Proposed Rules

Federal Register
Vol. 67, No. 84
Wednesday, May 1, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[UT–001–0042; FRL–7203–8]

Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Salt Lake County—Trading of Emission Budgets for PM_{10} Transportation Conformity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On March 15, 2002, the Governor of Utah submitted a proposed revision to the Utah State Implementation Plan (SIP) that would allow trading from the motor vehicle emissions budget for primary Particulate Matter of 10 microns or less in diameter (PM_{10}) to the motor vehicle emissions budget for Nitrogen Oxides (NO_X) which is a PM_{10} precursor. This trading mechanism will allow Salt Lake County to increase their NO_X budget by decreasing their PM_{10} budget by an equivalent amount in order to achieve motor vehicle emissions budgets for NO_X and PM_{10} that may then be used to demonstrate transportation conformity with the Salt Lake County PM_{10} attainment demonstration element of the SIP. The trading between emissions budgets to demonstrate transportation conformity is allowable, as long as a trading mechanism is approved into the SIP. In his letter of March 15, 2002, the Governor asked that EPA parallel process a proposed revision to the PM_{10} attainment demonstration SIP including a new rule, R307–310 ''Salt Lake County: Trading of Emission Budgets for Transportation Conformity.''

In this action, EPA is proposing approval and soliciting public comment on the proposed SIP revision, involving Utah's new Rule R307–310, that would allow the trading of on-road mobile source primary PM_{10} emissions to PM_{10} precursor on-road mobile source NO_X emissions on a one to one basis. The resulting adjusted budgets may then be used for demonstrating transportation conformity with the Salt Lake County PM_{10} attainment demonstration element of the SIP.

DATES: Written comments must be received on or before May 31, 2002.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices: United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Copies of the State documents relevant to this action are available for public inspection at: Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114–4820.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466 Telephone number: (303) 312–6479

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

I. What Is the Purpose of This Action?

With this action, we are utilizing our parallel processing procedure for consideration of a revision to the Utah SIP. Parallel processing allows EPA to propose rulemaking on a SIP revision, and solicit public comment, at the same time the State is processing the SIP revision. The schedule provided with the Governor's March 15, 2002, submittal indicated that the Utah Air Quality Board (UAQB) proposed the SIP revision for a 30-day State public comment period beginning on April 1, 2002, and ending on April 30, 2002. The State will conduct a public hearing during this 30-day time frame. The Governor's submittal indicates that final action by the UAQB is anticipated by May 13, 2002. When the Governor submits the final SIP revision to us for approval, we will consider any comments received on our proposed rule and proceed with a final rulemaking action. However, should the State substantially change the proposed SIP revision, before the Governor submits the final version to us, we will re-propose and again solicit public comment on the State amended SIP revision before we take final rulemaking action. For further information regarding parallel processing, please see 40 CFR part 51, Appendix V, section 2.3.1.

In this action, we are proposing approval and soliciting public comment regarding the Governor's March 15, 2002, submittal of Utah's proposed new Rule R307–310 that will allow certain trading of emission budgets for the purposes of transportation conformity for PM_{10} for Salt Lake County.

II. What is the State's Process to Submit these Materials to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This public process must occur prior to the final revisions being submitted by a State to us.

At the March 13, 2002, UAQB meeting, the UAQB proposed for public comment the new Rule R307–310. The UAQB has scheduled a public hearing for April 22, 2002, for considering public comment on the above SIP revision.

III. EPA's Evaluation of the Proposed Rule R307–310

(a) Background and Purpose

Transportation conformity is required by the section 176 of the Clean Air Act (CAA) to ensure that federally supported highway and transit project activities are consistent with (''conform to'') the purpose of a state air quality implementation plan (SIP). Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. EPA's transportation conformity rule establishes the criteria and procedures for determining whether transportation activities conform to the state air quality plan.

One key provision of EPA's transportation conformity rule (see 40 CFR part 93) requires a demonstration that emissions from the transportation plan and Transportation Improvement Program (TIP) are consistent with the emissions budgets in the applicable SIP (40 CFR 93.118 and 93.124). The transportation emissions budget(s) is defined as the level of on-road mobile source emissions relied upon in the SIP to attain or maintain compliance with the National Ambient Air Quality Standard (NAAQS) in the nonattainment or maintenance area.

