scientific and lay representatives. The recommendations made by these Boards or Councils are based not only on considerations of scientific merit as judged by the SRG, but also on the relevance of a proposed project to the programs and priorities of NIH. In most cases Councils concur with the SRG recommendation. If a Board or Council does not concur with the SRG's assessment of scientific merit, the Board or Council can defer the application for re-review. Subject to limited exceptions as described in Council operating procedures, unless an application is recommended by both the SRG and the Board or Council, no award can be made.

The first level of review of grant applications, and both levels of review of contract project concepts and contract proposals, are governed by the regulations codified at 42 CFR Part 52h, Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects.

The regulations at 42 CFR Part 52h were last amended in November 1982. We are proposing to revise the regulations to incorporate changes that are required to update Part 52h.

The regulations would be revised to: (1) change the section pertaining to conflict of interest to reflect that non-Federal members of SRGs are not appointed as Special Government Employees and therefore are not subject to the conflict of interest statutes and regulations applicable to Federal employees, and to provide a more practical view of the very complex relationships that occur in the scientific community; (2) clarify the applicability of the peer review rules to the review of grant applications and contract proposals; (3) clarify the review criteria applicable to grant applications; and (4) update references, add or amend definitions as necessary, and make appropriate editorial changes.

The conflict of interest provisions in § 52h.5 define real and apparent conflicts of interest, prohibit or restrict participation in peer review by those who have a conflict of interest, and permit waivers of those restrictions under prescribed conditions that are intended to protect the integrity of the review process. It is expected that the flexibility afforded by the proposed regulations will enhance the recruitment of qualified reviewers without compromising the integrity of the review process.

The proposed changes to § 52h.8 ''Grants review criteria'' were developed after extensive input from and discussion with the scientific community during 1996–1997 in response to a report entitled ''Rating of Grant Applications'' that was shared with the scientific community. The report and rating criteria were discussed at four open meetings of the Peer Review Oversight Group, whose members include representatives from the peer review community. That group made recommendations to NIH on review criteria (minutes of these meetings are posted on the NIH homepage, www.nih.gov). There was extensive discussion of how to include the concepts of ''innovativeness'' and ''impact'' of the research. After due consideration, the Director, NIH,