

modification at the plant or that GP has ever been able to comply with the opacity standard.

Comment: The commentor interprets the opacity limit waiver provision in DEQ's regulations at 9 VAC 5-40-120 to mean that a waiver cannot be granted unless emission test data shows that there is no correlation between particulate matter or volatile organic compound (VOC) emissions and opacity. The commentor further notes that it appears that VOC emissions were not considered in evaluating whether the waiver was appropriate.

Response: The waiver provision in 9 VAC 5-40-120 states that a waiver may be granted provided that "a technical decision is reached that the plume opacity observations * * * are not representative of the pollutant loading of the plume." Opacity observations are generally viewed as a surrogate for monitoring particulate matter emissions. In fact, it is highly unlikely that any source could demonstrate that there is absolutely no correlation between opacity and particulate matter emissions. However, DEQ's regulations appropriately use the term "representative" as a test for whether or not a waiver should be considered. In other words, a waiver would only be appropriate if existing opacity limits are incapable of representing or ensuring compliance with a pollutant loading standard, in this case, the emission standard for particulate matter. Based on the testing conducted by GP, the new opacity standard granted by the waiver will be representative of compliance with Virginia's particulate matter standard.

EPA did not consider VOC emissions in our evaluation of the waiver because opacity has not been generally established as an accurate or appropriate surrogate for VOC emissions.

Comment: The Commentor questioned whether the relaxation of the opacity limit will result in particulate matter or VOC emission increases that could subject the facility to new source review requirements, specifically the prevention of significant deterioration (PSD) program.

Response: As noted elsewhere in this document, the new opacity limit is based on stack testing and visible emissions observations conducted during normal operating conditions for the existing facility. The new opacity limit is being established to accurately reflect the observed visible emissions that correspond to actual measured particulate matter emissions from the dryers. A SIP relaxation would only trigger PSD if the relaxation would have

the potential to allow a significant increase in emissions above an actual emissions baseline. Since the new opacity limit is based on actual criteria pollutant emission levels, it does not have the potential to significantly increase emissions above PSD thresholds.

Comment: The commentor questioned whether EPA considered the impact of increased VOC emissions on the Richmond area, which has previously been designated as an ozone nonattainment area.

Response: As discussed previously, the new opacity limit reflects existing operations and pollutant emission levels at the GP facility. Regardless of whether opacity is an appropriate indicator of VOC emissions, the opacity limit is being changed to reflect the visible emissions occurring during actual operating conditions. There is no reason to conclude that making this adjustment would permit the facility to increase its VOC emissions.

Comment: The commentor states that the purpose of the Clean Air Act is to protect and enhance air quality so as to promote the public health and welfare and believes that the new opacity limit fails to do this. He also questions why the facility was not required to install economically reasonable control technology to meet a lower opacity limit.

Response: EPA agrees with the commentor in so far as one of the purposes of subchapter I of the Clean Air Act is to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." 42 U.S.C.A. 7401(b)(1). This subchapter outlines the specific requirements that EPA and states must do to fulfill this purpose including, but not limited to establishing ambient air quality standards, imposing standards of performance for stationary sources and sources of hazardous air pollutants, adopting permit programs for new and modified sources and state implementation plans for achieving and maintaining ambient air quality standards. In other words, subchapter I of the Clean Air Act establishes specific requirements that apply equally to many emission sources to ensure that its purposes are met. With respect to the GP facility, the Virginia SIP has had an opacity limit waiver in place since the mid-1980s. The waiver provision does not require the source to consider or install reasonably available control technology. Furthermore, there is no indication at this time that any other state or federal requirement established under subchapter I of the CAA would

preclude granting the waiver or to require the source to consider economically available control technology. Therefore, EPA believes that approval of this SIP revision is consistent with the purposes and requirements of subchapter I of the Clean Air Act and that it is not within EPA's authority to require an analysis of reasonably economical control technology prior to approving the new opacity limit for GP as a SIP revision.

III. Final Action

EPA is approving Consent Order No. 50253, with the exception of the opacity waiver during periods of start-up, shutdown and malfunction, as a revision to the Virginia SIP. The revision consists of revised opacity limits for dryer zone stack #1 and #2 located at the Georgia-Pacific Softboard Plant in Jarratt, Virginia.

IV. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) "privilege" for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1-1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege