each side of the designated column of parade vessels as it transits between the Verrazano Narrows Bridge and the waters of the Hudson River west of Riverbank State Park, between West 137th and West 144th Streets, Manhattan, New York.

(2) The moving safety zone includes all waters within a 200 yard radius of each parade vessel from its turning point near Riverbank State Park until the vessel is safely berthed at various locations in the Port of New York and New Jersey.

(3) The safety zone includes all waters of the Hudson River between Piers 84 and 88, Manhattan, New York, from the parade vessel column east to the Manhattan shoreline as the column passes in front of Piers 84 through 88.

(b) This regulation is effective from 7:30 a.m. to 5:30 p.m. on May 21, 1997, unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply to this safety zone.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: March 28, 1997.

Richard C. Vlaun,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 97–9217 Filed 4–10–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ17–1–166; FRL–5809–3]

Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Volatile Organic Compounds for the State of New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes approval of a request from New Jersey to revise its State Implementation Plan to incorporate revisions to Subchapter 16 ''Control and Prohibition of Air Pollution by Volatile Organic Compounds.'' These revisions relate to the control of volatile organic compounds from major stationary sources not subject to control techniques guidelines. The intended effect is to reduce the emissions of volatile organic compounds and thereby reduce ozone concentrations in the lower atmosphere. EPA proposes to find that the State has met the Clean Air Act requirement to adopt reasonably available control technology for non-CTG major sources.

EPA also proposes approval of revisions to Subchapter 8 ''Permits and Certificates,'' Subchapter 17 ''Control and Prohibition of Air Pollution by Toxic Substances,'' Subchapter 23 ''Prevention of Air Pollution From Architectural Coatings and Consumer Products'' and Subchapter 25 ''Control and Prohibition of Air Pollution by Vehicular Fuels,'' and Air Test Method 3—Sampling and Analytical Procedures for the Determination of Volatile Organic Compounds from Source Operations (Title 7, Chapter 27B, Subchapter 3).

Revisions to these regulations only involve administrative changes made to insure consistency with Subchapter 16 revisions. This proposal would revise the State Implementation Plan so that it contains the most current versions of the State regulations.

DATES: Comments must be submitted on or before May 12, 1997.

ADDRESSES: All comments should be addressed to: Ronald J. Borsellino, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, New York, New York 10007–1866.

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Quality Planning, 401 East State Street, CN418, Trenton, New Jersey 08625

FOR FURTHER INFORMATION CONTACT: Paul R. Truchan or Raymond K. Forde, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act (Act) as amended in 1990 sets forth a number of requirements that states with areas designated as nonattainment for ozone must satisfy and sets forth a timetable for satisfying these Act requirements (section 182). These requirements are further explained in the General Preamble to the Act (57 FR 13513), which was published on April 16, 1992.

Under section 182(b)(2) of the Act, nonattainment areas classified as moderate or above are required to adopt reasonably available control technology (RACT) rules for volatile organic compound (VOC) sources. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing control techniques guideline (CTG)—i.e., a CTG issued prior to the enactment of the 1990 Amendments; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG (non-CTG major sources). This requirement also applies to all areas within the Ozone Transport Region. The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762; September 17, 1979).

New Jersey is part of the Ozone Transport Region (OTR), therefore, the section 182(b)(2) RACT requirements are applicable to sources throughout the State. The schedule for implementing the RACT rules in an OTR require final installation of the actual VOC controls by May 31, 1995 on those sources for which installation by that date is practicable.

New Jersey's VOC regulation, Subchapter 16, ''Control and Prohibition of Air Pollution by Volatile Organic Compounds,'' of Chapter 27, Title 7 of the New Jersey Administrative Code, was previously approved by EPA as fulfilling the requirement to address all source categories covered by a pre-enactment CTG document (59 FR 17933, April 15, 1994). Since enactment of the Clean Air Act amendments, EPA has published three CTGs controlling synthetic organic chemical manufacturing industry (SOCMI) distillation operations, SOCMI reactor operations, and wood furniture manufacturing operations. New Jersey's previously approved Subchapter 16 regulates both SOCMI operations under the process source gases provisions, and wood furniture under the surface coating provisions. A fourth CTG was

published on August 27, 1996 for shipbuilding and repair, however regulations for this CTG are not due until August 27, 1997.

