

EPA APPROVED STATUTES IN THE OKLAHOMA SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
Section 7	Environmental Quality Board	06/12/1992	06/23/1994, 59 FR 32365.	
Section 8	Executive Director	06/12/1992	06/23/1994, 59 FR 32365.	
Section 9	Department of Environmental Quality	06/12/1992	06/23/1994, 59 FR 32365.	
Section 10	Advisory Councils	06/12/1992	06/23/1994, 59 FR 32365.	
Section 11	Time Periods for Certain Permits and Complaints.	06/12/1992	06/23/1994, 59 FR 32365.	
Section 12	Resolution	06/12/1992	06/23/1994, 59 FR 32365.	

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN100–1a, IN120–1a; FRL–6728–2a]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to total suspended particulate (TSP) and Sulfur Dioxide (SO₂) emissions regulations for National Starch and Chemical Company (National Starch), and TSP regulations for Allison Transmission (Allison). Both of these facilities are located in Marion County, Indiana. The Indiana Department of Environmental Management (IDEM) submitted the revised regulations on February 3, 1999, August 30, 1999, and May 17, 2000, as amendments to its State Implementation Plan (SIP). The revisions include the relaxation of some limits, the tightening of one limit, and the elimination of limits for several sources which are no longer operating. The revisions also include the combination of annual emissions limits for several boilers, and recordkeeping requirements. These SIP revisions results in an overall decrease in allowed TSP emissions of about 406 tons per year (tpy) for National Starch, and no change in overall annual emissions for Allison.

DATES: This rule is effective on October 2, 2000, unless EPA receives relevant adverse written comments by September 1, 2000. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and

inform the public that the rule will not take effect.

ADDRESSES: You should mail written comments to:

J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of the State submittal and EPA's analysis of it at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever “we,” “us,” or “our” are used we mean EPA.

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I. What is the EPA Approving?

We are approving revisions to TSP and SO₂ emissions regulations for National Starch, and TSP regulations for Allison, both of which are located in Marion County, Indiana. IDEM submitted the revised regulations on August 30, 1999, February 3, 1999, and May 17, 2000, as amendments to its SIP.

The revisions for National Starch include the elimination of TSP limits for 35 units and SO₂ limits for 4 boilers, all of which have shut down permanently. The National Starch revisions also include increases to the TSP limits of 6 units, and a decrease of the TSP limit for one unit. These SIP revisions results in an overall decrease in allowed TSP emissions of about 406 tpy of TSP.

For Allison, the revisions include combining the annual TSP emissions limits for 5 boilers into one, and the addition of recordkeeping requirements for these boilers. There are no changes to the short-term emissions limits for individual boilers. These revisions will not change the overall allowed emissions for Allison.

II. What are the changes from current rules?

A. Sources eliminated from the rules.

Indiana has eliminated 35 emission units at National Starch from TSP rule 326 IAC 6–1–12, and 4 boilers from SO₂ rule 326 IAC 7–4–2. The annual TSP emission limits for these eliminated sources totaled 519.7 tpy.

B. Revised limits.

Indiana has revised some short-term and some long-term TSP emissions limits for sources at National Starch. Indiana has increased the annual limits for processes 61–9, 56–2, 56–1, 40–4, 40–3, and 40–2 from 2.3, 1.1, 0.2, 6.7, 7.9, and 8.6 tpy to 4.1, 11.3, 7.02, 44.1, 42.3, and 31.9 tpy, respectively. Indiana has increased the hourly concentration limits for processes 56–2, 56–1, 40–4,

40–3, and 40–2 from 0.001, 0.001, 0.005, 0.005, 0.005 grains per dry standard cubic foot (gr/dscf) to 0.010, 0.020, 0.020, 0.020 gr/dscf, respectively. Indiana has decreased the hourly concentration limit for process 575–2 from 0.018 to 0.011 gr/dscf.

C. Combined annual limits.

Indiana combined the annual emissions limits for boilers 1 through 5 at Allison into one overall limit. The previous version of the rule contained limits of 0.6, 3.9, 6.4, 19.9, and 8.5 tpy for boilers 1, 2, 3, 4, and 5, respectively. The revised rule contains one PM limit of 39.3 tpy for boilers 1 through 5 combined.

