

ADDRESSES. A written summary of each meeting will be made a part of the Administrative Record.

Dated: March 31, 1995.

Richard J. Seibel,

Acting Assistant Director, Easter Support Center.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA36-1-6922; FRL-5185-7]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia: Non-CTG Reasonably Available Control Technology for Philip Morris, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing conditional approval of a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision establishes and requires the use of reasonably available control technology (RACT) to control volatile organic compound (VOC) emissions from the Philip Morris, Inc. (Philip Morris), Manufacturing Center, in Richmond, Virginia, which is part of the Richmond ozone nonattainment area. The SIP revision requires Philip Morris to meet RACT by installing thermal incinerators on process units that use ethanol-based flavorings. An exemption from this requirement is provided if the company eliminates use of ethanol-based flavorings and there is no net increase in VOC emissions. The intended effect of this action is to propose approval of the SIP revision on the condition that deficiencies in the exemption requirements are corrected and submitted within one year of this approval. If the State fails to do so, this approval will convert to a disapproval. This action is being taken under section 110 of the Clean Air Act.

DATES: Comments must be received on or before May 8, 1995.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, 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; Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Kathleen Henry, (215) 597-0545.

SUPPLEMENTARY INFORMATION: On September 28, 1994, the Commonwealth of Virginia submitted a revision to its State Implementation Plan (SIP). The SIP revision consists of a Consent Order and Agreement (the Order) between the Department of Environmental Quality (DEQ) of the Commonwealth of Virginia and Philip Morris, Inc.. The Order was signed by Philip Morris' Senior Vice President of Manufacturing on June 14, 1994 and the Director of DEQ on June 27, 1994. The Order became effective on June 27, 1994.

In the **Federal Register** on November 24, 1987, EPA's Proposed Post-1987 Policy for Ozone and Carbon Monoxide stated that air quality monitors revealed continued exceedances of the National Ambient Air Quality Standards (NAAQS) for ozone and carbon monoxide in Virginia and that a SIP call would be issued. (See 52 FR 45044). On May 26, 1988, the Regional Administrator of EPA Region III notified the Governor of Virginia that the Commonwealth's SIP was substantially inadequate to achieve the ozone and carbon monoxide NAAQS for certain areas in Virginia, including Henrico County in the Richmond-Petersburg metropolitan statistical area, and therefore required a SIP revision. As prescribed by the SIP call, Virginia is required to develop reasonably available control technology (RACT) regulations in all its nonattainment areas for all VOC sources with the potential to emit 100 tons per year (TPY) or more for which EPA has not issued a Control Techniques Guidelines (CTG) document. Such sources are known as non-CTG sources. One of the non-CTG sources identified as requiring RACT is Philip Morris, Inc.'s Manufacturing Center in Richmond, Virginia. The City of Richmond is located in the Richmond area, which is currently designated nonattainment for ozone. Therefore, Virginia is submitting this Order as a SIP revision to fulfill part of its SIP call obligation.

In addition, this SIP revision serves to fulfill one of the RACT fix-up requirements of the Virginia SIP required by section 182(a)(2)(A) of the Clean Air Act as amended by the Clean Air Act Amendments of 1990, Public Law 101-549. Areas classified as marginal nonattainment areas for ozone

pursuant to section 181(a) of the Clean Air Act, as amended, are required to meet the RACT fix-up requirements. Under section 182(a)(2)(A), a state is required to submit, within six months of such classification, a SIP revision to correct requirements in (or add requirements to) the plan concerning RACT, as interpreted in guidance issued by the Administrator under section 108 of the Act before November 15, 1990.

Summary of SIP Revision

The Philip Morris Manufacturing Center processes, flavors and blends various types of tobacco for the production of cigarettes. The operations include moisture addition, preflavoring, blending, cutting, flavoring and cigarette-making. VOC emissions result primarily from the application and evaporation of flavorings, particularly ethanol-based flavorings. Total uncontrolled stack and fugitive VOC emissions are estimated to be 1259 tons per year, based on 1990 throughput data.