In this particular instance, the NAAQS involved is PM_{10} , the nonattainment area is Salt Lake County, the motor vehicle emissions budgets involve direct emissions of PM_{10} and NO_X, the latter as a precursor to the formation of PM_{10}, and the applicable SIP is the July 8, 1994, EPA-approved Utah PM_{10} attainment demonstration SIP (see 59 FR 35036) with respect to the Salt Lake County element.

Transportation conformity is demonstrated when future year's projected on-road mobile source's emissions for a particular pollutant or precursor are estimated to be at or below the on-road motor vehicle's emissions budget for that pollutant or precursor in the applicable SIP. With reference to conformity for the PM_{10} NAAQS for Salt Lake County, conformity must be demonstrated separately for the PM_{10} and NO_X budgets established in the Salt Lake County PM_{10} attainment demonstration element of the SIP. However, emissions can be traded between the PM_{10} and NO_X budgets if there is an approved rule in the SIP to allow trading to take place as per 40 CFR 93.124(c). The provision in 40 CFR 93.124(c) states:

> ''A conformity demonstration shall not trade emissions among budgets which the applicable implementation plan (or implementation plan submission) allocates for different pollutants or precursors, or among budgets allocated to motor vehicles and other sources, unless the implementation plan establishes appropriate mechanisms for such trades.''

With respect to the above conformity rule requirement, the State has developed the proposed new Rule R307–310 which will establish an on-road mobile source emissions trading mechanism that; (1) involves only PM_{10} and NO_X motor vehicle emission budgets from the PM_{10} attainment demonstration SIP, (2) allows trading in only one direction from the PM_{10} budget to the NO_X budget on a one to one basis, (3) applies only to transportation conformity determinations in Salt Lake County in conjunction with the PM_{10} attainment demonstration SIP, and (4) is pursuant to 40 CFR part 93.

(b) Proposed New Rule R307–310 Description

An overview of all portions of the State's new Rule R307–310 is provided below:

1. R307–310 is entitled ''Salt Lake County: Trading of Emission Budgets for Transportation Conformity.''

2. R307–310–1 ''Purpose.'' The stated purpose of this new rule is:

''This rule establishes the procedures that may be used to trade a portion of the primary PM_{10} budget when demonstrating that a transportation plan, transportation improvement program, or project conforms with the motor vehicle emissions budgets in the Salt Lake County portion of Section IX, Part A of the State Implementation Plan, ''Fine Particulate Matter (PM_{10}).''

3. R307–310–2. ''Definitions.'' This section provides applicable definitions:

''The definitions contained in 40 CFR 93.101, effective as of July 1, 2001, are incorporated into this rule by reference. The following additional definitions apply to this rule.

''Budget'' means the motor vehicle emission projections used in the attainment demonstration in the Salt Lake County portion of Section IX, Part A of the State Implementation Plan, ''Fine Particulate Matter (PM_{10}).''

''NO_X'' means oxides of nitrogen.

''Primary PM_{10}'' means PM_{10} that is emitted directly by a source. Primary PM_{10} does not include particulate matter that is formed when gaseous emissions undergo chemical reactions in the ambient air.

''Transportation Conformity'' means a demonstration that a transportation plan, transportation improvement program, or project conforms with the emissions budgets in a state implementation plan, as outlined in 40 CFR, Chapter 1, Part 93, ''Determining Conformity of Federal Actions to State or Federal Implementation Plans.''

4. R307–310–3. ''Applicability''. This portion of the rule defines its applicability. We note that this rule may only be applied to Salt Lake County and only for PM_{10} :

''(1) This rule applies to agencies responsible for demonstrating transportation conformity with the Salt Lake County portion of Section IX, Part A of the State Implementation Plan, ''Fine Particulate Matter (PM_{10}).''

(2) This rule does not apply to emission budgets from Section IX, Part D.2 of the State Implementation Plan, ''Ozone Maintenance Plan.''