This proposed action addresses the requirement to regulate non-CTG major sources of VOC. The major source definition depends on the classification of the nonattainment area and whether the area is in the OTR (''major'' as defined in section 302, section 182(c), (d), and (e), and section 184(b)). For areas in an OTR other than those areas designated severe nonattainment, the definition of major VOC source is any source that emits or has the potential to emit at least 50 tons per year. In a severe nonattainment area, the definition of a major VOC source is any source that emits or has the potential to emit at least 25 tons per year.

II. State Submittals

On November 15, 1993, the Commissioner of the New Jersey Department of Environmental Protection and Energy submitted a State Implementation Plan revision, part of which contained adopted revisions to Subchapter 16, ''Control and Prohibition of Air Pollution by Volatile Organic Compounds,'' of Chapter 27, Title 7 of the New Jersey Administrative Code, effective December 20, 1993. This was intended to fulfill the non-CTG major source requirement of the Act. EPA determined that the November 15, 1993 submittal was complete on December 29, 1993. As of November 15, 1993 New Jersey only adopted a portion of the proposal which involved Section 16.1 definitions and Section 16.17 which requires major sources of VOCs not elsewhere regulated in Subchapter 16 to implement RACT (Generic RACT).

On June 21, 1996, the Commissioner of the New Jersey Department of Environmental Protection (NJDEP) submitted a State Implementation Plan revision which contained two revisions to Subchapter 16 and two ''Administrative Changes and Corrections'' to Subchapter 16. EPA is proposing action on all changes which have occurred in Subchapter 16 (effective March 2, 1992) since EPA's last approval on April 15, 1994 (59 FR 1994). This includes the following versions of Subchapter 16 with effective dates of December 20, 1993, June 20, 1994, December 5, 1994, May 15, 1995, and July 17, 1995. It should be noted that several new sections have been added to Subchapter 16 and this has necessitated recodifying several sections. The new section numbering will be used.

It should also be noted that final approval of this State Implementation Plan revision will remove the requirement to adopt a federal implementation plan. The need for a federal implementation plan resulted from EPA's finding on January 15, 1993 that New Jersey had failed to submit a complete State Implementation Plan revision as required by the Act on November 15, 1992.

III. Findings

A. Generic RACT Provisions

Section 16.1 Definitions

New Jersey revised section 16.1 to include appropriate definitions for terms used in the new provisions. These are generally consistent with EPA guidance. The following new terms are important in understanding the generic RACT provisions which have been added to Subchapter 16: federally enforceable, potential to emit, State Implementation Plan and major VOC facility.

1. Federally enforceable—Section 16.1's definition for federally enforceable provides a definition of what limitations and conditions can be considered enforceable by the EPA. It contains a list of limitations and conditions, such as EPA's new source performance standards (40 CFR Part 60), national emission standards for hazardous air pollutants (40 CFR Part 61), and provisions of the applicable State Implementation Plan. In addition, the State includes ''any permit or order issued pursuant to the Air Pollution Control Act, N.J.S.A. 26:2C–1 *et seq.*, of this chapter.'' This part of the definition is acceptable only in so far as it refers to permits that are issued pursuant to programs approved as part of the State Implementation Plan, i.e. Subchapter 8 which is the only State mechanism for issuing permits to air pollution sources. EPA is proposing approval of this definition.

2. Potential to emit—Section 16.1's definition for potential to emit provides direction on how to determine a source's or facility's potential to emit which is used to determine whether a source is subject to given requirements. It is based on the maximum capacity of a source or facility operating 8760 hours a year unless there are any federally enforceable limitations in place limiting the hours of operation. This definition is consistent with EPA's guidance and policy. EPA is proposing approval of this definition.

3. State Implementation Plan—Section 16.1's definition for State Implementation Plan refers to plans which have been prepared by the State and approved by EPA pursuant to section 110 of the Act. This definition is consistent with EPA's guidance and policy. EPA is proposing approval of this definition.

4. Major VOC facility—Section 16.1 defines a major VOC facility as any facility with the potential to emit 25 or more tons of VOC per year. EPA is proposing approval of this definition.

