in total or in part its Federal statutory or regulatory provisions until the State adopts and OSM approves, under 30 CFR Part 732, the State's counterparts to the required provisions. However, as discussed in item number (1) above, OSM could decide not to initiate direct Federal enforcement and rely instead on the 30 CFR Part 732 State program amendment process.

In those situations where OSM determined that direct Federal enforcement was necessary, the ten-day notice provisions of 30 CFR 843.12(a)(2) would not apply. That is, when on the basis of a Federal inspection OSM determined that a violation of 30 CFR 817.41(j) or 817.121(c)(2) existed, OSM would issue a notice of violation or cessation order without first sending a ten-day notice to the State.

Also under direct Federal enforcement, the provisions of 30 CFR 817.121(c)(4) would apply. This regulation states that if damage to any noncommercial building or occupied residential dwelling or structure related thereto occurs as a result of earth movement within an area determined by projecting a specified angle of draw from the outermost boundary of any under ground mine workings to the surface of the land (normally a 30 degree angle of draw), a rebuttable presumption exists that the permittee caused the damage.

Lastly, under direct Federal enforcement, OSM would also enforce the new definitions at 30 CFR 701.5 of ''drinking, domestic or residential water supply,'' ''material damage,'' ''non-commercial building,'' ''occupied dwelling and structures related thereto,'' and ''replacement of water supply'' that were adopted with the new underground mining performance standards.

OSM would enforce 30 CFR 817.41(j), 817.121(c) (2) and (4), and 30 CFR 701.5 for operations conducted after October 24, 1992.

C. Enforcement in Ohio

By letter to Ohio dated December 15, 1994, OSM requested information from Ohio that would help OSM decide which approach to take in Ohio to implement the new requirements of section 720(a) of SMCRA and the implementing Federal regulations (Administrative Record No. OH–2073). By letter dated January 18, 1995, Ohio responded to his OSM request (Administrative Record No. OH–2085).

Ohio provided a list of permitted underground coal mining operations. There are currently eight underground coal mines that are producing coal. The number of coal producing underground coal mines in Ohio has been less than fifteen at any given time since October 24, 1992. Ohio indicated that existing State program provisions at the Ohio Revised Code section 1513.152 and the Ohio Administrative Code sections 1501:13–1–02(S); 1501:13–9–04(P); and 1501:13–12–03(C), (D), (E), (F), (H), (I) are adequate State counterparts to section 720 of SMCRA and the implementing Federal regulations. Ohio explained that it has enforced these State program provisions requiring replacement of water supplies impacted by underground mining operations since 1977 and enforced State program provisions requiring repair or compensation for subsidence related structural damage since 1988. Ohio has investigated 26 citizen complaints alleging subsidence-caused structural damage or water supply loss or contamination as a result of underground mining operations conducted after October 24, 1992. To date, Ohio has made a determination on six of the complaints that water loss was not mining related and on six of the complaints that water loss was mining related. Fourteen complaints are still being investigated. Twelve of the 14 are related to water supplies associated with one underground coal mining operation and are not subsidence related.

II. Public Comment Procedures

OSM is requesting public comment to assist OSM in making its decision on which approach to use in Ohio to implement the underground coal mine performance standards of section 720(a) of SMCRA, the implementing Federal regulations, and any counterpart State provisions.

A. Written Comments

Written comments should be specific, pertain only to the issues addressed in this notice, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Columbia Field Office will not necessarily be considered in OSM's final decision or included in the Administrative Record.

B. Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., [Eastern Time zone] on April 15, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

C. Public Meeting

If only a few persons request an opportunity to speak at a hearing, a public hearing, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss recommendations on how OSM and Ohio should implement the provisions of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart State provisions, may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **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, Eastern Support Center.

[FR Doc. 95–8636 Filed 4–6–95; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 946

Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement OSM), Interior.

ACTION: Announcement of; public comment period and opportunity for public hearing.

SUMMARY: OSM is requesting public comment that would be considered in deciding how to implement in Virginia underground coal mine subsidence control and water replacement provisions of the Surface Mining

Control and Reclamation Act of 1977 (SMCRA), the implementing Federal regulations, and/or the counterpart State provisions. Recent amendments to SMCRA and the implementing Federal regulations require that underground coal mining operations conducted after October 24, 1992, promptly repair or compensate for subsidence-caused material damage to noncommercial buildings and to occupied dwellings and related structures. These provisions also require such operations to promptly replace drinking, domestic, and residential water supplies that have been adversely affected by underground coal mining.

OSM must decide if the Virginia regulatory program (hereinafter referred to as the ''Virginia program'') currently has adequate counterpart provisions in place to promptly implement the recent amendments to SMCRA and the Federal regulations. After consultation with Virginia and consideration of public comments, OSM will decide whether initial enforcement in Virginia will be accomplished through the State program amendment process or by State enforcement, by interim direct OSM enforcement, or by joint State and OSM enforcement.

DATES: Written comments must be received by 4:00 p.m., e.s.t. on May 8, 1995. If requested, OSM will hold a public hearing on May 2, 1995 concerning how the underground coal mine subsidence control and water replacement provisions of SMCRA and the implementing Federal regulations, or the counterpart State provisions, should be implemented in Virginia. Requests to speak at the hearing must be received by 4:00 p.m., e.s.t. on April 24, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand-delivered to Robert A. Penn, Director, Big Stone Gap Field Office at the address listed below.

Copies of the applicable parts of the Virginia program, SMCRA, the implementing Federal regulations, information provided by Virginia concerning its authority to implement State counterparts to SMCRA and the implementing Federal regulations, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the address listed below during normal business hours, Monday through Friday, excluding holidays: Robert A. Penn, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Drawer 1217, Big Stone Gap, Virginia 24219, Telephone: (703) 523–4303.

FOR FURTHER INFORMATION CONTACT: Robert A. Penn, Director, Big Stone Gap Field Office, Telephone: (703) 523–4303.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Energy Policy Act

Section 2504 of the Energy Policy Act of 1992, Public Law 102-486, 106 Stat. 2776 (1992) added new section 720 to SMCRA. Section 720(a)(1) requires that all underground coal mining operations promptly repair or compensate for subsidence-caused material damage to noncommercial buildings and to occupied residential dwellings and related structures. Repair of damage includes rehabilitation, restoration, or replacement of the structures identified in section 720(a)(1), and compensation must be provided to the owner in the full amount of the reduction in value of the damaged structures as a result of subsidence. Section 720(a)(2) requires prompt replacement of certain identified water supplies if those supplies have been adversely affected by underground coal mining operations.

These provisions requiring prompt repair or compensation for damage to structures, and prompt replacement of water supplies, went into effect upon passage of the Energy Policy Act on October 24, 1992. As a result, underground coal mine permittees in States with OSM-approved regulatory programs are required to comply with these provisions for operations conducted after October 24, 1992.

B. The Federal Regulations Implementing the Energy Policy Act

On March 31, 1995, OSM promulgated regulations at 30 CFR Part 817 to implement the performance standards of sections 720(a) (1) and (2) of SMCA (60 FR 16722-16751).

30 CFR 817.121 (c)(2) requires in part that:

> The permitted must promptly repair, or compensate the owner for, material damage resulting from subsidence caused to any non-commercial building or occupied residential dwelling or structure related thereto that existed at the time of mining. * * * The requirements of this paragraph apply only to subsidence-related damage caused by underground mining activities conducted after October 24, 1992.

30 CFR 817.41(j) requires in part that:

> The permittee must promptly replace any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992, if the affected well or spring was in existence before the date the regulatory authority received the permit application for the activities causing the loss, contamination or interruption.

30 CFR 843.25 provide that by July 31, 1995, OSM will decide, in consultation with each State regulatory authority with an approved program, how enforcement of the new requirements will be accomplished. As discussed below, enforcement may be accomplished through the 30 CFR Part 732 State program amendment process, or by State, OSM, or joint State and OSM enforcement of the requirements. OSM will decide which of the following enforcement approaches to pursue.

(1) *State program amendment process.* If the State's promulgation of regulatory provisions that are counterpart to 30 CFR 817.41(j) and 817.121(c)(2) is imminent, the number and extent of underground mines that have operated in the State since October 24, 1992, is low, the number of complaints in the State concerning section 720 of SMCRA is low, or the State's investigation of subsidence-related complaints has been thorough and complete so as to assure prompt remedial action, then OSM could decide not to directly enforce the Federal provisions in the State. In this situation, the State would enforce its State statutory and regulatory provisions once it has amended its program to be in accordance with the revised SMCRA and to be consistent with the revised Federal regulations. This program revision process, which is addressed in the Federal regulations at 30 CFR Part 732, is commonly referred to as the State program amendment process.

(2) *State enforcement.* If the State has statutory or regulatory provisions in place that correspond to all of the requirements of the above-described Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2) and the State has authority to implement its statutory and regulatory provisions for all underground mining activities conducted after October 24, 1992, then the State would enforce its provisions for these operations.

(3) *Interim direct OSM enforcement.* If the State does not have any statutory or regulatory provisions in place that correspond to the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2), then OSM would enforce in their entirety 30 CFR 817.42(j) 817.121(c)(2) for all underground mining activities conducted in the State after October 24, 1992.