(3) This rule does not apply to emission budgets from Section IX, Part C.7 of the State Implementation Plan, ''Carbon Monoxide Maintenance Provisions.''

5. R307–310–4. ''Trading Between Emission Budgets.'' This portion of the rule describes the trading mechanism (we note and agree with the State that it is appropriate that the primary PM_{10} budget may be used to supplement the NO_X budget, but that the NO_X budget may not be used to supplement the primary PM_{10} budget. EPA agrees with this concept and provides further technical justification below.):

''(1) The agencies responsible for demonstrating transportation conformity are authorized to supplement the budget for NO_X with a portion of the budget for primary PM_{10} for the purpose of demonstrating transportation conformity for NO_X. The NO_X budget shall be supplemented using the following procedures.

(a) The metropolitan planning organization shall include the following information in the transportation conformity demonstration:

(i) The budget for primary PM_{10} and NO_X for each required year of the conformity demonstration, before trading allowed by this rule has been applied;

(ii) The portion of the primary PM_{10} budget that will be used to supplement the NO_X budget, specified in tons per day using a 1:1 ratio of primary PM_{10} to NO_X, for each required year of the conformity demonstration;

(iii) The remainder of the primary PM_{10} budget that will be used in the conformity demonstration for primary PM_{10}, specified in tons per day for each required year of the conformity demonstration; and

(iv) The budget for primary PM_{10} and NO_X for each required year of the conformity demonstration after the trading allowed by this rule has been applied.

(b) Transportation conformity for NO_X shall be demonstrated using the NO_X budget supplemented by a portion of the primary PM_{10} budget as described in (a)(ii). Transportation conformity for primary PM_{10} shall be demonstrated using the remainder of the primary PM_{10} budget described in (a)(iii).

(c) The primary PM_{10} budget shall not be supplemented by using a portion of the NO_X budget.''

(c) Proposed New Rule R307–310 Technical Justification

The Governor provided the following technical justification that is designed to support the proposed new Rule R307–310 and address the specific issue involving mobile sources emissions trading, as contemplated by 40 CFR

93.124(c), for PM_{10} and NO_X. EPA and the UDAQ jointly developed the following technical justification:

1. Description

PM_{10} is particulate matter with diameters smaller than 10 micrometers. PM_{10} consists of solid and/or liquid particles of (1) primary particles that are directly emitted particulate matter (PM) or PM that quickly condenses upon release and (2) secondary particles which are PM that is formed in the atmosphere from gaseous precursors. Important gaseous precursors to PM include sulfur dioxide (SO_2) which converts to sulfate (SO_4=) particles, nitrogen oxides (NO_X) which convert to nitrate (NO_3-) particles, volatile organic compounds (VOCs), some of which convert to secondary organic aerosols, and ammonia (NH_3) which adds to the mass of sulfate PM and allows nitric acid to convert to PM_{10} in the form of ammonium nitrate.

Currently in Salt Lake County, conformity for PM_{10} utilizes PM_{10} and NO_X emission figures that were derived from the 1994 EPA-approved PM_{10} attainment demonstration SIP (see 59 FR 35036, July 8, 1994). Since the regulatory goal is to achieve and maintain attainment of the NAAQS and conformity related to total PM_{10}, not individual components, it should not matter in conformity analysis whether PM_{10} consists of directly emitted (primary) PM_{10} or secondary nitrate PM_{10} formed in the atmosphere from precursor NO_X gas emissions, provided the budgets for PM_{10} and NO_X are consistent with a demonstration of attainment. This technical justification outlines the scientific rationale for why excess NO_X emissions can be offset on a 1 to 1 basis with available PM_{10} budget in the Salt Lake County attainment demonstration, and why this is conservative (i.e., protective of the environment).

2. What Fraction of the NO_X Emissions Convert to PM_{10}?

Each ton of gaseous NO_X that gets converted to PM_{10} creates more than a ton of PM_{10} because the molecular weight of ammonium nitrate PM_{10} is greater than the molecular weight of NO_X gaseous emissions. Considering the ratio of the molecular weights of the NO_X precursor gas and the resulting ammonium nitrate aerosol (PM_{10}), a ton of NO_X that is converted from a gas to a particle can form as much as 1.74 tons of PM_{10}.