Section 16.17 Facility-Specific VOC Control Requirements

Section 16.17 provides a procedure for establishing VOC control requirements that represent RACT for a particular process, item of equipment or source operation that is not specifically regulated by name elsewhere in Subchapter 16 and is located at a major VOC facility. This would cover those non-CTG major sources required to be controlled pursuant to section 182(b)(2). This procedure provides four control options for meeting RACT:

1. Facility is currently operating controls which collect at least 90 percent of the VOC emissions and prevent from being released at least 90 percent of the VOCs that were collected; pollution prevention measures can contribute emission reductions towards meeting these emission limitations, so long as an equivalent level of emission reductions is achieved.

2. Facility will be served by controls which collect at least 90 percent of the VOC emissions and prevent from being released at least 90 percent of the VOCs that were collected; pollution prevention measures can contribute emission reductions towards meeting these emission limitations, so long as an equivalent level of emission reductions is achieved.

3. Facility has or will have federally enforceable limits on its potential to emit restricting it to below 25 tons per year.

4. Facility will develop and have approved an alternative VOC control plan which represents RACT for that facility.

Sources subject to other provisions in Subchapter 16 may also apply for an alternative VOC control plan. However, application for an alternative VOC control plan does not relieve the source from complying with applicable compliance dates.

In the first two situations listed above, RACT is defined as at least 90 percent capture of VOC emissions and at least 90 percent control of the captured VOC emissions. The source must demonstrate that these limits have been met and provide for adequate recordkeeping which can demonstrate that the compliance plan has been met. The source must also have the appropriate permits and certificates. The source

must be in compliance with these provisions by May 31, 1995. Should a source use pollution prevention methods to meet this requirement, the provision requires ''at least the same level of VOC emission reductions.'' Since the provision is clear that the 90 percent capture and 90 percent control is the criteria, any compliance plan which does not meet this criteria will not be consistent with Subchapter 16. EPA is proposing approval of these provisions.

In the third situation, a facility whose actual emissions of VOCs in 1990 and each year thereafter has been less than 25 tons per year including fugitive emissions, may comply by limiting their potential emissions to less than 25 tons per year. The source must submit and have approved a compliance plan which demonstrates that these limits have been met. The source must also have the appropriate permits and certificates which limit the potential to emit, and provide for adequate recordkeeping. Without an approved compliance plan the source would be out of compliance with this section.

The State provided the public with an opportunity to comment on the acceptability of this method of compliance. The sources must meet the criteria in section 16.17, which includes recordkeeping sufficient to determine whether the source is complying, and this would be considered an acceptable method of complying. New Jersey requires any limits on potential emissions to be federally enforceable, and contained in a sources'' operating permit. EPA is proposing approval of this provision.

In the fourth situation, an alternative VOC control plan must be approved by NJDEP. It must include a technical analysis of all the possible control technologies and process alterations. For those alternatives that are technologically feasible, the plan must evaluate their economic feasibility. The plan must be supported with adequate documentation and identify the proposed RACT level. The source must also have the appropriate permits and certificates and provide for adequate recordkeeping. The source must be in compliance with these provisions by May 31, 1995. In this situation, the NJDEP will publish a Notice of Opportunity for Public Comment and shall submit the alternative VOC control plan to EPA as a proposed State Implementation Plan revision. EPA is proposing approval of this provision.

Section 16.17(o) identifies the reasons why the State ''may'' revoke an approval of an alterative VOC control plan. One reason would be an EPA disapproval of the plan after EPA rulemaking action. The State Implementation Plan approval process is not complete until EPA grants approval of a revision, therefore, use of the word ''may'' provides notice of future State revocation should EPA disapprove of a submittal. Given EPA's authority under the Act to require the State to correct any EPA identified deficiencies and the State's recognition that State approval does not guarantee a State Implementation Plan approval, EPA is proposing an approval of this provision.

For sources who want to comply with the alternative VOC control plan provisions, Section 16.17 provides a procedure and schedule which must be followed in order to be in compliance with Subchapter 16. Should a source not comply with this procedure, it would constitute a violation of Subchapter 16 and would subject the source owner or operator to State and federal enforcement action and associated civil and applicable criminal penalties. EPA has determined this is sufficient to insure that sources comply. EPA is proposing approval of this provision.

