

accompanying technical support document.

Through the first two proposal options, EPA is proposing a limited approval of Chapters 129.91 through 129.95 and the associated definitions in Chapter 121 which was submitted on February 10, 1994, including the corrective revision submitted on May 3, 1994.

As noted, EPA's preliminary review of this submittal indicates that the Pennsylvania generic VOC and NO<sub>x</sub> RACT regulation submitted on February 10, 1994 and the corrective revision submitted on May 3, 1994 should be approved/disapproved in a limited fashion, under the rationale for option #1; to strengthen the Pennsylvania SIP and to allow Pennsylvania to correct the deficiencies in the RACT regulation cited above. EPA has proposed three actions and is specifically soliciting comment on these actions and the rationale provided as the basis for each of those actions. Public comments on the issues discussed in this notice or on other relevant matters 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.

Under the limited approval/limited disapproval options, EPA has identified certain deficiencies which prevent granting full approval of this rule under section 110(k)(3) and Part D. Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule(s) under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule(s) under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval, due to the fact that the rule does not meet the section 182 and 184 requirements of Part D because of the noted deficiencies. Thus, in order to strengthen the SIP, EPA is proposing a limited approval of Pennsylvania's submitted Chapters 129.91 through 192.95 and associated definitions in Chapter 121 under section 110(k)(3) and 301(a) of the CAA.

At the same time, EPA is also proposing a limited disapproval of this rule because it contains deficiencies, and, as such, the rule does not fully meet the requirements of Part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission

under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions as discussed above.

Except to the extent that EPA proposes to use this rulemaking as a vehicle to announce an agency policy on generic RACT submittals, nothing in this action 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.

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.

SIP approvals under sections 110 and 301, 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 the Federal SIP approval does not impose any new requirements, I certify 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 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).

EPA's disapproval of the State request under section 110 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does

not remove existing requirements and impose any new Federal requirements.

This action has been classified as a Table 2 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 an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

The Administrator's decision to approve or disapprove the Pennsylvania SIP revisions, pertaining to the VOC and NO<sub>x</sub> RACT regulations, 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

**Dated:** October 27, 1994.

**W.T. Wisniewski,**

*Acting Regional Administrator, Region III.*

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#### 40 CFR Part 70

[SD-001; FRL-5137-4]

#### Clean Air Act Proposed Interim Approval of Operating Permits Program; State of South Dakota

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed interim approval.

**SUMMARY:** EPA proposes interim approval of the Operating Permits Program submitted by the State of South Dakota for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources.

**DATES:** Comments on this proposed action must be received in writing by February 13, 1995.

**ADDRESSES:** Comments should be addressed to Laura Farris at the Region 8 address. Copies of the State's submittal and other supporting information used in developing this proposed rule are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency,