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 If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule.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.

DATES: Comments must be received in writing by September 11, 1997.

ADDRESSES: Written comments should be addressed to David L. Arnold, Chief, Ozone/CO and Mobile Sources, Mailcode 3AT21, 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; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Cynthia H. Stahl, (215) 597–9337, at the EPA Region III address above.

SUPPLEMENTARY INFORMATION: See the information 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: August 4, 1997.

Marcia E. Mulkey,

Acting Regional Administrator, Region III.

[FR Doc. 97–21268 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 041–4013; FRL–5873–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania Conditional Limited Approval of the Pennsylvania VOC and NO_X RACT Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing conditional limited approval of a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires major sources of volatile organic compounds (VOCs) and nitrogen oxides (NO_X) to implement reasonably available control technology (RACT). The intended effect of this action is to propose conditional limited approval of the Pennsylvania RACT regulation (Chapter 129.91–129.95).

DATES: Comments must be received on or before September 11, 1997.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO and Mobile Sources, Mailcode 3AT21, 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; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Cynthia H. Stahl, (215) 566–2180, at the EPA Region III address above, or via e-mail at stahl.cynthia@epamail.epa.gov. While information may be requested via e-mail, any comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION:

Background

On February 4, 1994, the Pennsylvania Department of Environmental Protection (PA DEP, then known as the Pennsylvania Department of Environmental Resources) submitted a revision to its State Implementation Plan (SIP) for the control of VOC and NO_X emissions from major sources (Pennsylvania Chapters 129.91 through 129.95. This submittal was amended with a revision on May 3, 1994 correcting and clarifying the presumptive NO_X RACT requirements under Chapter 129.93. The submittal was again amended on September 18, 1995 by the withdrawal from EPA consideration of the provisions 129.93(c) (6) and (7) pertaining to best available control technology (BACT) and lowest achievable emission rate (LAER). The Pennsylvania SIP revision consists of regulations that would require sources that emit or have the potential to emit 25 tons or more of VOC or NO_X per year in the Pennsylvania portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area) or 50 tons or more of VOC per year in the remainder of the Commonwealth to comply with reasonably available control technology requirements by May 31, 1995. Outside the Philadelphia ozone nonattainment area, sources of NO_X that emit or have the potential to emit 100 tons or more per year are required to comply with RACT by no later than May 31, 1995. While the Pennsylvania regulations contain specific provisions requiring major VOC and NO_X sources to implement RACT, the regulations under review do not contain specific emission limitations in the form of a specified overall percentage emission reduction requirement or other numerical emission standards. Instead, the Pennsylvania regulations contain technology-based or operational ''presumptive RACT emission limitations'' for certain major NO_X sources. For other major NO_X sources and all covered major VOC sources, the submittal contains a ''generic'' RACT provision. Pennsylvania's generic RACT regulation does not impose specific up-front emission limitations, but instead allows for future case-by-case determinations. This regulation allows PA DEP to make case-by-case RACT determinations that are then submitted to EPA for approval as revisions to the Pennsylvania SIP.

On January 12, 1995 (60 FR 2912), EPA proposed three alternative rulemaking actions pertaining to the Pennsylvania RACT regulation (60 FR 2912). Many comments were received in response to that proposed **Federal Register** notice. EPA is hereby withdrawing that notice of proposed actions and reproposing conditional limited approval of this Pennsylvania SIP revision. Because EPA is withdrawing its January 12, 1995 proposed actions, the comments submitted on the January 12, 1995 notice of proposed rulemaking will not be addressed. Any comments in response to today's notice should be sent to the EPA Region III address located in the **ADDRESSES** section of this notice.