However, not all NO_X emissions are converted because it takes time to convert NO_X to nitric acid (HNO_3), which is the necessary gaseous precursor to ammonium nitrate PM_{10}. These reactions generally occur at rates of 1 to 10 percent per hour. Thus, it would take at least 10 hours to fully convert to nitric acid. After this initial conversion, only a fraction of the gaseous nitric acid will condense as ammonium nitrate PM_{10}, depending on equilibrium considerations. Finally, during the gas-to-particle conversion process, deposition will remove a significant amount of material. Throughout this process of NO_X conversion to nitric acid, and then to PM_{10} and deposition, an equivalent amount of directly emitted PM_{10} is having a much larger effect on PM_{10} concentration. Directly emitted PM_{10} has an effect on concentration immediately upon release, while NO_X emissions require hours to register their effect.

The conversion of NO_X to PM_{10} has been discussed at EPA at least since 1996:

> ''The conversion process may depend on several variables, including the availability of chemical reactants in the atmosphere for the conversion process, and the difference in mass between the PM_{10} precursor molecule and the PM_{10} particle that the precursor reacts to become. Another concern is that the rate of conversion of the precursor to PM_{10} may be so long that the precursor may not entirely convert to PM_{10} within the same nonattainment area. Thus, there would be less counteracting effect and no net improvement to air quality in the area. Under the EPA's proposal, a source of a PM_{10} precursor may offset its increased emissions with the same precursor type or PM_{10} (or a combination of the two). In this situation, a net improvement in air quality would be assured. At this point, however, the EPA is not proposing to allow offsetting among different types of PM_{10} precursors, or offsetting PM_{10} increases with reduction in PM_{10} precursors, because the Agency does not now have a scientific basis to propose conversion factors. (61 FR 38305, July 23, 1996)''

This particular technical justification, for the proposed Rule R307–310, to only allow the trading of the PM_{10} budget to the NO_X budget, but to not allow the substitution of NO_X for primary PM_{10}, is consistent with the above-referenced EPA statements. Therefore, both EPA's existing information and the most current scientific data support allowing primary PM_{10} to be traded to the NO_X budget, while continuing to demonstrate attainment, in the proposed new Rule R307–310 SIP revision.

3. Consistency with the EPA-Approved Salt Lake County PM_{10} SIP

The 1994 approved PM_{10} SIP element for Salt Lake County contains an attainment demonstration that is based on a combination of Chemical Mass Balance (CMB) modeling and a micro-inventory for the area. The CMB model matches chemical profiles on filters collected on high pollution days with profiles of emission sources in the area to determine the degree of impact from individual sources. The modeling was complicated because the majority of the PM_{10} collected on the filters in Salt Lake County was a result of chemical reactions that occur in the atmosphere. Nitrogen oxides (NO_X) and sulfur dioxide (SO2) are gases that undergo chemical reactions to form nitrates and sulfates that are measured as PM_{10} on the filters. Primary PM_{10} emissions from all source categories, including mobile sources, were evaluated using CMB to determine the impact at each of the monitoring sites. Mobile source primary PM_{10} impacts were estimated using a ''finger print'' of emissions from this category. Nitrates could not be differentiated among the major source groups using CMB. The mobile source contribution to the total measured nitrate was determined using a straight emission inventory apportionment.

An analysis based on the SIP's control strategy worksheet for the ''Air Monitoring Center'' (AMC) site was performed, which is the controlling monitoring site for Salt Lake County (it has the highest projected year 2003 PM_{10} concentration, at 147.4 $\mu g/m^3$).

Page 35 of the State's originally submitted PM_{10} SIP [1] provides the CMB-based attainment demonstration calculations for the year 2003, and page 36 of the originally submitted PM_{10} SIP provides the corresponding results for all the years covered by the SIP revision.

In 2003, the total primary PM_{10} contribution from mobile sources was estimated to be 37.4 $\mu g/m^3$. (This is the sum of all the individual mobile source primary PM_{10} categories: leaded, diesel, unleaded, road dust, and brakewear.) The total nitrate contribution from mobile sources was estimated to be 16.7 $\mu g/m^3$.

