Dated: June 16, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

For the reasons stated in the preamble, 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 *et seq.*

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraphs (c)(124) and (c)(136) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(124) On February 3, 1999, and May 17, 2000, Indiana submitted revised particulate matter emissions regulations for Allison Transmission in Marion County, Indiana. The submittal amends 326 IAC 6–1–12, and includes the combination of annual emissions limits for 5 boilers into one overall limit as well as new recordkeeping requirements.

(i) Incorporation by reference.

Emissions limits and recordkeeping requirements for Allison Transmission in Marion County contained in Indiana Administrative Code Title 326: Air Pollution Control Board, Article 6: Particulate Rules, Rule 1: Nonattainment Area Limitations, Section 12: Marion County. Added at 22 In. Reg. 416, Effective October 16, 1998.

* * * * *

(136) On August 30, 1999, and May 17, 2000, Indiana submitted revised particulate matter and sulfur dioxide emissions regulations for National Starch in Marion County, Indiana. The submittal amends 326 IAC 6–1–12, and includes elimination of shut down sources from the rules, increases in some limits, and a decrease in one limit.

(i) Incorporation by reference.

(a) Emissions limits for National Starch in Marion County contained in Indiana Administrative Code Title 326: Air Pollution Control Board, Article 6: Particulate Rules, Rule 1: Nonattainment Area Limitations, Section 12: Marion County. Added at 22 In. Reg. 1953, Effective March 11, 1999.

(b) Emissions limits for National Starch in Marion County contained in Indiana Administrative Code Title 326: Air Pollution Control Board, Article 7: Sulfur Dioxide Rules, Rule 4: Emission Limitations and Requirements by County, Section 2: Marion County Sulfur Dioxide Emission Limitations. Added at 22 In. Reg. 1953, Effective March 11, 1999.

[FR Doc. 00–19369 Filed 8–1–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WV045–6012; FRL–6730–1]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Revision to the State Implementation Plan (SIP) Addressing Sulfur Dioxide in Marshall County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the West Virginia State Implementation Plan (SIP). The revisions consist of Consent Orders modifying the sulfur dioxide (SO_2) allowable emissions at three stationary sources in Marshall County, West Virginia. The Orders are separate, enforceable agreements between PPG Industries, Inc.; Bayer Corporation; and Columbian Chemicals Company, and the West Virginia Office of Air Quality (WVOAQ). EPA is approving these revisions to incorporate the three Consent Orders into the federally approved State Implementation Plan (SIP). The intention of this action is to regulate SO_2 emissions in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on October 2, 2000 without further notice, unless EPA receives adverse written comment by September 1, 2000. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to Ms. Makeba Morris, Chief, Technical Assessment Branch, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, or West Virginia Division of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia, 25311.

FOR FURTHER INFORMATION CONTACT: Denis Lohman, (215) 814–2192, or by e-mail at lohman.denny@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On February 17, 2000, the West Virginia Division of Environmental Protection submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of Consent Orders prescribing sulfur dioxide (SO_2) emission limits and operating practices for three facilities in Marshall County, West Virginia.

A. What Action Is EPA Taking in This Rulemaking?

The EPA is approving as a SIP revision, and incorporating by reference into the West Virginia SIP, three Consent Orders containing new SO_2 emission limits for three facilities located in Marshall County. The facilities are PPG Industries, Bayer Corporation, and Columbian Chemicals Company. Changes to the emission limits were enforceably established by the WVOAQ through Consent Orders. This action approves these Consent Orders into the SIP and makes them federally enforceable.

B. Why Were Changes in Emission Rates Necessary?

These three sources, and others, were modeled as "nearby background sources" in the preliminary modeling of the Kammer power plant in Marshall County. The preliminary modeling indicated that these sources, at their existing allowable emission rates, were substantial contributors to predicted violations of the national ambient air quality standards (NAAQS) for SO_2. The WVOAQ initiated action to complete a refined modeling analysis and determine appropriate emission limits for these sources and other sources in and near to Marshall County.

With the emission limits and work practice requirements being approved for these three facilities and the existing SIP-approved emission rates for the other sources modeled, the refined modeling results predict worst-case concentrations for the 3-hour, 24-hour, and annual averaging periods of 1294 micrograms per cubic meter of air (µg/m3), (for the secondary 3-hour), 352 µg/m3, (for the primary 24-hour standard) and 62 µg/m3, (for the primary annual standard) respectively. Therefore, upon approval of this SIP revision, the West

Virginia SIP for SO_2 in Marshall County ensures that all ambient concentrations are below the applicable NAAQS of 1300 µg/m3, 365 µg/m3, and 80 µg/m3, respectively.