Today's Rulemaking Action

EPA is proposing conditional limited approval of the Pennsylvania VOC and NO_X RACT regulations, Chapter 129.91 through 129.95. EPA is proposing to conditionally approve the SIP revision based upon PA DEP meeting its commitment to submit all the case-by-case RACT proposals, for all of the sources it has identified as being subject to the major source RACT regulations, as source-specific revisions to the SIP no later than twelve months from the effective date of EPA's final conditional limited approval of the Pennsylvania VOC and NO_X RACT regulations. Pennsylvania submitted its commitment

in a letter to EPA dated September 23, 1996. Once the Commonwealth has satisfied this condition, EPA shall remove the conditional status of its approval and the Pennsylvania VOC and NO_X regulations SIP revision will, for the time being, retain its limited approval status. EPA is also proposing limited approval of the Pennsylvania VOC and NO_X RACT regulations SIP revision on the basis that its approval will strengthen the SIP. The limited approval of the generic VOC and NO_X regulations SIP revision shall be converted to full approval once EPA has approved each of Pennsylvania's case-by-case RACT proposals as SIP revisions. This conditional limited approval action is action that is being taken under section 110 of the Clean Air Act.

Summary of Pennsylvania's VOC and NO_X RACT Regulations SIP Revision

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), Pennsylvania is required to implement RACT for all major VOC and NO_X sources by no later than May 31, 1995. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). The entire Commonwealth is located in the OTR. The Pennsylvania portion of the Philadelphia ozone nonattainment area consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties. The Philadelphia ozone nonattainment area is classified as severe. The remaining counties in Pennsylvania are classified as either moderate or marginal nonattainment areas or are designated attainment for ozone. However, under section 184 of the CAA, at a minimum, moderate ozone nonattainment area requirements for major stationary sources (including RACT as specified in sections 182(b)(2) and 182(f)) apply throughout the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

The SIP submittal under review consists of Pennsylvania regulations codified at 25 Pa. Code Chapters 129.91 through 129.95.

Chapter 129.91—Chapter 129.91 contains the applicability section, and requires owners and operators of covered sources (i.e. all major NO_X sources and major VOC sources not covered by the source-specific and mobile source RACT requirements of 25 Pa. Code sections 129.51–129.72, 129.81, and 129.82) to provide PA DEP with identification and emission information by May 16, 1994. Covered sources must submit a written RACT proposal to PA DEP by July 15, 1994. PA DEP is to approve, deny or modify each RACT proposal. Upon notification of approval, covered sources must implement RACT ''as expeditiously as practicable'' but no later than May 31, 1995.

Following implementation of RACT, certain large combustion units are required to determine emission rates through continuous emissions monitoring or a PA DEP approved source testing or modeling program. 25 Pa. Code 129.91(d) provides for the case-by-case RACT determinations to be approved through the SIP revision process.

Chapter 129.92—Chapter 129.92 details the information required in the RACT proposals submitted by these major VOC and NO_X sources. Except for sources that opt for the presumptive RACT emission limitations, the proposal must include a RACT analysis. This RACT analysis must rank the available control options in descending order of control effectiveness, provide information on baseline emissions and emission reductions, and evaluate the cost effectiveness of each control option. The Pennsylvania regulation requires that, at a minimum, the cost effectiveness portion of the RACT analysis use the procedures in ''OAQPS Control Cost Manual'' (Fourth Edition), EPA 450/3–90–006, January 1990 and subsequent revisions. This provision clearly requires sources to provide relevant information in their RACT proposal, including cost factors, but does not limit the consideration of factors that determine what control option is chosen as RACT to cost factors alone, nor does it limit the method of evaluating costs to those found in the OAQPS Control Cost Manual. The Pennsylvania generic regulation properly does not specify a dollar per ton figure as a threshold over which control options are ineligible for consideration from RACT.

Chapter 129.93 (Presumptive NO_X RACT requirements)—Chapter 129.93 provides certain major NO_X sources with an alternative to case-by-case RACT determinations. Chapter 129.93(b)(1) specifies that presumptive RACT for coal-fired combustion units with a rated heat input equal to or greater than 100 million British Thermal Units per hour (mmBTU/hr) is the installation of low NO_X burners with separate overfired air. Chapter 129.93(b)(2) provides that presumptive RACT for combustion units with a rated heat input between 20 mmBTU/hr and 50 mmBTU/hr is an annual adjustment or tune-up of the combustion process. Chapter 129.93(b) (4) and (5) provides that owners and operators of oil, gas and combination oil/gas-fired units are required to keep records of fuel certification and to perform annual adjustment in accordance with the EPA document ''Combustion Efficiency Optimization Manual for Operators of Oil and Gas-Fired Boilers'', September 1983, EPA–340/1–83–023, or equivalent PA DEP procedures.