The existing Salt Lake County PM_{10} SIP motor vehicle emission budgets are 40.3 tons per day of primary PM_{10}, and 32.3 tons per day of NO_X. These budgets were derived by the Wasatch Front Regional Council (WFRC), the Metropolitan Planning Organization or MPO, using the Salt Lake County PM_{10} SIP element attainment year (2003) inventories, adjusted for winter vehicle miles traveled (VMT) rates.

At the AMC monitor, the CMB modeling contained in the SIP indicates

[1] The Utah PM_{10} SIP, that includes the Salt Lake County element, was submitted by the Governor on November 15, 1991 and was approved by EPA on July 8, 1994 (59 FR 35036).

that 40.3 tons per day of PM_{10} results in a concentration of 37.4 μg/m^3 of primary PM_{10}, and 32.3 tons per day of NO_X results in a concentration of 16.7 μg/m^3 of nitrate. Thus, each ton of PM_{10} emissions produces 0.93 μg/m^3 of primary PM_{10}, and each ton of NO_X produces 0.52 μg/m^3 of nitrate. In equivalent terms, each ton of NO_X emissions has the same ambient impact as 0.56 tons of PM_{10} emissions (0.52 divided by 0.93). Thus, substituting PM_{10} emissions for NO_X emissions in the budgets would produce lower overall emissions and continue to demonstrate attainment in the Salt Lake Countys PM_{10} nonattainment area.

4. Impact of the PM_{10} and NO_X Trading Rule on Other Pollutants

In addition to being a nonattainment area for PM_{10}, Salt Lake County is part of the Salt Lake/Davis Counties ozone maintenance area.[2] Salt Lake City is also a carbon monoxide (CO) maintenance area.[3] However, this proposal does not have an adverse impact on these two pollutants. For ozone, the approved ozone maintenance plan has its own motor vehicle NO_X emissions budget, which has been set at a level demonstrated to keep Salt Lake and Davis Counties in attainment with the 1-hour ozone standard. We note that the ozone maintenance plan actually has separate motor vehicle NO_X emissions budgets for Salt Lake and Davis Counties, but it allows WFRC to demonstrate conformity for each county individually or on a combined basis at their discretion. Nothing in this proposal for the new Rule R307–310 changes the Salt Lake/Davis Counties ozone motor vehicle emissions budgets for NO_X and WFRC must continue to comply with these budgets in order to demonstrate conformity for ozone. Therefore, there will be no adverse impact on continued attainment of the 1-hour ozone standard for Salt Lake County. In fact, WFRC's most recent conformity analyses show that the area complies with the Salt Lake/Davis Counties combined existing 1-hour ozone NO_X motor vehicle emissions budget by a wide margin in future years.

With respect to carbon monoxide, NO_X emissions are not precursors to carbon monoxide and nothing in this proposal for the new Rule R307–310 would be expected to impact Salt Lake City's current CO maintenance status. Like ozone, the CO maintenance plan has its own CO motor vehicle emissions budget, which has been set at a level demonstrated to keep Salt Lake City in attainment with the CO standard. Nothing in this proposal changes this CO motor vehicle emissions budget and as stated above for ozone, WFRC has been able to demonstrate conformity with this CO motor vehicle emissions budget by a wide margin.

5. Conclusion

On the basis of the above analyses and since NO_X has less impact on a per ton basis than primary PM_{10} emissions, there will be a net benefit on ambient air concentrations of PM_{10} when excess NO_X emissions are offset on a 1:1 basis with available PM_{10} budget in the transportation conformity demonstration. Therefore, using a portion of the motor vehicle PM_{10} emissions budget to offset excess on-road mobile sources NO_X emissions on a 1:1 basis continues to demonstrate attainment of the PM_{10} NAAQS and is conservative and justifiable.