To accommodate the number and diversity of stack emissions at the Manufacturing Center, RACT was determined by grouping exhaust streams in various combinations and evaluating the feasibility and cost of installing control technology on the combined exhaust streams. Virginia has determined that the only grouping amenable to control technology is the combination of exhausts from the unit processes associated with ethanol-based flavorings. These combined waste streams comprise 48% of the uncontrolled stack emissions from the Manufacturing Center and are made up of emissions from burley casing cylinders #1 and #2, aftercut flavor cylinders #1 through #8, and aftercut dryers #1 through #4.

The Order establishes RACT for these units as the installation and operation of two (2) 10,000 standard cubic feet per minute (scfm) thermal oxidation units having a VOC destruction efficiency of at least 95% on a mass basis. The thermal oxidation units are required to be operated at the three-hour average minimum temperature that demonstrates 95% destruction efficiency as determined by performance testing. Thermal oxidation units must be interlocked with process equipment and exhaust fans such that tobacco cannot be processed and VOC laden exhaust air cannot flow to the incineration units until the minimum temperature is achieved. In addition, the Order requires that a negative pressure be maintained in the exhaust system as demonstrated by continuous pressure monitors and reported as three-hour

rolling averages. Based on 1990 throughput data, stack emissions from the process lines using ethanol-based flavorings and aftercut dryers will be reduced from 606 tons/year to 30 tons per year.

The Order allows an exemption from meeting these control requirements if Philip Morris replaces the existing ethanol-based flavorings with non-ethanol-based flavorings, provided that the change does not result in a net increase in VOC emissions.

Virginia has determined that RACT for all other tobacco processing operations shall be the use of low-VOC, non-ethanol based flavorings.

For more information on Virginia's RACT determination and the specific provisions of the Order, please refer to the Technical Support Document (TSD) prepared for this notice. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the Addresses section of this notice.

EPA's review of this material indicates that the requirements to install, operate and maintain thermal oxidation units on the burley case flavoring cylinders, the aftercut flavoring cylinders and the aftercut dryers, and the use of low VOC flavorings on other tobacco processes established by the Consent Order and Agreement between the Virginia DEQ and Philip Morris, Inc. constitutes RACT for the facility's VOC emitting processes. EPA has also determined that the exemption from meeting the requirements of add-on controls through the use of non-ethanol based flavorings does not impose enforceable conditions that would ensure that there shall be no net increase in emissions above the level established by RACT.

EPA is proposing to conditionally approve the non-CTG RACT SIP revision for the Philip Morris Manufacturing Center pending corrections to the exemption provided in the Order that allows the use of reformulated flavorings in lieu of operating emission control technology. RACT has been defined for burley casing cylinders #1 and #2, aftercut flavor cylinders #1 through #8, and aftercut dryers #1 through #4 as 95% destruction efficiency of VOCs on a mass basis over a three hour averaging period. Alternatively, the exemption from operating add-on controls through the use of reformulated flavorings requires that there shall be no net increase in VOC emissions. The Order is deficient in that it does not require the facility to monitor or report emissions from the affected units when non-ethanol-based flavorings are used and the facility is exempt from operating the

thermal incinerators. The Order also fails to require a baseline to be established for the purpose of measuring net increases or decreases in emissions. Consequently, the requirement that there be no net increase in emissions from the substitution of reformulated flavorings for add-on control is unenforceable and does not impose the same level of control that would be imposed by the Order as RACT without the exemption.

In order to correct this deficiency, Virginia must amend and resubmit the Order within one year of this conditional approval in one of the following ways: (1) eliminate the exemption to use non-ethanol-based flavorings in lieu of add-on controls; (2) restrict the applicability of the exemption to the use of non-VOC based flavorings; or (3) impose monitoring and reporting requirements sufficient to determine net increases or decreases in emissions on a mass basis relative to the emissions that would have occurred using add-on controls on an average not to exceed thirty days. If Virginia fails to revise and resubmit the Order within one year, the conditional approval will convert to a disapproval.