For the following groups of sources, Pennsylvania proposes that RACT is the installation, maintenance and operation of sources in accordance with manufacturer's specifications. These groups are listed in Chapter 129.93(c) (1) through (7), as follows: (1) Boilers and combustion sources with individual rated gross heat inputs of less than 20 mmBTU/hr; (2) combustion turbines with individual heat input rates of less than 25 mmBTU/hr, which are used for natural gas distribution; (3) internal combustion engines rated at less than 500 brake horsepower (bhp), which are set and retarded 4° relative to standard timing; (4) incinerators or thermal/catalytic oxidizers used primarily for air pollution control; and (5) any fuel burning equipment, gas turbine or internal combustion engine with an annual capacity factor of less than 5%, or an emergency standby engine operating less than 500 hours in a consecutive 12-month period.

Chapter 129.94 (NO_X Averaging)—Chapter 129.94 permits major NO_X sources to submit a RACT proposal that includes averaging of emissions at two or more facilities provided several conditions are met and the proposal is approved by EPA as a revision to the Pennsylvania SIP. Among other conditions, the averaging scheme must require emission caps and enforceable emission rates at each participating source, telemetry links between the participating sources, and an up-front agreement that a violation at one of the participating sources is considered a violation at all of the participating sources.

Chapter 129.95—Chapter 129.95 is the record keeping provision that is applicable to all VOC and NO_X sources in the Commonwealth. This section clearly requires that records be kept for a period of at least 2 years and that such records must provide sufficient data and calculations to demonstrate compliance with the applicable RACT requirements. This section also requires that sources of VOC and NO_X that claim exemptions from the RACT requirement maintain records that clearly demonstrate their exempt status.

EPA's Analysis of the SIP Revision

RACT Proposal Requirements—Chapter 129.92 requires sources to

provide information on the emission reduction, technological feasibility, and cost of control options. This requirement is consistent with EPA's definition of RACT as the lowest emission limitation that a source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. See NO_X Supplement to the General Preamble on Title I, 57 FR 55620, 55622–23 (Nov. 25, 1992); CTG Supplement to the General Preamble on SIP revisions to Nonattainment Areas, 44 FR 53761, 53762 (Sept. 17, 1979); ''Guidance for Determining Acceptability of SIP regulations in Nonattainment Areas,'' Memorandum of Roger Strelow, Assistant Administrator for Air and Waste Management (Dec. 9, 1976).

Generic VOC and NO_X RACT Requirements—Chapter 129.91 contains Pennsylvania's generic, or ''case-by-case,'' RACT provisions. Under this approach, the applicable sources are not subject to specific, ''up-front'' (i.e. immediately ascertainable) emission limitations. Instead, the regulations establish a process for the state to review and approve individual RACT emission limitations proposed by the sources, which are then to be submitted to EPA as SIP revisions. Since the wood furniture emission standards contained in the existing Pennsylvania regulation have not been federally approved, Chapter 129.91 states that wood furniture sources are required to comply with the RACT requirements of Chapter 129.91.

Pennsylvania believes that the case-by-case approach is consistent with the RACT requirements of the Clean Air Act. Pennsylvania notes that section 172(c)(1) requires that nonattainment plan provisions ''shall provide for the implementation of [RACT] as expeditiously as practicable * * *.'' Section 182(b)(2) provides that SIP submittals for moderate ozone nonattainment areas shall ''include provisions to require implementation of [RACT],'' and further requires that the submittals ''provide for the implementation of required measures as expeditiously as practicable, but no later than May 31, 1995.'' The Commonwealth believes that the design, age, and nature of the industrial processes of the individual sources, for which RACT must be required, vary so widely that case-by-case RACT determinations are warranted, as no ''across the board'' emission limitations could be reasonably imposed as satisfying the definition of RACT, namely the lowest emission limitation that a source is capable of meeting considering technological and economic feasibility.