C. What Is a SIP?

Section 110 of the Clean Air Act requires states to develop air pollution regulations and control strategies to ensure that State air quality meets the NAAQS established by the EPA. These ambient air quality standards are established under the Clean Air Act and they address six criteria air pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter and sulfur dioxide.

Each State must submit regulations and control strategies to us for approval and incorporation into the federally enforceable SIP. Each State has a SIP designed to protect its air quality. These SIPs are extensive, containing regulations, enforceable emission limits, emission inventories, monitoring networks, and modeling demonstrations. The West Virginia SIP contains various "Consent Orders" (Orders) to meet the SIP requirements and other State statutory requirements. The Orders are developed to contain specific conditions for a particular source and can provide specific conditions such as, emission limits, hours of operation, record keeping requirements, production rates, compliance demonstration requirements, etc. Once properly issued State-enforceable Consent Orders are approved by EPA as SIP revisions, those Orders are incorporated by reference into the SIP, and become federally enforceable.

D. What Are the Procedural Requirements West Virginia Must Follow for EPA Approval?

The Clean Air Act requires States to observe certain procedural requirements while developing SIP revisions for submission to and approval by the EPA. Section 110(l) of the Clean Air Act requires that a revision to a SIP must be adopted by such State after reasonable notice and public hearing. The EPA must also determine whether a submittal is complete and warrants further action (see Section 110(k)(1) and 57 FR 13565). The EPA's completeness criteria for SIP revision submittals are found at 40 Code of Federal Regulations (CFR) Part 51, appendix V.

West Virginia's February 17, 2000 SIP submittal for Marshall County was determined to be administratively complete by EPA through a letter to the Chief of the WVOAQ dated March 6, 2000.

The State of West Virginia held a public hearing on this SIP revision on July 22, 1999. The SIP revision request was then submitted by the Director of the West Virginia Division of Environmental Protection to the EPA by cover letter dated February 17, 2000. The SIP revision demonstrates attainment of the SO_2 NAAQS in Marshall County, West Virginia.

All State regulations and supporting information approved by the EPA under Section 110 of the Act are incorporated into the federally approved SIP. Records of such SIP actions are maintained in the 40 CFR Part 52. The actual State regulations and Orders which are approved as SIP revisions are not reproduced in their entirety in the CFR but are "incorporated by reference," with a specific effective date.

E. What Are the Health Effects Associated With This Criteria Pollutant?

Sulfur dioxide belongs to the family of sulfur oxide gases. These gases are formed when fuel containing sulfur, such as coal and oil, is burned and during metal smelting, and other industrial processes. Sulfur dioxide is a rapidly-diffusing reactive gas that is very soluble in water. Sulfur dioxide and oxides of nitrogen are the major precursors to acidic deposition (acid rain), and are associated with the acidification of lakes and streams, corrosion of buildings and monuments. They are also associated with reduced visibility. Sulfur dioxide in the Marshall County area is emitted principally from combustion, or processing, of sulfur-containing fossil fuels and ores. At elevated concentrations, sulfur dioxide can adversely affect human health. The major health concerns associated with exposure to high concentrations of SO_2 include effects on breathing, respiratory illness, alterations in the lungs' defenses, and aggravation of existing cardiovascular disease. Sulfur dioxide can also produce damage to the foliage of trees and agricultural crops.

F. What Are the NAAQS for SO_2?

The primary national ambient air quality standards for sulfur oxides, measured as SO_2, are 0.14 parts per million (ppm), or 365 µg/m3, averaged over a period of 24 hours and not to be exceeded more than once per year, and an annual standard of 0.030 ppm, or 80 µg/m3, never to be exceeded. The secondary standard for SO_2 is 0.50 ppm, or 1300 µg/m3 averaged over a three-hour period. The secondary standard may not be exceeded more than once per year.

II. Summary of This SIP Revision

The purpose of this revision is to ensure the federal enforceability of Consent Orders entered between the West Virginia Division of Environmental Protection, Office of Air Quality, and three facilities in Marshall County, West Virginia. The essential compliance provisions of the three Consent Orders are presented below. Each Consent Order also contains generic provisions requiring compliance with 45CSR10, the West Virginia regulation to prevent and control air pollution from the emissions of sulfur oxides as well as good air pollution control practice.