Subsequent to New Jersey's submission of these State Implementation Plan revisions, national policy discussions ensued regarding the approvability of state regulations that contain generic provisions (or in New Jersey's case, alternative VOC control plan provisions), in establishing RACT requirements for major sources of VOC emissions. These discussions resulted in additional Agency guidance.

Generic provisions are those portions of a regulation which require the application of RACT to an emission point, for which the degree of control is not specified in the rule but rather is to be determined on a case-by-case basis taking technological and economic factors into consideration. Under the Act, these individually determined RACT limits would then need to be submitted by a state as a State Implementation Plan revision for EPA approval. On November 7, 1996, EPA issued a policy memorandum providing additional guidance for approving regulations which contain these ''generic provisions.'' (Sally Shaver memorandum to EPA Division Directors, ''Approval Options for Generic RACT Rules Submitted to Meet the non-CTG VOC RACT Requirement and Certain NO_X RACT Requirements'').

EPA policy allows for the full approval of state generic RACT rules prior to EPA approval of all of the case-by-case major source RACT determinations, provided an analysis is completed that concludes that the remaining source RACT determinations involve a de minimis level of VOC emissions and such pending determinations must be submitted as State Implementation Plan revisions. Such an approval does not exempt the remaining sources from RACT; rather it is a de minimis deferral of the approval of these case-by-case RACT limits.

EPA has evaluated information provided by New Jersey concerning the possible use by major sources of the generic RACT provisions in order to meet the RACT requirement. New Jersey has identified five sources that are using the generic RACT provisions. One has been submitted as a State Implementation Plan revision and four are currently being processed by the State and will be submitted as State Implementation Plan revisions. Based on the emission reductions claimed in New Jersey's 15 Percent Plan for Subchapter 16, these sources represent three percent of the VOC emission reductions resulting from sources coming into compliance with Subchapter 16. EPA has determined that the remaining emission reductions are de minimis. Therefore, EPA proposes to find that New Jersey's VOC RACT regulation conforms with EPA's policy regarding the approval of generic RACT provisions or rules.

As stated above, full approval of Subchapter 16 will not relieve sources of the obligation to develop, submit and implement RACT level controls. Nor will it relieve New Jersey of the obligation to ensure that all sources within the State comply with the VOC RACT requirements of the Act by adopting and implementing emission limitations. The proposed approval of Subchapter 16 requires that all major sources of VOC must comply with RACT and this requirement would be enforceable by EPA as well as citizens under Section 304 of the Act. If EPA determines that the regulated sources and the State are not complying with the requirement to adopt RACT, EPA could issue a State Implementation Plan call or a finding of non-implementation of the State Implementation Plan. EPA is proposing approval of these generic RACT provisions.

B. Source Specific Provisions

1. Combustion sources. Subchapter 16 now regulates the following types of combustion sources: boilers, stationary gas turbines, stationary internal combustion engines and asphalt plants. These sources are also regulated under the nitrogen oxides (NO_X) RACT rules under title 7, chapter 27, Subchapter 19, ''Control and Prohibition of Air Pollution from Oxides of Nitrogen.''

Emissions of VOCs and NO_X from these sources are related. As NO_X emissions decrease, VOC emissions tend to increase. The new VOC provisions are intended to minimize the VOC emissions while insuring that NO_X emissions are reduced as required by Subchapter 19.

a. Utility Boilers

Section 7:27–16.8 specifies emission limitations for utility boilers and requires the owners and operators of these sources to install a continuous emission monitoring system for carbon monoxide. The emission limits specified by New Jersey are the lowest that the boilers can reasonably achieve while still complying with the emission limits in the NO_X RACT rules. In addition, the sources are required to annually adjust the combustion process to minimize VOC emissions. The emission limits are enforceable through appropriate averaging times, test methods, compliance schedules and reporting and recordkeeping requirements. EPA is proposing approval of this provision.

b. Non-Utility Boilers

Section 7:27–16.8 also specifies requirements for non-utility boilers. The control strategy depends on the maximum gross heat input rate of non-utility boiler. Smaller boilers are required to annually adjust the combustion process to minimize VOC emissions, while the larger size boilers must meet emission limits. Also, any non-utility boiler with a maximum gross heat input rate of at least 250 million BTU per hour shall install a continuous emissions monitoring system for carbon monoxide. The emission limits specified by the State are the lowest level that the boilers can reasonably achieve while still complying with the emission limits in the NO_X RACT rules. The emission limits are enforceable through appropriate averaging times, test methods, compliance schedules and reporting and recordkeeping requirements. EPA is proposing approval of this provision.

c. Stationary Gas Turbines

Section 7:27–16.9 specifies emission limitations for stationary gas turbines. The emission limits specified by New Jersey are the lowest that the turbines can reasonably achieve while still complying with the emission limits in the NO_X RACT rules. In addition, the sources are required to annually adjust the combustion process to minimize VOC emissions. The emission limits are enforceable through appropriate averaging times, test methods, compliance schedules and reporting and recordkeeping requirements. EPA is proposing to approve this provision.

d. Stationary Internal Combustion Engines

Section 7:27–16.10 specifies emission limitations for stationary internal combustion engines. The emission limits specified by New Jersey are the lowest that the engines can reasonably achieve while still complying with the emission limits in the NO_X RACT rules. In addition, the sources are required to annually adjust the combustion process to minimize VOC emissions. The emission limits are enforceable through appropriate averaging times, test methods, compliance schedules and reporting and recordkeeping requirements. EPA is proposing to approve this provision.

e. Asphalt Plants

Section 7:27–16.11 specifies emission limitations for batch mixed and drum asphalt plants. The emission limits specified by New Jersey are the lowest that the asphalt plants can reasonably achieve while still complying with the emission limits in the NO_X RACT rules. In addition, the sources are required to annually adjust the combustion process to minimize VOC emissions. The emission limits are enforceable through appropriate averaging times, test methods, compliance schedules and reporting and recordkeeping requirements. EPA is proposing approval of this provision.

f. Flares

Section 7:27–16.13 requires that any flare in use after May 31, 1995 at a major VOC facility must have been designed to reduce VOC emissions by at least 95 percent. The rule prohibits the use of noncomplying flares after that date. The flare must also be installed and operated in accordance with the manufacturers' specifications. Based upon present technology available, flares have been attaining control efficiency levels at 95 percent and greater. Regulatory compliance is maintained via inspections, certification, recordkeeping and recording requirements, and operation and maintenance procedures to ensure that the control technology is installed and operating sufficiently. EPA is proposing approval of this provision.

2. VOC Transfer Operations

Section 16.4 specifies emission limitations and operating practices for operations that involve the transfer of VOCs other than gasoline. This section applies to receiving vessels or tanks, delivery vessels, transfer operations and contains requirements similar to those required in Section 16.3 for gasoline transfer and storage. Receiving vessels (including storage tanks, delivery vessels, manufacturing process vessels) of 2,000 gallons or greater are required to have submerged filling. Storage tanks of 2,000 gallons or greater capacity with emissions of 1,000 pounds VOC per year must have a vapor control device. Delivery vessels must be inspected and certified as passing pressure tests and must be loaded and unloaded within specified pressure and vacuum standards. Transfer operations with emissions of 2,000 pounds VOC per year are required to have a vapor balance system or vapor control device that is 90 percent effective.

Section 16.5 specifies emission limitations and operating practices for marine vessel loading of VOCs and ballasting operations. Emissions from the transfer of VOCs must be reduced by 95 percent and transfers must meet leak tightness standards. EPA is proposing approval of this provision.

3. Surface Coating Operations.

Sections 16.7 has been revised to add three new surface coating categories: concrete pipe coating, sheet-fed gravure printing and screen printing operations to the original categories previously approved by EPA. These new categories are subject to the same general requirements for recordkeeping, reporting, options for coming into compliance and testing. Concrete pipe coating operations are subject to the same emission limitations as metal pipe coating operations. Inks used in screen printing operations are limited to 3.3 pounds of VOC per gallon, with the exception that inks used on fabrics are limited to 2.9 pounds of VOC per gallon. There are also two specialty ink limitations: conductive inks are limited to 8.5 pounds of VOC per gallon and special purpose screen printing inks which must withstand adverse environmental conditions are limited to 6.7 pounds of VOC per gallon. As an alternative to complying with the coating limitations, a source could choose to comply by using add-on control equipment which captures at least 70 percent of the VOC emissions and controls 90 percent of these captured emissions using carbon adsorption equipment or 95 percent if using a thermal oxidizer.

