

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 16, 1997.

**David A. Ullrich,**

*Acting Regional Administrator.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

**Subpart Y—Minnesota**

2. Section 52.1220 is amended by adding paragraph (c)(44) to read as follows:

**§ 52.1220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(44) This revision provides for data which have been collected under the enhanced monitoring and operating permit programs to be used for compliance certifications and enforcement actions.

(i) Incorporation by reference.

(A) Minnesota Rules, sections 7007.0800 Subpart 6.C.(5), 7017.0100 Subparts 1 and 2, both effective February 28, 1995.

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[FR Doc. 97–27129 Filed 10–10–97; 8:45 am]

BILLING CODE 6560–50–F

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[VA–5029a, FRL–5904–3]

**Approval and Promulgation of Air Quality Implementation Plans; Virginia; VOC RACT for Phillip Morris, Hercules, Virginia Power Station, and the Hopewell Regional Wastewater Treatment Plant**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving six State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia. These revisions establish and require volatile organic compound

(VOC) reasonably available control technology (RACT) on six major sources located in Virginia. The intended effect of this action is to approve source-specific plan approvals and Consent Agreements that establish the above-mentioned RACT requirements in accordance with the Clean Air Act (the Act).

**DATES:** This action is effective November 28, 1997 unless notice is received on or before October 29, 1997 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Comments may be mailed to David L. Arnold, Air, Radiation, and Toxics Division, 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

**FOR FURTHER INFORMATION CONTACT:** Kimberly Peck, (215) 566–2165, at the EPA Region III address above.

**SUPPLEMENTARY INFORMATION:** On April 9, 1996, August 8, 16, 19, 23, 1996, and March 26, 1997, the Commonwealth of Virginia submitted formal revisions to its SIP. These revisions consist of plan approvals and Consent Agreements, signed by the companies and the Virginia Department of Environmental Quality, to establish and impose source-specific VOC RACT requirements for major sources of VOC. Today's rulemaking proposes to approve the source-specific VOC RACT requirements for six companies. All of the sources are located in the Richmond moderate ozone nonattainment area.

**I. Background**

Under the pre-amended Clean Air Act (i.e., the Act prior to the 1990 Amendments), ozone nonattainment areas were required to adopt RACT rules for VOC sources. EPA issued three sets of control technique guideline documents (CTGs), establishing a “presumptive norm” for RACT for various categories of VOC sources. The Richmond, Virginia area was designated nonattainment under the pre-amended

Act and was required to adopt RACT for all CTG categories as well as non-CTG VOC sources with a potential to emit 100 tons per year (TPY) or more. Under the 1990 amendments to the Act, amended sections 172(c)(1) and 182(a)(2), required the Richmond, Virginia nonattainment area to correct its RACT requirements in effect prior to enactment of the 1990 amendments. Virginia submitted those RACT corrections as SIP revisions on May 10, 1991 and June 20, 1991. Among the regulations in that SIP revision, was a provision (Rule 120–04–0407) establishing the legal basis for imposing RACT on all individual major VOC sources subject to RACT in the Northern Virginia and Richmond nonattainment areas not covered by an existing state adopted VOC control regulation. The RACT correction SIP was approved by EPA on March 31, 1994 (See 59 FR 15117). To implement Rule 120–04–0407, the Commonwealth must submit an enforceable RACT determination for all major VOC sources not otherwise controlled under existing VOC RACT regulations of the SIP.

Sections 182(b)(2) (A), (B) and (C) of the Act require moderate and above areas to adopt standards for all sources covered by any CTG document issued by the Administrator after 1990 and before the area is required to attain the standard; all sources covered by any CTG before the date of enactment of the 1990 CAA amendments; and all major sources of VOC not subject to a CTG. In addition, areas newly designated under the 1990 amendments as ozone nonattainment areas are required to adopt RACT rules consistent with those previously designated nonattainment. This provision of the Act makes nonattainment areas that were previously exempt from RACT requirements “catch up” to requirements during the earlier period, and therefore, is known as the RACT catch-up requirement. Because Rule 120–04–0407 imposed RACT on all major VOC sources in the Northern Virginia and Richmond nonattainment areas on an individual basis, this rule partially satisfied the RACT catch-up requirement. On November 6, 1992, Virginia submitted a SIP revision expanding the geographic boundaries of the VOC emission control areas to coincide with the revised boundaries of the Richmond and Northern Virginia ozone nonattainment areas resulting from the 1990 amendments. This SIP was approved by EPA on March 12, 1997 (59 FR 52701). To satisfy the RACT correction and catch-up requirements under sections 182(a)(2) and 182(b)(2)

(A), (B) and (C), and implement Rule 120-04-0407, Virginia has submitted source specific VOC RACT determinations for the following six companies in the Richmond, Virginia ozone nonattainment area:

- (1) Philip Morris-Blended Leaf—2301 Everett Street, Richmond;
- (2) Philip Morris-Park 500 Facility—Chesterfield County;
- (3) Philip Morris-Tobacco Manufacturing Center—3601 Commerce Road, Richmond;
- (4) Virginia Electric and Power Station—Chesterfield County;
- (5) Hercules Incorporated, Aqualon Division—Hopewell; and
- (6) Hopewell Regional Wastewater Treatment Facility.