However, EPA's interpretation of the statutory requirements, and the one that accords with EPA's longstanding definition of RACT, is that a state submittal of a SIP revision to satisfy the Act's requirements for RACT must include specific, up-front emission limitations for all covered sources, rather than a process leading to the development of emission limitations at some later date. States are required to establish these specific, up-front emission limitations and submit them as SIP revisions to EPA for approval as RACT. EPA evaluates these SIP submittals to determine whether or not the emission limitations imposed by the state satisfy the definition of RACT for the covered sources. EPA defines RACT as the lowest emission limitation that a source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. Section 302 of the Act in turn defines ''emission limitation'' as a ''requirement * * * which limits the quantity, rate or concentration of air pollutants on a continuous basis, * * *, and any design, equipment, work practice or operational standard promulgated under this chapter.'' Process-oriented generic regulations, such as those submitted by Pennsylvania, which do not include specific and ascertainable emission limitations, do not by themselves provide standards for EPA to approve or disapprove as satisfying the definition of RACT. Therefore, the Act's RACT requirements are satisfied only after the specific limitations imposed by the Commonwealth on its major sources have been submitted to EPA as SIP revisions and approved by EPA as RACT for the subject sources.

Furthermore, EPA believes that the May 31, 1995 RACT implementation deadline specified in section 182(b)(2) of the Act does not authorize states to delay the promulgation of RACT standards beyond the SIP submittal deadline of November 15, 1992. EPA believes that the extended implementation deadline was designed to give sources an adequate opportunity to understand and comply with newly-promulgated RACT standards, and to give EPA the opportunity to review RACT SIP submittals prior to the implementation date. Under its generic case-by-case RACT approach, the Commonwealth was not in a position to submit case-by-case RACT emission limitations as SIP revisions until some months after July 15, 1994 (the date that sources are required to submit RACT proposals to PA DEP). While Pennsylvania has made substantial progress in the submittal of its case-by-case RACT proposals, it has not yet submitted all of the case-by-case RACT determinations required by its generic RACT regulation to EPA as source-specific SIP revisions.

As mentioned above, Pennsylvania's generic RACT regulation outlines a process that must be followed by those sources choosing to have RACT determined on a case-by-case basis. Included in this process outlined by the Pennsylvania regulation is a reference to the OAQPS Control Cost Manual and its subsequent amendments. Since the current OAQPS Control Cost Manual does not contain any specific chapters on NO_X control costs, more appropriate methods to determine estimated costs for NO_X controls must be used. The cost analysis methodology used to implement the Act's Acid Rain program is certainly a candidate. Because States and EPA do not have complete knowledge of any individual company's overall financial picture and must rely on the cost calculations and financial information submitted that company in making a source-specific RACT determination when considering the calculated cost (i.e., in terms of dollars per ton), judgement must be exercised so as to not overemphasize it as a factor in determination of economic feasibility or in the overall determination of RACT. The calculated costs submitted to the Commonwealth, and subsequently to EPA by PA DEP in support of the source-specific SIP revisions of RACT proposals, can be only one of the factors considered in the case-by-case determinations as to what RACT is for those sources. Using cost as one of many variables considered in determining RACT is consistent with both the Pennsylvania regulation and with EPA's policies and guidance on determining RACT.

Separate from its submittal of the generic RACT regulation to EPA, PA DEP has prepared its own guidance for industrial sources requiring case-by-case RACT determinations. Pennsylvania has stated that the intent of its guidance is to facilitate the approval of case-by-case RACT. EPA's review and approval of Pennsylvania's case-by-case RACT proposals, when they are duly submitted as SIP revisions, is based upon the information submitted for the official record and upon whether these proposals meet the criteria for technical and economic feasibility pursuant to EPA's and the Commonwealth's definition of RACT. Guidance and procedures that include such principles as establishing a maximum dollar per ton threshold for use in the

determination of all case-by-case RACTs or establishing a RACT emission limit based on the median of monitored data plus nearly three standard deviations, are examples of procedures that EPA finds inconsistent with the definition of RACT.

Because Pennsylvania's SIP revision submittal requesting approval of the generic VOC and NO_X RACT regulations, itself, does not reference or contain such guidance or procedures, EPA is able to propose conditional limited approval of the Pennsylvania generic RACT regulations.

Presumptive NO_X RACT Requirements—Pennsylvania gives major NO_X sources the option of complying with the ''presumptive RACT emission limitations'' of Chapter 129.93 as an alternative to developing and implementing a RACT limit on a case-by-case basis. The proposed presumptive RACT in Chapter 129.93(c)(3) for internal combustion engines, which requires the engines to be set and maintained at 4° retarded relative to standard timing, is acceptable to EPA.

EPA has identified deficiencies in the other presumptive RACT emission limitations of Chapter 129.93. For coal-fired combustion units (100 mmBTU/hr or greater), Chapter 129.93(b)(1) provides that presumptive RACT is low NO_X burners with separate overfired air control technology. Although EPA accepts Pennsylvania's determination that this technology constitutes RACT for this source category, the agency believes it is necessary and appropriate to quantify the emission reduction required to be obtained through this technology. While RACT for these types of units may specify the installation of low NO_X burners and separate overfired air, EPA believes that RACT for these sources must include the requirement to meet specific numeric emission limitations. Installation of low NO_X burners and separate overfired air does not ensure that these controls will be operated in a manner that minimizes NO_X emissions. EPA cannot agree that installation of low NO_X burners and separate overfired air alone represents RACT. Pennsylvania may correct this deficiency with an additional SIP submittal including enforceable, numerical emission limitations to be met through the installation of the low NO_X burner and separate overfired air control technology for each of those units subject to this provision of the Pennsylvania regulation. Coal-fired combustion units greater than or equal to 100 mmBTU/hr represent a significant portion of the NO_X emissions inventory in Pennsylvania. Establishing specific emission limitations for these sources in the SIP will allow Pennsylvania to quantify and rely on the expected emission reductions from these sources for air quality planning purposes.

The proposed presumptive RACT determinations contained in Chapters 129.93(b)(2) and 129.93(c) (1), (2), (4), and (5) have been found to be acceptable to EPA because Pennsylvania has provided information stating that there are no other technically or economically feasible controls. The emissions from these sources, in total, represent less than 5% of the total 1990 NO_X emissions inventory. It is not acceptable, however, for the RACT to be defined, without further elaboration, as ''installation, maintenance and operation of the source in accordance with manufacturer's specifications.'' Once approved by EPA, a RACT standard cannot be relaxed by action of a private party. Such a result might occur if RACT is defined simply as compliance with manufacturer's specifications. Pennsylvania must correct the deficiencies in Chapter 129.93(b)(2), (c) (1), (2), (4), and (5) by removing the ability of a private party to relax unilaterally a RACT standard by specifying that, in addition to being operated and maintained in accordance with a manufacturer's specifications, the equipment will also be maintained in accordance with good air pollution control practices. Pennsylvania has agreed to correct this deficiency in its regulation through additional language in each of the individual source permits where this is determined to be RACT. This additional language requires that these sources operate and maintain the emission units in accordance with good air pollution control practices and manufacturer's specifications. EPA has determined that Pennsylvania's solution of adding the ''good air pollution control practice'' language to the individual source permits is a practical and acceptable alternative to revising the Pennsylvania RACT regulations for these sources, Chapter 129.93. EPA has determined that Pennsylvania's alternative to require these sources to operate and maintain the emission units in accordance with good air pollution control practices and manufacturer's specifications is acceptable. EPA interprets ''good air pollution control practices'' to mean only those technically supportable operation and maintenance requirements that result in the equipment being operated, maintained and repaired in a manner that achieves the minimization of NO_X emissions.

NO_X Averaging Provision—The NO_X averaging provision in Chapter 129.94 is acceptable to EPA since there is the opportunity for further refinement of the averaging scheme conditions and assurance of enforceability, when the individual averaging proposals are submitted to EPA as SIP revisions.

Record keeping—The record keeping requirements of Chapter 129.95 are consistent with EPA requirements.

Terms of and Rationale for Conditional Approval

EPA's proposal includes proposed conditional approval of Pennsylvania's VOC and NO_X regulations SIP revision, based upon the Commonwealth's commitment to submit for approval into the SIP, the case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PA DEP. The Commonwealth submitted this commitment in a letter to EPA dated September 23, 1996. The case-by-case RACT proposals must be submitted by a date certain that is no later than 12 months after the effective date of EPA's final conditional approval.