New Jersey has also revised the control requirements for the other regulated printing operations which choose to comply by using add-on controls to reflect advances in equipment capabilities. Sources installing new thermal oxidizers will

have to meet the 95 percent destruction requirement. Carbon adsorption equipment will continue to meet the 90 percent control requirement.

New limitations have been added for fountain solutions used to dampen printing plates in order to prevent ink transfer to areas which will not contain a printed image. The VOC content of fountain solutions is limited to 5 percent if the solution is kept at a temperature of 55 degrees Fahrenheit or less and 3 percent if the solution is at a temperature greater than 55 degrees Fahrenheit. EPA is proposing approval of these provisions.

4. Leak Detection and Repair at Chemical Plants.

The leak detection and repair requirements previously contained in section 16.6 have been moved to a new section 16.18. Section 16.18 specifies the leak detection and repair requirements for various types of facilities, including those for which a CTG was published. These were previously approved by EPA. Section 16.18 now requires chemical plants which are major, that is, which process 550 tons/year of VOC, to conduct leak detection and repair identified leaking components. These requirements were based on the previously issued CTGs and leak detection and repair requirements contained in ''National Emission Standards for Organic Hazardous Air Pollutants.'' EPA is proposing approval of this provision.

5. Natural Gas Pipelines—Blowdown.

Section 16.21 requires natural gas pipeline owners or operators to control the emissions of VOC during non-emergency release of natural gas from the pipeline when performing inspections, maintenance or repairs. This is referred to as blowdown and covers releases of VOC of 2,000 pounds or greater. Blowdown events which would have an emission rate above 3.5 pounds of VOC per hour would be regulated by section 16.16 which would require 95 percent control. Since the smaller blowdown events are infrequent and can occur at pump stations, compressor stations and at valves along the pipeline (instead of at a fixed location), it is difficult to require a specific level of control or operating procedures. Instead these events are required to be included in ''Control Measure Plans,'' which requires reporting of such events and the reduction of VOCs through use of control technology or operating procedures which limit VOC emissions.

Unlike RACT demonstrations required by section 16.17, minor blowdown sources are not automatically required to submit Control Measure Plans unless requested to do so. However, annual reporting of blowdown events is required and New Jersey may require amendments if the State or EPA identifies deficiencies and denies approval of a proposed Control Measure Plan.

While EPA does not require RACT for this minor source category, New Jersey has taken credit for emission reductions resulting from controlling this source category in its 15 Percent Rate of Progress Plan. Therefore, EPA recognizes the need for review and revision of such plans in the event that the Control Measure Plans do not meet the requirements of section 16.21(f). While the submission of such plans is not automatic, EPA has determined that because the reductions from such sources are minimal (potentially no more than one percent of the VOC reductions resulting from the revisions to Subchapter 16) and because New Jersey has identified a surplus of reductions which is greater than the reductions it credits for this source category, EPA proposes approval of Section 16.21. Regulatory compliance is maintained via implementation of the Control Measure Plans and annual reports required by this provision.

C. Other Changes

In addition to expanding Subchapter 16 with the new sections discussed above, New Jersey has made a number of less extensive changes to Subchapter 16. Minor changes have been made to the previously approved sections and some have also been renumbered. The definition of VOC has been changed to make it consistent with EPA's. New Jersey has made administrative changes to Subchapter 16 in order to correct errors it had identified. These were generally of a typographical nature involving references, punctuation and omissions and did not substantively change the requirements previously adopted. Along with the recodification, several sections were also reorganized to improve their clarity. These are consistent with the original adoptions. The State also removed interim milestones which have past, while retaining the final compliance date. EPA is proposing approval of these changes.