(4) *State and OSM enforcement.* If the State has statutory or regulatory

provisions in place that correspond to some but not all of the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2) and the State has authority to implement its provisions for all underground mining activities conducted after October 24, 1992, then the State would enforce its provisions for these operations. OSM would then enforce those provisions of 30 CFR 817.41(j) and 817.121(c)(2) that are not covered by the State provisions for these operations.

If the State has statutory or regulatory provisions in place that correspond to some but not all of the requirements of the Federal regulations at 30 CFR 817.41(j) and 817.121(c)(2) and if the State's authority to enforce its provisions applies to operations conducted on or after some date later than October 24, 1992, the State would enforce its provisions for these operations on and after the provisions' effective date. OSM would then enforce 30 CFR 817.41(j) and 817.121(c)(2) to the extent the State statutory and regulatory provisions do not include corresponding provisions applicable to all underground mining activities conducted after October 24, 1992; and OSM would enforce those provisions of 30 CFR 817.41(j) and 817.121(c)(2) that are included in the State program but are not enforceable back to October 24, 1992, for the time period from October 24, 1992, until the effective date of the State's rules.

As described in item numbers (3) and (4) above, OSM would directly enforce in total or in part its Federal statutory or regulatory provisions until the State adopts and OSM approves, under 30 CFR Part 732, the State's counterparts to the required provisions. However, as discussed in item number (1) above, OSM could decide not to initiate direct Federal enforcement and rely instead on the 30 CFR Part 732 State program amendment process.

In those situations where OSM determined that direct Federal enforcement was necessary, the ten-day notice provisions of 30 CFR 843.12(a)(2) would not apply. That is, when on the basis of a Federal inspection OSM determined that a violation of 30 CFR 817.41(j) and 817.121(c)(2) existed, OSM would issue a notice of violation or cessation order without first sending a ten-day notice to the State.

Also under direct Federal enforcement, the provisions of 30 CFR 817.121(c)(4) would apply. This regulation states that if damage to any noncommercial building or occupied residential dwelling or structure related thereto occurs as a result of earth movement within an area determined by projecting a specified angle of draw from the outermost boundary of any underground mine workings to the surface of the land (normally a 30 degree angle of draw), a rebuttable presumption exists that the permitee caused the damage.

Lastly, under direct Federal enforcement, OSM would also enforce the new definitions at 30 CFR 701.5 of ''drinking, domestic or residential water supply,'' ''material damage,'' ''non-commercial building,'' ''occupied dwelling and structures related thereto,'' and ''replacement of water supply'' that were adopted with the new underground mining performance standards.

OSM would enforce 30 CFR 817.41(j) and 817.121(c) (2) and (4), and 30 CFR 701.5 for operations conducted after October 24, 1992.

C. Enforcement in Virginia

By letter to Virginia dated December 14, 1994, OSM requested information from Virginia that would help OSM decide which approach to take in Virginia to implement the new requirements of section 720(a) of SMCRA and the implementing Federal regulations (Administrative Record No. VA–850. By letter dated January 13, 1995, Virginia responded to this OSM request (Administrative Record No. VA–851).

Virginia indicated that existing State program provisions at Sections 45.1–243 and 45.1–258 of the Code of Virginia are adequate State counterparts to section 720(a) of SMCRA. Virginia explained that it will enforce these State program provisions effective October 24, 1992. Section 480–03–19.817.121(c)(2) of the Virginia Coal Surface Mining Reclamation Regulations concerning subsidence control has been used by Virginia since December 26, 1990. OSM records show that approximately 325 underground coal mines have been classified as active in Virginia since October 24, 1992. Between October 24, 1992, and January 13, 1995, Virginia investigated 262 citizen complaints alleging subsidence-caused structural damage or water supply loss or contamination as a result of underground mining operations. As of January 13, 1995, Virginia had found that no violation of the Act existed on 202 of the complaints, violations existed on 35 of the complaints, and technical reports and a final decision were pending on 25 complaints.

II. Public Comment Procedures

OSM is requesting public comment to assist OSM in making its decision on which approach to use in Virginia to implement the underground coal mine performance standards of section 720(a) of SMCRA, the implementing Federal regulations, and any counterpart State provisions.

A. Written Comments

Written comments should be specific, pertain only to the issues addressed in this notice, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Big Stone Gap Field Office will not necessarily be considered in OSM's final decision or included in the Administrative Record.

B. Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., E.S.T. om April 24, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

C. Public Meeting

If only a few persons request an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss recommendations on how OSM and Virginia should implement the provisions of section 720(a) of SMCRA, the implementing Federal regulations, and/or the counterpart State provisions, may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under

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.

[FR Doc. 95–8637 Filed 4–6–95; 8:45 am]

BILLING CODE 4310–05–M

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