technology. 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 separated overfire air control technology. Coal-fired combustion units greater than or equal to 100 mmBTU/hr represent a significant portion of the NO_X emission 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) are not acceptable to EPA because Pennsylvania has not provided sufficient technical support to justify these presumptions as RACT. With proper technical support and justification, EPA may determine for some sources and source categories that operation and maintenance requirements alone constitute RACT. 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 manufacturers 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. In order to correct these deficiencies in Chapter 129.93(b)(2), (c)(1), (2), (4), and (5), Pennsylvania must propose and provide adequate technical support for an emission limitation (which may be an operation and maintenance requirement, if appropriate) for these sources.

In Chapter 129.93(c) (6) and (7), Pennsylvania is proposing that for NO_X sources for which the state has approved NO_x LAER and BACT determinations since November 15, 1990, the presumptive RACT emission limitation shall be the approved LAER or BACT determinations. These provisions allowing sources with approved NO_X LAER and BACT determinations are not acceptable because EPA cannot delegate the responsibility of approving RACT determinations to a state. Chapter 129.93(c) (6) and (7) allows all NO_X sources receiving LAER determinations since November 1990 and all future LAER determinations to be declared RACT without EPA approval via the SIP process. RACT determinations cannot be approved through a permit but rather

must be approved through a SIP revision. EPA cannot agree to LAER determinations as RACT since those determinations are not now before the agency for review. Therefore, Pennsylvania must delete the provisions in Chapter 129.93(c) (6) and (7) pertaining to LAER and BACT determinations in order to correct this deficiency. The presumptive RACT proposals in Chapter 129.93 (b) and (c) which require only annual tune-ups or maintenance procedures simply allow these sources, without adequate technical justification, to maintain the status quo. The CAA requires that states in moderate and worse ozone nonattainment areas and in the OTR control its major NO_X sources to RACT levels. Since the operation and maintenance and tune-up requirements located in Chapter 129.93 are unsupported, they serve as exemptions from the NO_X RACT requirement in sections 182 and 184 of the CAA.

The provisions in the CAA for NO_X exemptions are contained in section 182(f). In order to exempt major NO_X sources from RACT requirements, Pennsylvania must petition EPA, and receive EPA approval, for such an exemption under 182(f). EPA's guidance on the criteria for approval of NO_X exemptions under section 182(f) is contained in the EPA document, "Guideline for Determining the Applicability of Nitrogen Oxide Requirements under Section 182(f)", December 1993. Pennsylvania has not submitted a petition under section 182(f) but, even if it had, EPA could not approve the exclusion of major NO_X sources from RACT requirements until approval of such petition under section 182(f) is granted.

V. 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.

VI. Recordkeeping

The recordkeeping requirements of Chapter 129.95 are consistent with EPA requirements.

Proposed Action

As noted above, there is considerable controversy about whether generic RACT provisions, such as the one under review, comply with the requirements of Sections 172 (c)(1) and 182 (b)(2). EPA believes that this notice and comment rulemaking would be an

appropriate vehicle to announce a clear agency position on this issue. Accordingly, EPA is proposing three alternative actions in today's notice: two forms of limited approval/limited disapproval, and a full disapproval. Under Options #1 and #2, 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. 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 rules 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 due to the noted deficiencies. EPA is soliciting public comment on each alternative.

In addition, EPA is soliciting public comment on the approvability of generic RACT provisions generally. The outcome of this rulemaking will affect the determination of the completeness and approvability of generic RACT submittals in future rulemaking actions.

Option #1

The first proposed action, and EPA's preferred option, is a proposed limited approval/limited disapproval of Pennsylvania VOC and NO_X RACT regulations, Chapters 129.91 through 129.95 with the associated definitions in Chapter 121. The limited approval would be for the limited purpose of strengthening the SIP, as the Pennsylvania regulation imposes requirements on previously unregulated sources.

The limited disapproval would be based on two separate grounds:

(1) A determination that the presumptive NO_X emission limitations cannot be approved as RACT for the reasons described above; and

(2) A determination that Pennsylvania's generic VOC and NO_X provisions are deficient because they do not contain specific, immediately ascertainable emission limitations (as defined in Section 302(k) of the CAA) for all applicable sources.

Under Option #1, to correct the deficiencies in the presumptive NO_X RACT emission limitation provisions, EPA believes that Pennsylvania would have to do the following: