Authority: 40 Stat. 266 (33 U.S.C. 1).

■ 2. Revise § 207.340 to read as follows:

§ 207.340 Reservoirs at headwaters of the Mississippi River; use and administration.

(a) *Description.* These reservoirs include Winnibigoshish, Leech Lake, Pokegama, Sandy Lake, Pine River and Gull Lake.

(b) *Penalties.* The River and Harbor Act approved August 11, 1888 (25 Stat. 419, 33 U.S.C. 601) includes the following provisions as to the administration of the headwater reservoirs:

And it shall be the duty of the Secretary of War to prescribe such rules and regulations in respect to the use and administration of said reservoirs as, in his judgment, the public interest and necessity may require; which rules and regulations shall be posted in some conspicuous place or places for the information of the public. And any person knowingly and willfully violating such rules and regulations shall be liable to a fine not exceeding five hundred dollars, or imprisonment not exceeding six months, the same to be enforced by prosecution in any district court of the United States within whose territorial jurisdiction such offense may have been committed.

(c) *Previous regulations now revoked.* In accordance with the above act, the Secretary of War prescribed regulations for the use and administration of the reservoirs at the headwaters of the Mississippi River under date of February 11, 1931, which together with all subsequent amendments are hereby revoked and the following substituted therefor.

(d) *Authority of officer in charge of the reservoirs.* The accumulation of water in, and discharge of water from the reservoirs, including that from one reservoir to another, shall be under the direction of the U.S. District Engineer, St. Paul, Minnesota, and of his authorized agents subject to the following restrictions and considerations:

(1) Notwithstanding any other provision of this section, the discharge from any reservoir may be varied at any time as required to permit inspection of, or repairs to, the dams, dikes or their appurtenances, or to prevent damage to lands or structures above or below the dams.

(2) During the season of navigation on the upper Mississippi River, the volume of water discharged from the reservoirs shall be so regulated by the officer in charge as to maintain as nearly as practicable, until navigation closes, a sufficient stage of water in the navigable reaches of the upper Mississippi and in those of any tributary thereto that may be navigated and on which a reservoir is located.

(e) *Passage of logs and other floating bodies.* Logs and other floating bodies may be sluiced or locked through the dams, but prior authority for the sluicing of logs must be obtained from the District Engineer when this operation necessitates a material change in discharge.

(f) *Obstructions to flow of water.* No person shall place floating bodies in a stream or pond above or below a reservoir dam when, in the opinion of the officer in charge, such act would prevent the necessary flow of water to or from such dam, or in any way injure the dam and its appurtenances, its dikes and embankments; and should floating bodies lying above or below a dam constitute at any time an obstruction or menace as beforesaid, the owners of said floating bodies will be required to remove them immediately.

(g) *Trespass.* No one shall trespass on any reservoir dam, dike, embankment or upon any property pertaining thereto.

[FR Doc. 2013–31078 Filed 12–26–13; 8:45 am]

BILLING CODE 3720–58–P

POSTAL SERVICE

39 CFR Part 111

Deferral of Compliance Date: Full-Service Intelligent Mail Barcode Requirement To Qualify for Automation Prices

AGENCY: Postal Service™.

ACTION: Final rule; partial deferral of compliance date.

SUMMARY: The Postal Service gives notice that it is deferring the previously-announced compliance date of January 26, 2014, for mailers to use full-service Intelligent Mail® to qualify for automation prices when mailing First-Class Mail®, Standard Mail®; Periodicals®, and Bound Printed Matter® mailpieces.

DATES: The compliance date of the relevant portions of the final rule published April 18, 2013 (78 FR 23137) is delayed indefinitely.

FOR FURTHER INFORMATION CONTACT: Lizbeth J. Dobbins at 202–268–3781.

SUPPLEMENTARY INFORMATION: In Order No. 1890 (November 21, 2013), the Postal Regulatory Commission (PRC) determined that the price changes proposed in Docket No. R2013–10 could take effect as scheduled only if the Postal Service elected to defer the requirement for mailers to use full-service Intelligent Mail to qualify for automation prices.

Consistent with this Order, the United States Postal Service® hereby gives notice that the January 26, 2014, deadline to comply with the full-service Intelligent Mail requirements to qualify for automation prices, previously published on April 18, 2013, in a final rule in the **Federal Register** (78 FR 23137–23149), is deferred until further notice. Specifically, this deferral applies to the requirements specified in DMM 233.5.1 (First-Class commercial letters and cards); DMM 243.6.1.2, 243.6.4.1, 243.6.5.1, and 243.7.1 (Standard Mail letters); DMM 333.5.1 (First-Class automation flats); DMM 343.7.1 (Standard Mail automation flats); DMM 363.4.1 and 363.6.1 (Bound Printed Matter flats); DMM 705.24.1 (advanced preparation and special postage payment systems); and DMM 707.13.4, 707.14.1, and 707.14.2 (Periodicals). *See,* 78 FR 23146–23148.

