

Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal**

**Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 5, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 20, 2017.

**Alexis Strauss,**

*Acting Regional Administrator, Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

- 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart F—California**

- 2. Section 52.220 is amended by adding paragraph (c)(270)(i)(E)(2) to read as follows:

**§ 52.220 Identification of plan-in part.**

\* \* \* \* \*

(c) \* \* \*

(270) \* \* \*

(i) \* \* \*

(E) \* \* \*

(2) Rule 2220, “Transportation Outreach Program,” adopted on January 19, 1999.

\* \* \* \* \*

[FR Doc. 2017-14203 Filed 7-6-17; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R05-OAR-2017-0081; FRL-9964-49-Region 5]

**Air Plan Approval; Wisconsin; Site-Specific Sulfur Dioxide Requirements for USG Interiors, LLC**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving, under the Clean Air Act (CAA), a State Implementation Plan (SIP) revision submitted by Wisconsin on January 31, 2017, and supplemented on March 20, 2017. This SIP submittal consists of Wisconsin Administrative Order AM-16-01, which imposes a requirement for a taller cupola exhaust stack, a sulfur dioxide (SO<sub>2</sub>) emission limit in conjunction with a minimum cupola stack flue gas flow rate, and associated requirements on the mineral wool production process at the USG Interiors LLC facility located in Walworth, Wisconsin (USG-Walworth). Wisconsin submitted this SIP revision to enable the area near USG-Walworth to qualify for being designated “attainment” of the 2010 primary SO<sub>2</sub> National Ambient Air Quality Standards (NAAQS), a matter that will be addressed in a separate future rulemaking. EPA is approving AM-16-01 into the Wisconsin SIP, which makes the AM-16-01 requirements federally enforceable.

**DATES:** This direct final rule will be effective September 5, 2017, unless EPA receives adverse comments by August 7, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2017-0081 at <http://www.regulations.gov>, or via email to [Aburano.Douglas@epa.gov](mailto:Aburano.Douglas@epa.gov). For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment.

The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:**

Jenny Liljegren, Physical Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)886-6832, [Liljegren.Jennifer@epa.gov](mailto:Liljegren.Jennifer@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Why did Wisconsin issue Administrative Order AM-16-01?
- II. What is EPA’s analysis of the SO<sub>2</sub> emission limit and associated requirements in AM-16-01?
- III. By which Criteria is EPA reviewing this SIP revision?
- IV. What action is EPA taking?
- V. Incorporation by reference
- VI. Statutory and Executive Order reviews

**I. Why Did Wisconsin issue Administrative Order AM-16-01?**

Wisconsin submitted a SIP revision on January 31, 2017, along with supplemental information on March 20, 2017. The submittal contains Wisconsin Administrative Order AM-16-01 signed on January 31, 2017, by the Director of the Air Management Bureau of the Wisconsin Department of Natural Resources, which establishes a requirement for a taller cupola stack, an SO<sub>2</sub> emission limit, and associated requirements for the mineral wool production process at USG-Walworth. Wisconsin established these requirements to enable the area near <sup>1</sup> USG-Walworth to qualify in the future for being designated “attainment” of the 2010 primary SO<sub>2</sub> NAAQS.<sup>2</sup>

<sup>1</sup> The specific area will be identified in a future designations rulemaking to be finalized December 31, 2017, for the 2010 SO<sub>2</sub> NAAQS.

<sup>2</sup> On June 3, 2010, EPA revised the primary (health based) SO<sub>2</sub> NAAQS by establishing a new one-hour standard at a level of 75 parts per billion (ppb) which is attained when the three-year average of the 99th percentile of one-hour daily maximum

USG-Walworth cannot demonstrate modeled attainment of the 2010 SO<sub>2</sub> NAAQS in accordance with EPA’s *Draft SO<sub>2</sub> NAAQS Designations Modeling Technical Assistance Document*<sup>3</sup> in absence of new requirements pertaining to the mineral wool production process. Therefore, Wisconsin conducted air dispersion modeling using the American Meteorological Society/ Environmental Protection Agency Regulatory Model (AERMOD) version 16216 (released on December 20, 2016) and 16216r (released on January 17, 2017) in accordance with appendix W of part 51 of chapter 40 of the Code of Federal Regulations (CFR) to determine a new set of requirements, including an increase in the cupola stack height from 68.5 feet to 175 feet above ground and an SO<sub>2</sub> emission limit for the mineral wool production process at USG-Walworth in conjunction with a minimum cupola stack flue gas flow rate. The air quality modeling of these conditions supports Wisconsin’s conclusion that these limits provide for attainment of the 2010 SO<sub>2</sub> NAAQS.