## II. Summary of SIP Revision

The details of the RACT requirements for the sources can be found in the docket and accompanying technical support document (TSD). Below is a summary of the facility type and the applicable RACT requirements for each source. Each SIP revision consists of a Consent Agreement signed by the source and the Virginia Department of Environmental Quality. The Consent Agreements are enforceable documents which include a description of the RACT technologies, control efficiencies, operating parameters, monitoring and reporting requirements. For further details on the sources' processes and how RACT was determined, refer to the TSD associated with this rulemaking. EPA is approving revisions to the Virginia SIP pertaining to the determination of RACT for six major sources of VOC. This action is being taken under section 110 of the Act.

### 1. Philip Morris—Blended Leaf, Richmond

Philip Morris—Blended Leaf is a tobacco processing facility that has potential VOC emissions greater than 100 TPY. Tobacco by-products from other Philip Morris facilities are combined to form a continuous tobacco sheet at the Blended Leaf Plant. These by-products are combined with dry and liquid low-VOC flavorings, and mixed into a slurry. The slurry is dried in a natural gas-fired dryer, cut, and packed into hogsheads for shipment. There are three drying lines each consisting of two natural gas-fired dryers. The Plant operates 24 hours each day, seven days each week, and 50 weeks per year. Based on 1991 throughput data, the total uncontrolled stack VOC emissions from the facility were estimated to be 238.4 tons per year.

RACT as prescribed in the Consent Agreement, Registration Number 50080,

dated February 27, 1996 is determined to be no controls as Virginia determined that add-on controls were not economically feasible or cost effective. The Consent Agreement does require the continued use of low-VOC flavorings as well as record keeping and reporting requirements.

### 2. Philip Morris—Park 500, Chesterfield

Philip Morris—Park 500 is a tobacco processing facility that has potential VOC emissions greater than 100 TPY. The tobacco processing facility consists of two separate, distinct facilities which are located on adjoining property: the Reconstituted Leaf (R/L) Plant and the Bermuda Hundred Facility. At the R/L Plant, all VOC emissions are generated primarily from the tobacco drying processes and from the raw materials blending area. The uncontrolled stack VOC emissions from the R/L Plant are estimated to be 143 tons per year. At the Bermuda Hundred Facility, all VOC emissions are generated primarily from the tobacco drying processes and from the application of final flavoring to the tobacco. The uncontrolled stack VOC emissions from the Bermuda Hundred Facility are estimated to be 236.4 tons per year.

RACT as prescribed in the Consent Agreement, Registration Number 50722, dated March 26, 1997 is determined to be no controls as Virginia determined that add-on controls were not economically infeasible or cost-effective.

### 3. Philip Morris, Tobacco Manufacturing Center, Richmond

Philip Morris, Incorporated is a cigarette manufacturing center that has potential VOC emissions greater than 100 TPY. RACT as prescribed in the Consent Agreement, Registration Number 50076, dated July 12, 1996 requires, among other provisions, that the VOC emissions from the flavor cylinders where high-VOC-emitting flavorings are applied and the aftercut dryers in Process Lines #1 and #2 shall be controlled by a thermal oxidation unit(s) having a destruction efficiency of at least 95% on a mass basis. Each thermal oxidization unit shall be equipped with a continuous temperature monitor, automatic control dampers which prevent the flow of VOC laden process exhaust air to each unit until the minimum temperature is attained, and a pressure gauge in the duct prior to the oxidation units) to continuously monitor and insure that a negative pressure is being maintained in the exhaust system. Data from the continuous monitoring devices shall be recorded as one-minute readings and

reduced to 3-hour averages on a rolling basis. A minimum temperature requirement will be established using EPA Reference Method 25 within 180 days of initial startup of the thermal oxidation units.

If Philip Morris desires to reformulate any flavorings associated with the flavor cylinders and the aftercut dryers in Process Lines #1 and #2, the respective equipment in which the reformulated flavorings are implemented will be exempt from the thermal oxidation unit(s) provided the following conditions are met:

(1) Emissions resulting from any such change in formulation must be verified by stack sampling using appropriate EPA test methods and material balance.

(2) On a daily basis, Philip Morris shall track production and flavoring throughputs. Philip Morris must calculate the emissions, in pounds per day, emanating through the stack and the emissions that would have occurred on January 1, 1993 prior to the reformulation with the affected equipment being exhausted to the thermal oxidation unit(s). Philip Morris must compare the results of these two equations. Emissions from the reformulated flavoring must always be less than the emissions which would have been emanating had the reformulation had not occurred and the affected equipment were exhausted to the thermal oxidation unit(s).

Philip Morris shall maintain records of all operating parameters necessary to demonstrate compliance. Pre-RACT facility-wide uncontrolled emissions were calculated at 1250 TPY. Post-RACT facility-wide emissions are 684 TPY.

### 4. Virginia Power—Chesterfield Station, Chesterfield

Virginia Power—Chesterfield Station is an electric utility that has potential VOC emissions greater than 100 TPY.

RACT as prescribed in the Consent Agreement, Registration Number 50396, dated May 30, 1996 requires, among other provisions, that the VOC emissions from boilers 3, 4, 5, and 6 be good combustion practices. Compliance shall be demonstrated by Implementation of a Work Planning and Tracking System (WATS). Virginia Power shall maintain records of operation, malfunctions, continuous monitoring and all completed scheduled and unscheduled maintenance, with the exception of minor repairs initiated and performed by individual employees in the conduct of their routine duties. No additional controls were determined to be economically feasible or cost-effective. Both pre-RACT and post-

RACT annual VOC emissions calculate to 183.6 TPY.

**5. Hercules, Incorporated—Aqualon Division, Hopewell**

Hercules, Incorporated—Aqualon Division is a synthetic organic chemical manufacturing facility that has potential VOC emissions greater than 100 TPY. RACT as prescribed in the Consent Agreement, Registration Number 50363, dated July 12, 1996 is as follows:

1. VOC emissions from the Cloacal Process area shall be controlled by solvent recovery and process scrubbers having an overall control efficiency of at least 96% on a mass basis, respectively, calculated monthly as a six-month rolling average. VOC flow from the Cloacal Process area shall be measured and the totalized flow recorded for each batch.

2. VOC emissions from the Ethyl cellulose (E.C.) Process area shall be controlled by solvent recovery and process scrubbers having an overall control efficiency of at least 90% on a mass basis, respectively, calculated monthly as a six-month rolling average.

3. VOC emissions from the Carboxymethyl cellulose (CBC) Process area shall be controlled by solvent recovery and process scrubbers having an overall control efficiency of at least 98% on a mass basis, respectively, calculated monthly as a six-month rolling average. For the CBC area, VOC still output shall be continuously measured and the totalized flow recorded once per shift.

4. VOC emissions from the Nitrosyl Process area shall be controlled by solvent recovery and process scrubbers having an overall control efficiency of at least 98% on a mass basis, respectively, calculated monthly as a six-month rolling average. For the Nitrosyl area, VOC still output shall be continuously measured and the totalized flow recorded once per shift.

5. VOC emissions from the Monochloroacetic Acid (MCA) Process area and the Technical Facility shall be controlled by solvent recovery and process scrubbers. Each area, the MCA Process area and the Technical Facility, shall not exceed 15 tons of VOCs per year.

Compliance from the Cloacal, E.C., CBC, and Nitrosyl process areas shall be demonstrated by specific equations designated in the Consent Agreement. Compliance for the MCA Process area and the Technical Facility require record keeping and reporting. Pre-RACT uncontrolled VOC emissions from this facility were calculated to be 246,743 TPY. Post-RACT controlled VOC

emissions from this facility calculate to 5474 TPY.

**6. Hopewell Regional Wastewater Treatment Facility, Hopewell**

Hopewell Regional Wastewater Treatment Facility has potential VOC emissions greater than 100 TPY.

RACT as prescribed in the Consent Agreement, Registration Number 50735, dated May 30, 1996 requires, among other provisions, that the VOC emissions from the Grit Chambers/Parshall Flume shall be controlled by a cover and vent. Total post-RACT emissions calculate to 225.6 TPY.

**III. Final Action**

EPA is approving all of the provisions in the plan approvals and Consent Agreements, for the six sources discussed above, submitted by the Commonwealth of Virginia as SIP revisions. All the Consent Agreements were effective on the date of signature by both signatory parties. The Consent Agreements do not contain expiration dates.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective November 28, 1997 unless, by October 29, 1997, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a 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 no such comments are received, the public is advised that this action will be effective on November 28, 1997. 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.

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.