D. Related Changes to Other Subchapters

Subchapters 8, 17, 23, 25, and Air Test Method 3. New Jersey also submitted as part of this State Implementation Plan revision, revisions to Subchapter 8 ''Permits and Certificates,'' which provides the mechanism which New Jersey uses for issuing permits and certificates; Subchapter 17 ''Control and Prohibition of Air Pollution by Toxic Substances,'' which restricts the emission of toxic substances; Subchapter 23 ''Prevention of Air Pollution From Architectural Coatings and Consumer Products'' which limits the amount of VOC in architectural coatings and paints; Subchapter 25 ''Control and Prohibition of Air Pollution by Vehicular Fuels'' which regulates gasoline; and Air Test Method 3—Sampling and Analytical Procedures for the Determination of Volatile Organic Compounds from Source Operations (Title 7, Chapter 27B, Subchapter 3). The revisions made to these Subchapters primarily involve changing the definition of VOC to make it consistent with EPA's and minor administrative changes similar to those described in III.C. above. EPA is proposing approval of the revisions to Subchapters 8, 23, 25, and Air Test Method 3.

IV. Summary

EPA has evaluated the submitted revisions for consistency with its provisions, EPA regulations and EPA policy. EPA is proposing approval of Subchapter 16. EPA is also proposing to approve the revisions of Subchapters 8, 17, 23, 25, and Air Test Method 3.

Neither the ozone attainment demonstration nor other aspects of the ozone State Implementation Plan are being revised by this action. EPA, therefore, is only addressing the adequacy of Subchapter 16 in meeting section 182(b)(2) with regard to non-CTG major sources and the ability of this revision to fulfill EPA requirements. EPA is not making a finding concerning other aspects of its State Implementation Plan at this time. EPA is only proposing approval of the addition of the new control requirements.

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

Administrative Requirements

Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal**

Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Regulatory Flexibility Act

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

State Implementation Plan approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the federal State Implementation Plan approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning State Implementation Plans on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

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 proposed 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.

The Administrator's decision to approve or disapprove the State Implementation Plan revision will be based on whether it meets the requirements of section 110(a)(2)(A)–(K) and part D of the Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 2, 1997.

William J. Muszynski,

Deputy Regional Administrator.

[FR Doc. 97–9382 Filed 4–10–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–5810–9]

Regulations of Fuels and Fuel Additives: Reformulated Gasoline Covered Areas Provision Modification

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearing.

SUMMARY: This document announces the time and place for a public hearing regarding EPA's proposed rule to modify the covered areas provision of the reformulated gasoline (RFG) rule. The agency published this proposed rule in the **Federal Register** on March 28, 1997 (See 62 FR 15077 for further information on the proposal).

DATES: EPA will conduct a public hearing on the proposed rule on April 18, 1997, in Washington, DC beginning at 9:00 a.m. The hearing will continue until all interested parties have had an opportunity to testify. If you wish to testify at this public hearing, contact Karen Smith at (202) 233–9674 by April 16, 1997. If no party has contacted EPA by that date and stated their interest in testifying on the proposal, the hearing will be subject to cancellation without further notification. If you want to know if the hearing has been canceled contact the person named above.

ADDRESSES: The public hearing will be held from 9:00 a.m. until its completion at the Holiday Inn Capitol Hill, South Ballroom, 415 New Jersey Avenue, Washington, DC. Material relevant to this document have been placed in Docket A–96–30. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460, in room M–1500 Waterside Mall. Documents may be inspected from 8:00 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material.

Written comments should be submitted (in duplicate) to Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. A copy should also be sent to Karen Smith at the address listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

FOR FURTHER INFORMATION CONTACT: Karen Smith at U.S. Environmental Protection Agency Office of Air and Radiation, 401 M Street, SW (6406J), Washington, DC 20460, (202) 233–9674.

Procedures for Public Participation

A. Comments and the Public Docket

The scope of EPA's modification of section 80.70(k) of the reformulated gasoline rule is to allow states to opt into the federal RFG program for any area classified as marginal, moderate, serious or severe ozone nonattainment area as of November 15, 1990, the date of the enactment of the Clean Air Act Amendments of 1990, or any time later. EPA is seeking comments on whether a minimum lead time of up to one year should be used in setting the effective date and whether this should apply to former nonattainment areas that opt-in and/or areas that are classified as nonattainment when they opt-in.

Persons with comments containing propriety information must distinguish such information from other comments to the greatest extent and label it as ''Confidential Business Information.'' If a person making comments wants EPA to base the final rule in part on a submission labeled as confidential business information, then a non-confidential version of the document which summarizes the key data or information should be placed in the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed by the procedures set forth in