The purpose of this rulemaking is to take action on Wisconsin’s request to approve AM-16-01 into the Wisconsin SIP and thereby make federally enforceable the requirement for the taller stack, the SO<sub>2</sub> emission limit, and the associated requirements therein. Once these requirements have become federally enforceable, Wisconsin intends to use them to demonstrate AERMOD-modeled attainment for the 2010 SO<sub>2</sub> NAAQS for the area near USG-Walworth. EPA intends to designate the area near USG-Walworth for the 2010 SO<sub>2</sub> NAAQS, under a separate future rulemaking to be finalized by December 31, 2017.<sup>4</sup>

concentrations does not exceed 75 ppb (75 FR 35520 and 40 CFR 50.17). EPA determined this is the level necessary to protect public health with an adequate margin of safety, especially for children, the elderly, and those with asthma. These groups are particularly susceptible to the health effects associated with breathing SO<sub>2</sub>.

<sup>3</sup> *Draft SO<sub>2</sub> NAAQS Designations Modeling Technical Assistance Document*. December 2013. <http://www3.epa.gov/airquality/sulfurdioxide/pdfs/SO2ModelingTAD.pdf>

<sup>4</sup> The EPA has issued designations for a total of 94 areas throughout the U.S. for the 2010 SO<sub>2</sub> NAAQS in previous final actions signed by the EPA Administrator in “Round 1” on August 5, 2013 (78 FR 47191) and in “Round 2” on July 12, 2016 (81 FR 45039) and December 13, 2016 (81 FR 89870). The EPA is under a December 31, 2017, deadline to designate additional areas as required by the U.S. District Court for the Northern District of California [*Sierra Club v. McCarthy*, No. 3-13-cv-3953 (SI) (N.D. Cal. Mar. 2, 2015)]. We are referring to the set of designations being finalized by the December 31, 2017, deadline as “Round 3” of the designations process for the 2010 SO<sub>2</sub> NAAQS. EPA intends to address the area near USG-Walworth as part of the Round 3 designations.

**II. What is EPA’s analysis of the SO<sub>2</sub> emission limit and associated requirements in AM-16-01?**

Wisconsin issued AM-16-01 on January 31, 2017, for USG-Walworth, with a compliance date of October 1, 2017. This order established a cupola stack height increase from 68.5 feet to 175 feet above ground level, a cupola stack flue gas flow rate of 23,200 actual cubic feet per minute (ACFM) in conjunction with an SO<sub>2</sub> emission limit of 301.3 pounds per hour (lbs/hr), and other associated requirements for the mineral wool production process at USG-Walworth.

Dispersion techniques, such as increasing the final exhaust plume rise by manipulation of source parameters like increasing stack heights and flue gas flow rates, are not approvable in most circumstances. EPA’s stack height provisions codified at 40 CFR 51.118 arise out of CAA section 123(a), which states that the degree of emission limitation required for control of any air pollutant under an applicable implementation plan under this subchapter shall not be affected in any manner by so much of the stack height of any source as exceeds good engineering practice (as determined under regulations promulgated by the Administrator), or any other dispersion technique.

“Dispersion technique,” as defined at 40 CFR 51.100(hh)(1), means any technique which attempts to affect the concentration of a pollutant in the ambient air by: Using that portion of a stack which exceeds good engineering practice stack height; varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

In the case of USG-Walworth, the raising of the stack to 175 feet does not exceed good engineering practice stack height as defined at § 51.100(ii), and AM-16-01 does not provide for the allowable rate of emissions to vary according to atmospheric conditions or ambient pollutant concentrations as per § 51.100(hh)(1)(ii). In some cases, increasing the final exhaust plume rise by manipulation of the stack height and flue gas flow rate is a dispersion technique as per § 51.100(hh)(1)(iii). However, there is an exception under 40 CFR 51.100(hh)(2)(v) where dispersion

techniques under § 51.100(hh)(1)(iii) do not include techniques that increase the final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year. Such an increase of plume rise is not considered a dispersion technique when the resulting allowable emissions of SO<sub>2</sub> from the facility do not exceed 5,000 tons per year (TPY). The AM-16-01 SO<sub>2</sub> emission limit of 301.3 lbs/hr is equivalent to 1,319.69 TPY, which accounts for over 99% of the allowable SO<sub>2</sub> emitted by all emission units at USG-Walworth. Additionally, AM-16-01 includes a requirement that USG-Walworth only fire natural gas in the other emission units at the facility, including the boiler (B10), the acoustical tile dryer (P32), and the finishing/curing ovens (P34A and P38A). Therefore, the facility-wide allowable SO<sub>2</sub> emissions from USG-Walworth resulting from the AM-16-01 requirement to increase the cupola stack height from 68.5 feet to 175 feet above ground level do not exceed 5,000 TPY. Therefore, EPA proposes to approve the increase in the cupola stack height.

Wisconsin set an SO<sub>2</sub> emission limit of 301.3 lbs/hr for the mineral wool production process in conjunction with a cupola stack flue gas flow rate of 23,200 ACFM. For emission rates less than 301.3 lbs/hr, Wisconsin established a required minimum cupola stack flue gas flow rate which varies based on the SO<sub>2</sub> emission rate. AM-16-01 requires that the cupola stack flue gas flow rate in ACFM shall be equal to or greater than the flow rate calculated according to Equation 1.

*Equation 1: Required Flue Gas Flow Rate (ACFM) = [SO<sub>2</sub> Emission Rate (lbs/hr) × 79.192] – 664.62*

To develop Equation 1, Wisconsin plotted the worst case (highest) SO<sub>2</sub> emissions versus worst case (lowest) flue gas flow rates as estimated from information contained in 2015 and 2010 stack testing reports and an August 2014–August 2016 dataset provided by USG-Walworth. Wisconsin fit a trend line (Equation 1) to the plot and included this equation in AM-16-01 as the minimum flue gas flow rate requirement for USG-Walworth (e.g. for a given SO<sub>2</sub> emission rate less than 301.3 lbs/hr, USG-Walworth must use Equation 1 to determine the corresponding required minimum flue gas flow rate under which it must operate). When emissions are the full allowable 301.3 lbs/hr, the minimum flow rate is 23,200 ACFM; lower minimum flow rates apply at lower emission levels.

Wisconsin's AM-16-01 method of determining compliance with the minimum flue gas flow rate (EPA Method 2) is to be conducted on the same schedule, described below, as that for compliance with the SO<sub>2</sub> emission limit (EPA Method 6C). AM-16-01 also requires operation of the thermal oxidizer and baghouse whenever the cupola is in operation/fired and additional requirements for monitoring and maintaining these control devices to ensure they are functioning properly, including an interlock system which only allows operation of the cupola if the thermal oxidizer incinerator chamber temperature is at or above 1,300 degrees Fahrenheit averaged over any one-hour period.

In addition to the 1-hour limit of 301.3 lbs/hour in AM-16-01, Wisconsin opted to set a 30-day rolling average limit of 238.0 lbs/hour. EPA's April 2014 "Guidance for 1-Hour SO<sub>2</sub> Nonattainment Area SIP Submissions" discusses the option to establish limits with averaging times up to 30 days in length, recommends that any such limit be established at a level that is comparably stringent to the one-hour average limit, and recommends a detailed procedure for determining such a comparably stringent limit. Wisconsin followed the recommendations of the 2014 guidance in determining an appropriate level for this limit. Therefore, the state has applied an appropriate adjustment, yielding a 30-day rolling average emission limit that has comparable stringency to the one-hour average limit. Wisconsin used an adjustment factor of 0.79, which EPA identified in its 2014 guidance as an appropriate adjustment factor for determining equivalent emission limitation between 1-hour and 30-day rolling average timeframes for uncontrolled coal-fired boilers based on a national analysis of utility coal boiler emissions.