**IV. Administrative Requirements**

**A. Executive Order 12866**

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

**B. 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.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the Commonwealth is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, the 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 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).

**C. 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 settlement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated 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 promulgated 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 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.

#### *D. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 15, 1997. Filing a petition for reconsideration by the Regional Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to approve VOC RACT determinations for six individual sources in Virginia as a revisions to the Commonwealth's SIP may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

#### **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.

Dated: September 26, 1997.

**William T. Wisniewski,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

#### **PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

#### **Subpart VV—Virginia**

2. Section 52.2420 is amended by adding paragraphs (c)(120) to read as follows:

##### **§ 52.2420 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(120) Revisions to the State Implementation Plan submitted on April 9, 1996, August 8, 16, 19, 23, 1996, and March 26, 1997 by the

Virginia Department of Environmental Quality regarding non-CTG VOC RACT requirements for six sources:

(i) Incorporation by reference.

(A) Letters submitted by the Virginia Department of Environmental Quality transmitting source-specific VOC RACT determinations in the form of consent agreements on the following dates: April 9, 1996, August 8, 16, 19, 23, 1996, and March 26, 1997.

(B) Consent agreements:

(1) Philip Morris—Blended Leaf, City of Richmond, VA, Consent Agreement Registration No. 50080, effective on February 27, 1996.

(2) Philip Morris—Park 500, Chesterfield County, VA, Consent Agreement Registration No. 50722, effective on March 26, 1997.

(3) Philip Morris Tobacco Manufacturing Center, City of Richmond, VA, Consent Agreement Registration No. 50076, effective on July 12, 1996.

(4) Virginia Power—Chesterfield Station, Chesterfield County, VA, Consent Agreement Registration No. 50396, effective on May 30, 1996.

(5) Hercules Incorporated—Aqualon Division, City of Hopewell, VA, Consent Agreement Registration No. 50363, effective on July 12, 1996.

(6) Hopewell Regional Wastewater Treatment Facility, City of Hopewell, VA, Consent Agreement Registration No. 50735, effective on May 30, 1996.

(ii) Additional material.

(A) Technical Support Documents submitted as part of the RACT determinations in paragraph (c)(120) (i) of this section by the Commonwealth of Virginia on April 9, 1996, August 8, 16, 19, 23, 1996, and March 26, 1997.

[FR Doc. 97–27124 Filed 10–10–97; 8:45 am]

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Parts 60 and 61**

[FRL–5904–8]

#### **Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants: Approval of Delegation of Authority to New Mexico**

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

**ACTION:** Delegation of authority.

**SUMMARY:** The EPA is approving the delegation of authority to the State of New Mexico to implement and enforce the New Source Performance Standards (NSPS) and National Emission

Standards for Hazardous Air Pollutants (NESHAP). The provisions of full authority apply to all of the NSPS and NESHAP promulgated by the EPA from February 1, 1995, through April 1, 1996. Partial authority covers all new and amended standards promulgated after these dates, except as follows. The delegation of authority, under this document, does not apply to: The sources located in Bernalillo County, New Mexico; the sources located on Indian lands as specified in the delegation agreement and in this document; the standards of performance for new residential wood heaters (subpart AAA) under 40 CFR part 60; and NESHAP radionuclide standards specified under 40 CFR part 61.

**EFFECTIVE DATE:** October 14, 1997.

**ADDRESSES:** The New Mexico Environment Department's request and delegation agreement may be obtained by writing to one of the following addresses:

Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, TX 75202, telephone: (214) 665–7214.  
Air Quality Bureau, New Mexico Environment Department (NMED), Harold Runnels Building, Room So. 2100, 1190 St. Francis Drive, Santa Fe, NM 87502, telephone: (505) 827–0042.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ken Boyce, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202, telephone: (214) 665–7259.

**SUPPLEMENTARY INFORMATION:** Section 301, in conjunction with Sections 110, 111(c)(1) and 112(l)(1) of the Clean Air Act (the Act) authorizes EPA to delegate authority to implement and enforce the standards set out in 40 CFR part 60, New Source Performance Standards and 40 CFR part 61, National Emission Standards for Hazardous Air Pollutants. Authority for the NSPS and NESHAP programs was delegated to the State of New Mexico (except for sources located in Bernalillo County and on Indian lands) on March 15, 1985.

The State requested the EPA to update the delegation of authority to the State for the NSPS and NESHAP programs from February 1, 1995, through April 1, 1996. The State's request includes a revision of Air Quality Control Regulations (AQCR) 20 NMAC 2.77 and 20 NMAC 2.78 as adopted by the New Mexico Environmental Improvement Board. These revisions incorporated the Federal NSPS and NESHAP by reference through April 1, 1996. The effective date