

that the part 70 major source definition must encompass the established NSR collocation provisions. In particular, the petitioners asserted that the Agency's interpretation of its part 70 collocation provisions would have the effect of subjecting unlisted sources of fugitive emissions to part 70 without undertaking a section 302(j) rulemaking. While not conceding the merits of the petitioners' arguments, EPA sought and received from the United States Court of Appeals for the District of Columbia Circuit a voluntary remand in early 1995 to allow the Agency to reconsider its interpretation.¹ The Agency concluded that one aspect of that reconsideration should include review of whether application of the NSR approach to unlisted sources of fugitive emissions is appropriate for title V purposes.

Prior to the voluntary remand, EPA had clarified its decision to apply the NSR approach to major source determinations for purposes of title V in its August 1994 notice of proposed rulemaking revising the part 70 regulations. Specifically, EPA proposed to amend the definition of major source to make clear that the support facility test applied in NSR also applied in determining the scope of a source for title V. Several industry commenters expressed opposition to including the support facility concept in part 70 source determinations, while several State and local governments generally supported the clarification of the major source definition.

In responding to comments regarding the support facility test, it became apparent to EPA that the issue of whether the NSR approach should be applied to unlisted sources of fugitive emissions is closely connected with the more fundamental question of whether it is appropriate to apply the NSR approach (including the support facility concept) in part 70 source determinations generally. The Agency accordingly has reviewed the questions raised in the petitioners' challenge of the original part 70 regulations of whether the support facility test should be applied to unlisted sources of fugitive emissions or whether such sources constitute a special case requiring a 302(j) rulemaking. The EPA

¹ At the time of the remand, EPA anticipated that the relevant issues would be addressed in a new rulemaking. However, in comments submitted with respect to the supplemental proposal to amend the part 70 regulations (60 FR 45530, August 31, 1995), the National Mining Association requested that EPA clarify in the preamble to the final regulations the terms of the voluntary remand. The EPA now has determined that the current part 70 rulemaking is an appropriate vehicle for addressing all collocation issues that were the subject of the litigation.

has also reviewed the broader question of whether EPA's approach to the collocation issues as applied to unlisted sources of fugitive emissions should be consistent with the Agency's approach in NSR. As explained in the draft part 70 preamble referenced herein, the Agency has determined at this time that in making major source determinations under title V, it is appropriate to apply the NSR approach and that there is no basis for excluding unlisted sources of fugitive emissions from this general approach.

Dated: May 22, 1997.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIPTRAX No. PA-4058b; FRL-5832-4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of VOC and NO_x RACT Determinations for Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing volatile organic compound (VOC) and nitrogen oxides (NO_x) reasonably available control technology (RACT) for five major sources located in Pennsylvania. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the accompanying technical support document. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

If adverse comments are received that do not pertain to all documents subject to this rulemaking action, those documents not affected by the adverse comments will be finalized in the manner described here. Only those documents that receive adverse comments will be withdrawn in the manner described here.

DATES: Comments must be received in writing by July 3, 1997.

ADDRESSES: Written comments on this action should be addressed to David Campbell, Air, Radiation, and Toxics Division, Mailcode 3AT22, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: David Campbell, (215) 566-2196, at the EPA Region III office or via e-mail at campbell.dave@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: See the information pertaining to this action, VOC and NO_x RACT determinations for individual sources located in Pennsylvania, provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401-7671q.

Dated: May 19, 1997.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN67-1b; FRL-5827-4]

Approval and Promulgation of State Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, EPA is proposing to approve a State