Wisconsin's method of determining compliance with the 301.3 lbs/hr limit as set forth in AM-16-01 uses EPA-approved stack testing methods, and includes an initial stack test that must be conducted no later than April 1, 2018, which is 180 days after the AM-16-01 compliance date of October 1, 2017, and periodic stack testing conducted every five years within 90 days of the anniversary date of the initial stack test. Wisconsin's method of determining continuous compliance, as set forth in AM-16-01, requires a mass balance calculation to demonstrate compliance with the 238.0 lbs/hr limit on a 30-day rolling average basis. Under this rule, stack tests at the facility must show compliance with the 1-hour

emission limit of 301.3 lbs/hr, but continuous emissions data, collected from routine mass balance calculations, are used to assess compliance with the 30-day average emission limit of 238.0 lbs/hr. Wisconsin has thereby established a two-tiered enforcement regime, in which stack tests provide occasional assessment of compliance, tested against a 1-hour limit, and continuous emissions data, as collected via routine mass balance calculations, provide a continuous assessment of compliance, tested against a 30-day average limit.

Wisconsin's mass balance equation in AM-16-01 is the difference between the sum of the estimated sulfur content of all the materials loaded into the cupola and the sum of the estimated sulfur content in the mineral wool product output from the cupola in lbs/day divided by the operating hours per day and multiplied by the molecular weight ratio of SO<sub>2</sub> to sulfur. AM-16-01 requires USG-Walworth to develop a compliance and monitoring plan and to monitor, record, and report the information necessary for calculating the 30-day rolling average SO<sub>2</sub> emission limit via the mass balance equation, such as operating hours, operating days, coke and all other material usage amounts. AM-16-01 includes requirements to sample the sulfur, moisture, and heat content of each of the materials input to the cupola and the sulfur content of the mineral wool product or waste material output from the cupola. The sampling requirements include initial material sampling, ongoing material sampling, ongoing low sulfur material sampling, mineral wool product and waste sampling, alternate sampling frequency which increases if the 30-day rolling average SO<sub>2</sub> emission rate is equal to or greater than 95% of the limit for three or more operating days during the previous 12 calendar months. Likewise, sampling frequency can be decreased if the 30-day rolling average SO<sub>2</sub> emission rate is equal to or less than 70% of the limit for 12 consecutive months. The sampling requirements include sample collection and preparation methods as per those of ASTM International, formerly the American Society for Testing and Materials (ASTM). Finally, AM-16-01 includes a requirement for USG-Walworth to submit a revision request to incorporate the applicable requirements of AM-16-01 into the USG-Walworth operating permit by June 23, 2019.

### III. By which criteria is EPA reviewing this SIP revision?

EPA is evaluating AM-16-01 on the basis of whether its requirements are measurable (and thus enforceable) and whether it strengthens Wisconsin's SIP. When imposing quantitative requirements such as emission limits, it is important that these requirements be measurable so as to determine compliance. While the use of an electronic continuous emissions monitoring system (CEMS) would be an ideal way to measure the SO<sub>2</sub> emission rate from the mineral wool production process and the flue gas flow rate from the cupola stack for compliance determination purposes, EPA's analysis, above, of Wisconsin's AM-16-01 compliance requirements shows that Wisconsin has developed a conservative mass balance approach that allows for the ongoing measurement of the USG-Walworth mineral wool production process SO<sub>2</sub> emission rate to determine compliance with the SO<sub>2</sub> emission limit contained in AM-16-01. The AM-16-01 requirements are carefully designed such that compliance with the SO<sub>2</sub> emission limit can be determined via a combination of testing, sampling, monitoring, recordkeeping, and reporting making the SO<sub>2</sub> emission limit and associated requirements contained in AM-16-01 measurable and enforceable. Therefore, in the absence of a CEMS, EPA finds acceptable the AM-16-01 mass balance approach of compliance monitoring in conjunction with required periodic stack testing.