Therefore, to fulfill the condition of this approval the Commonwealth must, by no later than 12 months after the effective date of EPA's final conditional approval of the generic VOC and NO_X RACT regulations SIP: (1) Certify that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PA DEP; or (2) demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions, as defined below. Once EPA has determined that the Commonwealth has satisfied this condition, EPA shall remove the conditional nature of its approval and the Pennsylvania VOC and NO_X regulations SIP revision will, at that time, retain limited approval status. Should the Commonwealth fail to meet the condition specified above, the final conditional limited approval of the Pennsylvania VOC and NO_X RACT regulation SIP revision shall convert to a disapproval.

Definition of De Minimis

For states with a generic VOC RACT regulation intended to regulate all non-Control Technology Guideline (non-CTG) VOC sources, de minimis is determined by comparing the total 1990 emissions of all non-CTG VOC major sources in the Commonwealth, where a CTG had not been issued at the time of the state submittal of the generic VOC RACT regulation with the total emissions of those non-CTG VOC sources subject to the generic RACT where these source-specific RACTs have

not yet been approved by EPA. For example, while not applicable to the Pennsylvania generic RACT submittal, since EPA has issued CTGs for ship building and repair and wood furniture coatings in August 1996 and May 1996, respectively, EPA's de minimis procedure for a state submittal subsequent August 1996 would require that all RACTs for those CTG category sources and for shipbuilding and repair and wood furniture coating be approved and that the de minimis procedure as described in this notice apply only to those VOC emissions from sources that are neither CTG sources or shipbuilding or wood furniture sources. The VOC emissions from these remaining major sources are still subject to the RACT requirement but EPA can lift the conditional status of its approval of the state generic RACT rule prior to SIP approval for those sources that represent a de minimis amount of VOC emissions. In Pennsylvania's case, the generic RACT rule was submitted in February 1994. The post-1990 CTG issued prior to DEP's submittal is Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation and Reactor Processes. Therefore, the VOC emissions from this source category are excluded from the pool of VOC total emissions used to determine whether the amount of emissions remaining is de minimis.

For Pennsylvania, de minimis is determined by comparing the total 1990 emissions of all NO_X major sources in the Commonwealth, subtracting those NO_X emissions attributed to utility boilers and then comparing this figure with those NO_X sources that are subject to the RACT requirement but where these source-specific RACTs have not yet been approved by EPA. EPA is specifically targeting utility boiler emissions and is requiring these emissions to be subtracted from the total NO_X inventory for this exercise because, while there has not been a CTG issued for them, there is an Alternative Control Technology (ACT) guidance document, guidance issued through the NO_X Supplement to the Title I General Preamble (57 FR 55620), and other non-EPA sources of information on reasonably available controls for these types of NO_X sources.

In addition, unlike any single source category in the non-CTG VOC emissions inventory, utility boiler emissions represent a very large part of the NO_X emissions inventory. For this reason, the case-by-case RACT proposals for all subject utility boilers must be submitted by the Commonwealth as SIP revisions within 12 months of the effective date of the final conditional limited approval of the generic VOC and NO_X regulations SIP revision, and any de minimis demonstration must be baselined from the amount of NO_X emissions from all major sources required to implement RACT minus the emissions from utility boilers.

Even after the conditional status of EPA's approval of the Pennsylvania RACT regulation is removed, PA DEP must still continue to submit, and have EPA approve into the Pennsylvania SIP, RACT requirements for the remaining de minimis amount of emissions. Therefore, removal of the conditional status to limited approval status in no way changes PA DEP's statutory obligation to implement RACT for all major sources.

Rationale for Also Proposing Limited Approval

The current Pennsylvania SIP does not contain a general requirement that all major sources must implement RACT. While EPA does not believe that the Pennsylvania generic VOC and NO_X RACT regulation satisfies the Act's RACT requirements as discussed previously in this notice, EPA is also proposing limited approval of the Pennsylvania generic RACT regulation on the basis that it strengthens the Pennsylvania SIP. Once EPA has approved all of the case-by-case RACT proposals as SIP revisions, the limited approval will convert to full approval.