Proposed Action

Pursuant to section 110(k)(4) of the CAA, EPA is proposing to conditionally approve the Virginia SIP revision for the Philip Morris Manufacturing Center, which was submitted on September 28, 1994. Virginia must amend the Consent Order and Agreement with Philip Morris, Inc. according to one of the three options described in this notice and resubmit the Order to EPA. If Virginia fails to do so within one year of the final conditional approval, the approval will convert to a disapproval. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. 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.

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.

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 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).

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 does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. 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 nor does it substitute a new federal requirement.

This action has been classified as a Table 3 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 SIP revision 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

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

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

Dated: March 22, 1995.

Stanley Laskowski,

Acting Regional Administrator, Region III.

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40 CFR Part 55

[FRL-5185-8]

Outer Continental Shelf Air Regulations Consistency Update for California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking; consistency update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf ("OCS") Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area ("COA"), as mandated by section 328(a)(1) of the Clean Air Act ("the Act"), the Clean Air Act Amendments of 1990. The portion of the OCS air regulations being updated pertain to the operating permit requirements for OCS sources for which the Ventura County Air Pollution Control District (Ventura County APCD) is the designated COA. The OCS requirements for the above District, contained in the Technical Support Document, are proposed to be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations. **DATES:** Comments on the proposed update must be received on or before May 8, 1995.

ADDRESSES: Comments must be mailed (in duplicate if possible) to: EPA Air Docket (A-5), Attn: Docket No. A-93-16 Section VIII, Environmental Protection Agency, Air and Toxics Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

Docket: Supporting information used in developing the proposed notice and copies of the documents EPA is proposing to incorporate by reference are contained in Docket No. A-93-16 (Section VIII). This docket is available for public inspection and copying Monday-Friday during regular business hours at the following locations:

EPA Air Docket (A-5), Attn: Docket No. A-93-16 Section VIII, Environmental Protection Agency, Air and Toxics Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

EPA Air Docket (LE-6102), Attn: Air Docket No. A-93-16 Section VIII, Environmental Protection Agency, 401 M Street SW, Room M-1500, Washington, DC 20460.

A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT:

Christine Vineyard, Air and Toxics Division (A-5-3), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1197.

SUPPLEMENTARY INFORMATION:**Background**

On September 4, 1992, EPA promulgated 40 CFR part 55,¹ which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of Part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of a state's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to § 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent (NOI) under § 55.4; and (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This NPR is being promulgated in response to the submittal of part 70 permit rules by a local air pollution control agency.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules

into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as Part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

EPA Evaluation and Proposed Action

On November 22, 1994 (59 FR 60104), EPA proposed interim approval of the Ventura County APCD Operating Permits Program (part 70 permits). EPA is now proposing to update 40 CFR part 55 by incorporating the requirements of this program, in response to Ventura County APCD's request and to maintain consistency with onshore requirements. These proposed requirements will apply to the extent that they are rationally related to the attainment or maintenance of Federal or State ambient air quality standards or Part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS, that they are applicable to OCS sources, and that they do not solely regulate pollutants or precursors to pollutants for which there is no Federal or State ambient air quality standard. These proposed Ventura County APCD part 70 permit requirements applicable to OCS sources will not be finalized in part 55 until EPA takes final action granting full or interim approval to the Ventura County APCD Operating Permits Program.

The following Ventura County APCD part 70 permit requirement were submitted for inclusion in part 55:

- Rule 33 Part 70 Permits—General (Adopted 10/12/93)
- Rule 33.1 Part 70 Permits—Definitions (Adopted 10/12/93)
- Rule 33.2 Part 70 Permits—Application Contents (Adopted 10/12/93)
- Rule 33.3 Part 70 Permits—Permit Content (Adopted 10/12/93)
- Rule 33.4 Part 70 Permits—Operational Flexibility (Adopted 10/12/93)
- Rule 33.5 Part 70 Permits—Timeframes for Applications, Review and Issuance (Adopted 10/12/93)

¹ The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.