The USG-Walworth mineral wool production process is already subject to Wisconsin rule NR 417.07(2)(b), which is a statewide SO<sub>2</sub> emission limit of 5.5 pounds per Million British Thermal Units (lbs/MMBTU) that applies to any steam generating unit or other fuel-burning equipment firing solid fossil fuel at a facility that has a total heat input capacity on solid fossil fuel of less than 250 MMBTU/hr and which was incorporated into the Wisconsin SIP in 1993 (58 FR 29537). This SIP requirement will not be removed with the approval of AM-16-01 into the Wisconsin SIP. AM-16-01 provides additional requirements to the 5.5 lbs/MMBTU emission limit already in the Wisconsin SIP. Therefore, EPA's approval of AM-16-01 would strengthen the Wisconsin SIP. Since the current SO<sub>2</sub> emission limit of 5.5 lbs/MMBTU will remain in the SIP (58 FR 29537), EPA's approval of AM-16-01 into the Wisconsin SIP would not cause there to be any relaxation of the SO<sub>2</sub> emission limit in the Wisconsin SIP with respect to USG-Walworth and

would, therefore, not interfere with CAA section 110(l), which is the anti-backsliding provision of the CAA. Therefore, EPA is approving AM-16-01 into the Wisconsin SIP.

As previously stated, EPA intends to designate the area near USG-Walworth for the 2010 SO<sub>2</sub> NAAQS under a separate future rulemaking to be finalized by December 31, 2017. If AM-16-01 becomes SIP-approved and thereby federally enforceable in a timely fashion, EPA will formally evaluate the adequacy of the AM-16-01 requirements to provide for attainment as part of the rulemaking on the 2010 SO<sub>2</sub> NAAQS designation for the area near USG-Walworth.

### IV. What action is EPA taking?

EPA is approving into the Wisconsin SIP AM-16-01, which contains a requirement for a taller cupola stack, an SO<sub>2</sub> emission limit, and associated requirements for the mineral wool production process at USG-Walworth. EPA confirms that the requirements contained in AM-16-01 are measurable, enforceable, and strengthen the Wisconsin SIP. By approving AM-16-01 into the Wisconsin SIP, the stack height requirement, the SO<sub>2</sub> emission limit, and the associated requirements will become Federally enforceable.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective September 5, 2017 without further notice unless we receive relevant adverse written comments by August 7, 2017. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective September 5, 2017.

### V. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Wisconsin Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement

Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 5, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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 recordkeeping requirements, Sulfur oxides.

Dated: June 20, 2017.

**Robert A. Kaplan,**

*Acting Regional Administrator, Region 5.*

40 CFR part 52 is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

■ 2. Section 52.2570 is amended by adding paragraph (c)(136) to read as follows:

#### § 52.2570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(136) On January 31, 2017 (supplemented on March 20, 2017), the Wisconsin Department of Natural Resources submitted a request to incorporate Wisconsin Administrative Order AM-16-01 into its State Implementation Plan. AM-16-01 imposes a requirement for a taller cupola exhaust stack, a sulfur dioxide (SO<sub>2</sub>) emission limit in conjunction with a minimum cupola stack flue gas flow rate, and associated requirements on the mineral wool production process at the USG Interiors LLC facility located in Walworth, Wisconsin (USG-Walworth). Wisconsin intends to use the requirements of AM-16-01 to support an attainment designation.

(i) *Incorporation by reference.*

Wisconsin Administrative Order AM-16-01, issued by the Wisconsin Department of Natural Resources on January 31, 2017, to USG Interiors LLC for its facility located in Walworth, Wisconsin.

[FR Doc. 2017-14212 Filed 7-6-17; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R04-OAR-2017-0136; FRL-9964-56-Region 4]

#### Air Plan Approval; TN: Non-Interference Demonstration for Federal Low-Reid Vapor Pressure Requirement in Shelby County

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a noninterference demonstration that evaluates whether the change for the Federal Reid Vapor Pressure (RVP) requirements in Shelby County (hereinafter referred to as the “Area”) would interfere with the Area’s ability to meet the requirements of the Clean Air Act (CAA or Act). Tennessee submitted through the Tennessee Department of Environment and Conservation (TDEC), on April 12, 2017, a noninterference demonstration on behalf of the Shelby County Health Department requesting that EPA change the RVP requirements for Shelby County. Specifically, Tennessee’s noninterference demonstration concludes that relaxing the federal RVP requirement from 7.8 pounds per square inch (psi) to 9.0 psi for gasoline sold between June 1 and September 15 of each year in Shelby County would not interfere with attainment or maintenance of the national ambient air quality standards (NAAQS or standards) or with any other CAA requirement.

**DATES:** This rule is effective July 7, 2017.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2017-0136. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays. **FOR FURTHER INFORMATION CONTACT:** Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S.