EPA's review of this material indicates that proposing conditional limited approval is warranted. EPA is soliciting public comments on the issues discussed in this notice. 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 notice. Further discussion and details of this rulemaking action can be found in the accompanying technical support document (TSD). Copies of the TSD may be obtained from that same EPA Regional office.

Proposed Action

EPA is proposing conditional limited approval of the Pennsylvania VOC and NO_x RACT regulation, Chapter 129.91 through 129.95. EPA is proposing conditional limited approval of this SIP revision based upon the commitment made by Pennsylvania to submit all the case-by-case RACT proposals for sources it is currently aware of as being subject to the major source RACT regulations. On September 23, 1996, Pennsylvania submitted a letter to EPA committing to: (1) Complete submission of the SIP revisions required by Chapter 129.91(h) containing RACT determinations for the major VOC and NO_x sources in the Commonwealth that are subject to the RACT rule, or for sources that are subject to the RACT rule but fail to submit a RACT plan, PA DEP will initiate appropriate enforcement action to obtain compliance with the rule; and (2) provide a written statement to EPA that, to the best of its knowledge, it has completed submission of the SIP revisions described above within one year of the effective date of the final conditional limited approval of the Pennsylvania generic RACT rule.

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

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. Approvals and conditional approvals of SIP submittals under section 110 and subchapter I, Part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because this approval of this revision to the federal SIP would not impose any new requirements, EPA certifies that it would not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a 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).

Today's actions are proposal actions upon which EPA is soliciting comments. In the unlikely event that Pennsylvania were to fail to meet its commitment and did not satisfy the condition described herein, the conditional limited approval would be converted to a disapproval. Such conversion would trigger the 18-month clock for the mandatory imposition of

sanctions under section 179(a) of the CAA and 40 CFR 52.31, EPA's sanction rule. If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal would not affect its state-enforceability. Moreover, EPA's disapproval of the submittal would not impose a new federal requirement. Therefore, EPA certifies that any such disapproval action would not have a significant impact on a substantial number of small entities because it would not remove existing requirements nor would it substitute a new federal requirement.

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final regulation 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 of the Unfunded Mandates Act 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 federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The Administrator's decision to approve or disapprove the SIP revision, pertaining to the Pennsylvania generic VOC and NO_x RACT rule, will be based on whether it meets the requirements of section 110(a)(2) (A)–(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen dioxide, Ozone.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 4, 1997.

Marcia E. Mulkey,

Acting Regional Administrator, Region III.

[FR Doc. 97–21269 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–178–02–9724b; TN 179–01–9723b; FRL–5871–8]

Approval and Promulgation of Air Quality Implementation Plans, Tennessee; Approval of Revisions to the Chattanooga/Hamilton County Portion Regarding Prevention of Significant Deterioration (PSD), Nitrogen Oxides, Lead Emissions, and Volatile Organic Compounds (VOC), and PM_{10} Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve revisions to the Chattanooga/Hamilton County (Chattanooga) portion of the Tennessee State Implementation Plan (SIP) regarding nitrogen oxides, prevention of significant deterioration (PSD), lead sources, stack heights, infectious waste incinerators, and volatile organic compound (VOC) reasonably available control technology (RACT) for miscellaneous metal parts coaters and synthesized pharmaceutical products, and PM_{10}. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed 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. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by September 11, 1997.

ADDRESSES: Written comments on this action should be addressed to Karen Borel, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

Chattanooga/Hamilton County Air Pollution Control Bureau, 3511 Rossville Boulevard, Chattanooga, Tennessee 37407–2405, 423/867-4321.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243–1531.

FOR FURTHER INFORMATION CONTACT: Interested persons wanting to examine documents relative to this action should make an appointment with the Region 4 Air Programs Branch at least 24 hours before the visiting day. To schedule the appointment or to request additional information, contact Karen Borel, Regulatory Planning and Development Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Region 4 EPA, 61 Forsyth Street, SW, Atlanta, Georgia 30303. The telephone number is 404/562–9029. Reference files TN178–02–9724 and TN 179–01–9723.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: July 16, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

[FR Doc. 97–21271 Filed 8–11–97; 8:45 am]

BILLING CODE 6560–50–P