The analyses provided in this technical justification were designed to show that the trading ratio of PM_{10} to NO_X was less than 1:1, but they do not establish what this ratio should be. Until a more extensive analysis is completed, that will be subject to EPA approval, it is not possible to determine the exact amount of NO_X that would be needed to offset an increase in PM_{10} emissions. Therefore, trading of PM_{10} to NO_X emissions can only be justified in one direction at this time.

IV. Evaluation/Reconciliation—Implementation and Periodic Review of the Effectiveness of the New Rule R307–310 for Salt Lake County

The proposed new Rule, R307–310, establishes the procedures that may be used to trade a portion of the primary PM_{10} motor vehicle emissions budget to the NO_X motor vehicle emissions budget when demonstrating that a transportation plan, transportation improvement program, or project conforms with the motor vehicle emissions budgets for PM_{10} and NO_X in the Salt Lake County element of the Utah PM_{10} portion of the State Implementation Plan. As stated above in the technical justification, the Salt Lake/Davis Counties ozone maintenance plan and the Salt Lake City carbon monoxide maintenance plan are not expected to be affected by this new rule.

However, because trading of motor vehicle emissions budgets for conformity purposes is not common, there is the possibility that unforseen circumstances may arise in the future that may affect the implementation of the new Rule R307–310. Therefore, a periodic review of the effectiveness of this new rule is important to ensure there are not any unintended adverse consequences due to this proposed motor vehicle emissions budget trading rule.

In a letter dated March 22, 2002, from Richard Sprott, Director, Utah Division of Air Quality to Richard Long, Director, Air and Radiation Program for EPA Region 8, the State committed to evaluate the performance of the proposed new rule, R307–310, every three years to determine its overall effect and whether it has adversely affected the EPA-approved Salt Lake/Davis Counties ozone maintenance plan or the EPA-approved Salt Lake City carbon monoxide maintenance plan. The State also committed to make appropriate recommendations to the UAQB, as necessary, to remedy adverse effects. The language in the State's March 22, 2002, letter further indicates that if needed, EPA may exercise its authority to perform a SIP call that is consistent with 40 CFR 51.493(f)(1)(i) should the State fail to make the necessary revisions.

EPA believes this commitment by the State to be adequate. However, we also note that EPA is not precluded from performing our own evaluation analysis of the proposed trading rule at any time that we deem appropriate. Further, if we determine there are adverse air quality effects associated with the implementation of the proposed new Rule, R307–310, or if we determine that the State has failed to make the necessary revisions to remedy identified adverse effects in either the PM_{10}, ozone, or CO SIPs, EPA may exercise our authority to issue a SIP call consistent with the provisions of section 110(k)(5) of the Clean Air Act (CAA) as amended in 1990. To clarify, although the State has indicated in its letter of March 22, 2002, that a SIP call may happen consistent with 40 CFR 51.493(f)(1)(i), EPA is in no way only restricted to this particular section of the CFR. If necessary, EPA will issue a SIP call, as provided under section 110(k)(5) of the CAA, as we deem appropriate. In conjunction with a SIP call contemplated under section 110(k)(5) of the CAA, we will also consider establishing a schedule of sanctions as provided under section 179 of the CAA.

V. Consideration of CAA section 110(l)

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further

[2] The Salt Lake/Davis Counties ozone (1-hour standard) redesignation to attainment was approved by EPA on July 17, 1997 (62 FR 38213).

[3] The Salt Lake City carbon monoxide redesignation to attainment was approved by EPA on January 22, 1999 (64 FR 3216).

progress towards attainment of a NAAQS or any other applicable requirements of the CAA. In view of the State's rule language for its new Rule R307–310, the analyses presented above in section ''(c) Proposed New Rule R307–310 Technical Justification'', and the fact that NO_X has less impact on a per ton basis than primary PM_{10} emissions there will be a net benefit on ambient air concentrations of PM10 when excess NO_X emissions are offset on a one to one basis. Therefore, the proposed new Rule R307–310, that would allow the trading of a portion of the PM_{10} motor vehicle emissions budget to the NO_X motor vehicle emissions budget on a one to one basis, continues to demonstrate attainment of the PM10 NAAQS and is conservative and justifiable. We have concluded that our proposed approval of the State's new Rule R307–310 will meet the intent of section 110(l) of the CAA.