A. CO–SIP–2000–1, PPG Industries, Inc., Dated January 25, 2000

1. Effective immediately:

a. Emissions of sulfur dioxide from Process #004, Inorganics Flare, shall not exceed 91.3 lbs. SO_2/hour.

b. Process #014 CS_2 Vaporizer A; Process #015, CS_2 Vaporizer B; Process #018, Molten Salt Furnace; and Process #019, Chlorine Recovery shall be fired only with natural gas.

c. Process #016, CS_2 Flare, shall only be operated during periods limited to start-up, shutdown or malfunctions for periods no greater than a total of one hour in any three-hour period. The flare shall not be operated for more than three non-contiguous hours in a calendar day. Emissions of sulfur dioxide shall not exceed 1011.6 lbs. SO_2/hour during periods of start-ups and shutdowns.

d. Emissions of sulfur dioxide from Process #017, Raw Brine Flare, shall not exceed 11.65 lbs. SO_2/hour.

e. Emissions of sulfur dioxide from Process #036, CS_2 Sulfur Recovery Unit, shall not exceed 300 lbs. SO_2/hour. The CS_2 Sulfur Recovery Unit shall not process more than 2.5 tons of sulfur per hour nor more than 60 tons of sulfur per day.

2. Effective on or after June 1, 2002:

a. All exhaust gases from Process #004, Inorganics Flare; Process #036, CS_2 Sulfur Recovery Unit; and Process #016, CS_2 Flare shall be exhausted from stacks having heights of 65 meters above grade, and all exhaust gases from Process #017, Raw Brine Flare, shall be exhausted from a stack having a height of 40 meters above grade.

B. CO–SIP–2000–2, Bayer Corporation, Dated January 26, 2000

1. Effective immediately:

a. The Company shall not operate Boiler Number 3.

b. The Company shall burn only natural gas in Boilers Number 4, Number 6, Number 7, and Number 8.

c. SO_2 emissions from Boiler Number 9 and Boiler Number 10 shall not exceed 86 lbs./hour and 62.5 lbs./hour respectively.

i. Sulfur content of the fuel oil burned in Boilers Number 9 and 10 shall not exceed 0.72%.

ii. The total combined fuel oil burn rate to Boilers Number 9 and 10 shall not exceed 22 gallons per minute.

d. SO_2 emissions from Incinerator #1, Solids Incinerator, shall not exceed 9.5 lbs./

hour. The unit's burners shall only fire natural gas.

e. SO_2 emissions from Incinerator #4, Fluidized Bed Incinerator, shall not exceed 7.1 lbs./hour and 28.4 tons per year.

f. SO_2 emissions from the Iron Oxide Pigment Kiln shall not exceed 10.4 lbs./hour.

i. Sulfur content of the #2 fuel oil burned at the Iron Oxide Pigment Kiln shall not exceed 0.5%.

ii. Total combined fuel oil burn rate to the Iron Oxide Pigment Kiln shall not exceed 146 gallons per hour.

C. CO–SIP–2000–3, Columbian Chemicals Company, Dated January 31, 2000

1. Effective immediately:

a. Boilers #1 and #2 shall be fired only with natural gas

b. The sulfur content of the feedstock used in the reactor furnaces shall not exceed 2.5% by weight.

2. Within 180 days the Company shall submit a permit application to the WVOAQ under 45CSR14.

The California Puff model (CALPUFF) was selected as the tool for the attainment demonstration. CALPUFF is a multi-layer, multi-species non-steady-state puff dispersion model that simulates the effects of time- and space-varying meteorological conditions on pollutant transport, transformation and removal. CALPUFF can be applied on scales of tens of meters to hundreds of kilometers. CALPUFF is a Lagrangian puff model. The model is programmed to simulate continuous puffs of pollutants being emitted from a source into the ambient wind flow. As the wind flow changes from hour to hour, the path each puff takes changes to the new wind flow direction. Puff diffusion is Gaussian and concentrations are based on the contributions of each puff as it passes over or near a receptor point.

CALPUFF is not a recommended model in EPA's *Guideline on Air Quality Models* [40 CFR Part 51, Appendix W], and, therefore, EPA approval of its use is required. This approval is generally given on a case-specific basis for an individual permit or SIP. In a joint memorandum to the EPA Model Clearinghouse, EPA Regions III and V recommended the use of CALPUFF for the Marshall County application. In a letter dated May 5, 1998 to the State of West Virginia, Marcia L. Spink, Associate Director, Air Programs, Air Protection Division, Region III, approved the modeling protocol and the use of the CALPUFF model for the development of the Marshall County SIP.

The final dispersion modeling, based upon current SIP allowable SO_2 emission limits and the SO_2 emission limits of sources amended through Consent Orders, demonstrates that the maximum SO_2 impacts do not exceed the SO_2 NAAQS. The maximum modeled impacts, including background concentrations, are presented in Table 1 below:

TABLE 1.—PREDICTED SULFUR DIOXIDE IMPACTS (MICROGRAMS PER CUBIC METER)

Period	CALPUFF	NAAQS	Percent of NAAQS
3-Hour	1293.95	1300	99.53
24-Hour	352.22	365	96.50
Annual	61.54	80	76.93

In addition, as part of the study leading to the development of this SIP revision, emission limitations were determined for the Ormet Aluminum facility in Monroe County, Ohio. An attachment to the SIP revision request is a letter from Ormet Primary Aluminum Corporation to the Ohio EPA consenting to the development of an appropriate rulemaking to establish allowable emission limits as modeled under Table 8, of *Dispersion Modeling of Sulfur Dioxide Emissions in and Near Marshall County, West Virginia* (Revised, October 1999). The Ohio EPA has agreed to revise the Ohio SIP as it pertains to Ormet.

Finally, of special note, Attachment VI to the SIP Revision request contains a proposed revision to West Virginia State Regulation X at 45CSR10 "To Prevent and Control Air Pollution From the Emission of Sulfur Oxides" and a January 12, 2000, letter from American Electric Power to the USEPA certifying compliance with Civil Action No. 5:94–CV–100. The revision to West Virginia State Regulation X at 45CSR10 will once again make it consistent with the applicable SIP limit of 2.7 lbs.(SO_2)/mmBTU for the Kammer power plant.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment given the fact that the affected sources have all agreed to the SIP revision's provisions. This rule approving a SIP revision based upon a cooperative study in which all stakeholders and their respective interests were considered. Furthermore, the comments from the public hearing on this rule do not indicate any dissatisfaction with the rule. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to [approve the SIP revision] if adverse comments are filed. This rule will be effective on October 2, 2000 without further notice unless EPA receives adverse comment by September 1, 2000. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

III. Final Action

EPA is approving a revision to the West Virginia State Implementation Plan (SIP) submitted by the West Virginia Division of Environmental Protection on February 17, 2000. The revision consists of Consent Orders modifying the sulfur dioxide (SO_2) allowable emissions at three stationary sources in Marshall County, West Virginia.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power

and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by Section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from Section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under Section 801 because this is a rule of particular applicability.

C. Petitions for Judicial Review

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action approving a revision to the Marshall County, West Virginia, SO_2 SIP, must be filed in the United States Court of Appeals for the appropriate circuit by October 2, 2000. Filing a petition for reconsideration by the 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 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, Incorporation by reference, Intergovernmental relations, Reporting and record keeping requirements, Sulfur oxides.

Dated: June 23, 2000.

Bradley M. Campbell,

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 *et seq.*

Subpart 2520—West Virginia

2. Section 52.2520 is amended by adding paragraphs (c)(44) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(44) Revisions to the West Virginia Regulations to attain and maintain the sulfur dioxide national ambient air quality standards in Marshall County submitted on February 17, 2000, by the Director, West Virginia Division of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of February 17, 2000, from the Division of Environmental Protection transmitting a revision to the State Implementation Plan (SIP) for Attainment and Maintenance of Sulfur Dioxide National Ambient Air Quality Standards.

(B) Consent Orders entered between the West Virginia Office of Air Quality and:

(*1*) CO–SIP–2000–1, PPG Industries, Inc., Dated January 25, 2000.

(*2*) CO–SIP–2000–2, Bayer Corporation, Dated January 26, 2000.

(*3*) CO–SIP–2000–3, Columbian Chemicals Company, Dated January 31, 2000.

(ii) Additional Material.—Remainder of February 17, 2000 SIP revision submittal.

[FR Doc. 00–19371 Filed 8–1–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63 and 302

[FRL–6843–3]

RIN 2060–AI08

Redefinition of the Glycol Ethers Category Under Section 112(b)(1) of the Clean Air Act and Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rules.

SUMMARY: This action deletes each individual compound in a group called the surfactant alcohol ethoxylates and their derivatives (SAED) from the glycol ethers category in the list of hazardous air pollutants (HAP) established by section 112(b)(1) of the Clean Air Act (CAA). Under section 112(b)(3)(D) of the CAA, EPA may delete specific substances from certain listed categories, including glycol ethers. To implement this action, EPA is revising the definition of glycol ethers to exclude the deleted compounds. This action is also making conforming changes with respect to designation of hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). These final rules are being issued by EPA in response to an analysis of potential exposure and hazards of SAED that was prepared by the Soap and Detergent Association (SDA) and submitted to EPA. Based on this information, EPA has made a final determination that there are adequate data on the health and environmental effects of these substances to determine that emissions, ambient concentrations, bioaccumulation, or deposition of these substances may not reasonably be anticipated to cause adverse human health or environmental effects.

EFFECTIVE DATE: August 2, 2000.

ADDRESSES: The docket is available for public inspection and copying between 8 a.m. and 5:30 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Docket, Room