D. Recordkeeping requirements.

Indiana added recordkeeping requirements for Allison. Under these requirements, Allison is to maintain fuel type, fuel usage, and fuel heat content information for each boiler. Allison must also submit quarterly reports of this information to IDEM, and maintain the records for 5 years.

III. Analysis of supporting materials provided by Indiana.

The general criteria used by the EPA to evaluate such emissions trades, or “bubbles”, under the Clean Air Act and applicable regulations are set out in the EPA’s December 4, 1986, Emissions Trading Policy Statement (ETPS) (see 51 FR 43814). Emissions trades which result in an overall decrease in allowable emissions require a “Level II” modeling analysis under the ETPS to ensure that the NAAQS will be protected. A Level II analysis must include emissions from the sources involved in the trade, and must demonstrate that the air quality impact of the trade does not exceed set significance levels. For particulate matter, the significance levels are 10 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) for any 24-hour period, and 5 $\mu\text{g}/\text{m}^3$ for any annual period.

While the limits for Marion County, Indiana apply to TSP, the current National Ambient Air Quality Standards apply to particulate matter 10 microns or less in diameter (PM_{10}). In applying the ETPS, Indiana calculated allowed PM_{10} emissions from the sources involved in the trade based on published emissions fractions. These PM_{10} emissions estimates were used in determining the type of modeling analysis needed (i.e., Level II), and were also used in conducting the modeling analysis.

Indiana’s PM_{10} analysis showed that these SIP revisions will result in a decrease in allowable emissions of 316

tpy of PM_{10} for National Starch, and no change in allowable PM_{10} emissions for Allison.

The modeling analyses submitted by the IDEM in support of the requested SIP revisions are consistent with a Level II analysis. The analyses shows that the SIP revisions will not cause or contribute to any exceedances of the PM_{10} NAAQS. The maximum modeled PM_{10} air quality impacts for National Starch were 9.18 $\mu\text{g}/\text{m}^3$ in 24-hours, and 0.0 $\mu\text{g}/\text{m}^3$ on an annual basis. The maximum modeled PM_{10} air quality impacts for Allison were 0.9 $\mu\text{g}/\text{m}^3$ in 24-hours, and 0.08 $\mu\text{g}/\text{m}^3$ on an annual basis. Therefore, IDEM has demonstrated that these SIP revisions will not have a significant adverse impact on air quality.

IV. What are the environmental effects of these actions?

These SIP revisions will result in a decrease in allowable TSP emissions of 406 tons per year for National Starch, and no change in overall annual TSP emissions for Allison. This equates to a reduction of 316 tpy of PM_{10} from National Starch, and no change in overall annual PM_{10} emissions for Allison. In addition, air quality modeling analyses conducted by IDEM show that the maximum daily and annual impacts of these SIP revisions are below established significance levels. Therefore, these SIP revisions will not have an adverse effect on air quality.

V. EPA rulemaking actions.

We are approving, through direct final rulemaking, revisions to TSP and SO_2 emissions regulations for National Starch, and TSP regulations for Allison, both of which are located in Marion County, Indiana. We are publishing these actions without prior proposal because we view these as noncontroversial revisions and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the SIP revisions should adverse written comments be filed. These actions will be effective without further notice unless we receive relevant adverse written comment by September 1, 2000. Should we receive such comments, we will publish a final rule informing the public that these actions will not take effect. Any parties interested in commenting on these actions should do so at this time. If no such comments are received, you are advised that these actions will be effective on October 2, 2000.

VI. Administrative requirements.

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted these regulatory actions from Executive Order 12866, entitled “Regulatory Planning and Review.”

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA’s prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments “to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.”

Today’s rule does not significantly or uniquely affect the communities of Indian tribal governments. These

actions do not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

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, 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on

a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because 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 State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that these actions will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of 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).

F. Unfunded Mandates

Under sections 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 statement 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 the 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 actions promulgated do 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. These Federal actions approve 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 these actions.

G. 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, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and 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 these actions under section 801 because this is a rule of particular applicability.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to these actions. Today's actions do not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of these actions 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. These actions may not be challenged later in proceedings to enforce their requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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.

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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 (SO₂) 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 SO₂ 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 (SO₂) 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 SO₂ 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 SO₂. 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