VI. Proposed Rulemaking Action and Request for Public Comment

We are soliciting public comment on all aspects of this proposed rule. As stated above, we are proposing approval of the Governor's March 15, 2002, proposed revision to the Utah State Implementation Plan, involving a new Rule, R307–310, that would allow the trading of a portion of the PM_{10} motor vehicle emissions budget to the NO_X motor vehicle emissions budget. This trading mechanism will allow a portion of the PM_{10} motor vehicle emissions budget to be applied to the NO_X motor vehicle emissions budget on a 1:1 ratio, thus increasing the NO_X motor vehicle emissions budget and decreasing the PM_{10} motor vehicle emissions budget by an equivalent amount. These adjusted budgets may then be used for transportation conformity purposes with the Salt Lake County PM_{10} attainment demonstration element of the SIP. Send your comments in duplicate to the address listed in the **ADDRESSES** section of this proposed rule. We will consider your comments in deciding our final action if your letter is received before May 31, 2002.

Administrative Requirements

(a) Executive Order 12866

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

(b) 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 Executive Order 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 Executive Order 13045 because it is not economically significant under Executive Order 12866 and it does not involve decisions intended to mitigate environmental health or safety risks.

(c) Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This 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, because it merely approves state rules implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

(d) Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.''

This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

(e) Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211 ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

(f) Regulatory Flexibility

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 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 propose approval 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).

(g) 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 proposed 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 proposes to approve 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.

(h) National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 22, 2002.

Robert E. Roberts,

Regional Administrator, Region VIII.

[FR Doc. 02–10727 Filed 4–30–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7204–6]

RIN 2060–AE82

National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing and Miscellaneous Coating Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules; extension of comment period and notice of public hearing.

SUMMARY: This action announces a new date for a public hearing EPA is holding to take comments on the Agency's proposed rule for national emission standards for hazardous air pollutants (NESHAP): Miscellaneous Organic Chemical Manufacturing and Miscellaneous Coating Manufacturing, published on April 4, 2002. The comment period for the above-named action is also being extended.

DATES: *Comments.* Submit comments on or before June 28, 2002.

Public Hearing. The public hearing will be held on May 23, 2002, from 10 a.m. to 4 p.m. (EST). The hearing may conclude prior to 4 p.m., depending on the number of attendees and level of interest. If you are interested in attending the hearing, you must call the contact person listed below (*see* **FOR FURTHER INFORMATION CONTACT**). You must contact the EPA and request to speak at a public hearing by May 10, 2002.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–96–04, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–96–04, U.S. EPA, 401 M Street, SW, Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed below (*see* **FOR FURTHER INFORMATION CONTACT**).

Public Hearing. A public hearing will be held at 10 a.m. on May 23, 2002 in the new EPA facility located at 109 T.W. Alexander Drive, Auditorium in Building C, Room C111, Research Triangle Park, North Carolina, 27709.

Docket. Docket No. A–96–04 contains supporting information used in developing the NESHAP. The docket is located at the U.S. EPA, 401 M Street, SW, Washington, DC 20460 in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For information about the proposed NESHAP, contact Mr. Randy McDonald, Organic Chemicals Group, Emission Standards Division (C504–04), U.S. EPA, Research Triangle Park, North Carolina, 27711, telephone number (919) 541–5402, electronic mail address *mcdonald.randy@epa.gov.* For information about the public hearing, contact Ms. Maria Noell, Organic Chemicals Group, Emission Standards Division (C504–04), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5607, electronic mail address *noell.maria@epa.gov.*

SUPPLEMENTARY INFORMATION:

Comments

Comments and data may be submitted by electronic mail (e-mail) to: *a–and–r–docket@epa.gov.* Electronic comments must be submitted either as an ASCII file to avoid the use of special characters and encryption problems or on disks in WordPerfect® file format. All comments and data submitted in electronic form must note the docket number: A–96–04. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. Randy McDonald, c/o OAQPS Document Control Officer (C404–02), U.S. EPA, Research Triangle Park, NC 27709. The EPA will disclose information identified as CBI only to the extent allowed by the