All other requirements that were published in the **Federal Register** (78 FR 23137–23149) will be implemented on January 26, 2014.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2013–30705 Filed 12–26–13; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0965; FRL–9904–71–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Disapproval of State Implementation Plan Revision for ArcelorMittal Burns Harbor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On December 10, 2009, Indiana submitted a request for a revision to its sulfur dioxide (SO_2) state implementation plan (SIP) for the ArcelorMittal Burns Harbor LLC (ArcelorMittal) facility in Porter County, Indiana. This revision would remove the SO_2 emission limit for the blast furnace gas flare at the facility. The Environmental Protection Agency (EPA) proposed to disapprove this requested revision on March 20, 2013. The EPA is addressing comments and finalizing the disapproval action.

DATES: This final rule is effective on January 27, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2009–0965. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information (CBI) 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* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Mary Portanova, Environmental Engineer, at (312) 353–5954 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Mary Portanova, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–5954, *Portanova.mary@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. What is the background for this action?

On December 10, 2009, the Indiana Department of Environmental Management (IDEM) submitted a request for revision of its SO_2 SIP. This revision would amend 326 Indiana Administrative Code (IAC) 7–4–14, Porter County SO_2 Emission Limitations, by removing the SO_2 limit for the blast furnace flare at the ArcelorMittal steel mill. To be approved, this SIP revision request must comply with section 110(l) of the Clean Air Act (CAA), which states that the Administrator shall not approve a SIP revision if it would interfere with attainment and maintenance of the national ambient air quality standards (NAAQS), reasonable further progress, and any other applicable requirements. 42 U.S.C. 7410(l).

After reviewing the state's submittal, EPA determined that the proposed SIP revision does not meet the requirements of CAA section 110(l). Removal of the flare limit eliminates the only requirement which directly addresses the sulfur content of the blast furnace gas which ArcelorMittal uses to fuel other combustion units in the facility. Although blast furnace gas is considered to be a low-sulfur fuel, the state's submittal indicates that the sulfur content of blast furnace gas can vary, and the proposed SIP revision would allow ArcelorMittal's blast furnace gas to increase in sulfur content without limit. This would be inconsistent with the state's prior attainment demonstration for the SO_2 NAAQS.

The state has not fully evaluated the ambient impact of new operating scenarios in which ArcelorMittal generates and uses higher-sulfur blast furnace gas. It did not provide sufficient information for EPA to confirm the assertion that the SIP emission limits would continue to be met, with or without the use of the flare, under maximum blast furnace capacity without limitations on blast furnace gas sulfur content. Since the state's SIP submittal did not meet the requirements of CAA section 110(l), EPA published a notice of proposed disapproval for this SIP revision request on March 20, 2013 (78 FR 17157). EPA received four letters commenting on the proposed disapproval.

II. What comments were received, and what is EPA's response?

EPA received two comments in support of the proposed disapproval, from an Indiana public interest group (March 22, 2013) and a private citizen (April 18, 2013). Both IDEM and ArcelorMittal disagreed with the proposal to disapprove the SIP revision request. IDEM submitted its comments on April 18, 2013. ArcelorMittal submitted its comments on April 19, 2013. Their comments are addressed below.

Comment: The flare limit represents an inequity in the state's treatment of blast furnace gas flares; a similar facility nearby does not have SO_2 limits on its functionally identical flares. The limits for Lake County, Indiana, were established after the limits for Porter County, where ArcelorMittal is located. Emission inventories and modeling parameters had improved, and through extensive consultation with EPA, it was determined to be unnecessary to establish SO_2 emission limits specific to the flares for similar facilities in Lake County (i.e. U.S. Steel Gary Works). IDEM was able to establish SIP limits for sources such as U.S. Steel Gary Works which did not include SO_2 limits on the flares. EPA approved those limits. There is no material reason for ArcelorMittal's blast furnace gas flares in Porter County to be treated different from the blast furnace gas flares operated by U.S. Steel in Lake County. It would be arbitrary for EPA to disapprove the Porter County SIP revision to remove blast furnace gas flare limits as unnecessary and redundant limits after approving the 2005 Lake County SO_2 SIP that did not include blast furnace gas flare limits because they were unnecessary and redundant. IDEM's attempt to remove this arbitrary difference between neighboring counties should be considered an appropriate correction to a historic error and approved. This SIP revision would harmonize the Lake and Porter County treatment of flares combusting excess blast furnace gas.

Response: Indiana's December 10, 2009, submission did not demonstrate that ArcelorMittal's revised SO_2 SIP would continue to protect the SO_2 NAAQS or meet the requirements of CAA section 110(l). Therefore, the SIP revision cannot be approved. Emission limits, or the lack thereof, at other facilities are not relevant to this demonstration. The fact that SO_2 SIPs have been approved without the need for SO_2 limits on certain flares is not in itself a justification for removing SO_2 limits on flares from other sources in the absence of a showing that the removal will not interfere with attainment and maintenance of the NAAQS.

Comment: This should not be considered a matter of backsliding or relaxation of the SIP, but a technical correction that is necessary to establish consistency. The limit should have been excluded from the start; therefore, this corrective action has no impact on the approved SIP or the modeling conducted to support it.

Response: The state established ArcelorMittal's flare limit in the SIP as part of its strategy to attain and maintain the SO_2 NAAQS in Porter County. The SIP was approved by EPA in 1989 and has remained in effect. CAA section 110(l) does not provide an exception for ''technical corrections.'' Even if it did, it would not be appropriate to treat the state's December 10, 2009, SIP revision request as a technical correction because it can be expected to affect air quality and because the state has not provided a demonstration that in 1989 it did not intend to establish an SO_2 limit applicable to the blast furnace flare now operated by ArcelorMittal. Likewise, to the extent that the commenter is suggesting the SIP provision was approved in error and should be

corrected pursuant to CAA section 110(k)(6), EPA notes that the state has not provided a basis for concluding that the approval of this provision in 1989 was an error. In addition, EPA does not believe that emission limit relaxations can be justified on the basis of establishing consistency without also satisfying the requirements of CAA section 110(l). Therefore, the proposed SIP revision's effects on the existing SIP and on the state's maintenance of the NAAQS must be evaluated in accordance with CAA section 110(l).

Comment: IDEM and ArcelorMittal were led in 2007–2009 to believe that the flare limit removal would be approvable. IDEM and ArcelorMittal received no information to the contrary until 2012. EPA was unwilling to establish fruitful dialogue with the state prior to proposing disapproval. In its proposed disapproval, EPA did not cite or recognize the wealth of information provided to supplement the SIP revision.

Response: EPA's concerns with this SIP revision did not arise until EPA received and began review of Indiana's December 10, 2009, SIP submittal. Following a thorough review of the submittal and additional information subsequently provided by Indiana, EPA concluded that the submittal did not meet the requirements of CAA section 110(l). EPA regularly communicated the progress of EPA's review of the submittal during monthly conference calls with IDEM and offered opportunities for further dialogue, which is documented in call summaries prepared by IDEM.

As early as January 2010, EPA identified potential issues with this SIP revision request. EPA acknowledges that IDEM and ArcelorMittal provided EPA with additional information in response to its questions, which EPA carefully considered. However, the state's submittal, including supplemental information, did not demonstrate that the proposed SIP revision would satisfy CAA section 110(l). IDEM's monthly call summaries indicate that EPA had begun working on a disapproval in January 2012, after expressing continuing concerns in September 2011. EPA formally communicated the deficiencies of the revision in the March 20, 2013, notice of proposed rulemaking (78 FR 17157). EPA's proposal was based on an evaluation of the state's official submittal using the applicable requirements of the CAA, related regulations and guidance.

Comment: The flares should not have a limit, especially a mass limit (pounds per hour), because the flare needs to be available for full usage to maintain operational safety. Additionally, a flare limit presents a major hardship for compliance testing and enforcement.

Response: EPA agrees that the ArcelorMittal flare must be allowed to operate as necessary for operational safety and proper disposal of waste gases. EPA also agrees that direct compliance testing of flare emissions can be difficult. ArcelorMittal's existing flare emission limit would not limit the flare's actual usage while the blast furnace gas generated by the facility continued to meet the flare emission limit. Deleting the flare limit, however, has additional consequences for the SIP which Indiana did not adequately address in its SIP revision request.

Comment: The commenter states that the *Montana Sulphur* case which EPA cited does not apply to this SIP revision because Indiana's SIP includes limits on all the emissions from blast furnace gas combustion that were used in the modeling to demonstrate attainment. The flares were not attributed any mass emissions in the modeling demonstration or the SIP. The *Montana Sulphur* case involved a state's decision to include flares in the modeling demonstration but not include corresponding emission limits in the SIP rule.

Response: The *Montana Sulphur* case affirms that flares are not exempt from having SIP emission limits, particularly where flare emissions were quantified in an attainment demonstration that assumed flare emissions would occur at a certain level. Indiana has submitted information to EPA indicating that the blast furnace flare was included in the original modeled attainment demonstration for the Porter County SO_2 SIP, with its SO_2 emissions calculated from blast furnace gas with a sulfur content of 0.07 pounds SO_2 per million British Thermal Units (lb/mmBtu). Allowing higher-sulfur blast furnace gas would affect SO_2 emissions at several emission points, including the flare, which could affect the adequacy of the prior modeled attainment demonstration, which relied upon the use of blast furnace gas with a sulfur content of 0.07 lb/mmBtu. Therefore, it is reasonable for the SIP to require the flare and the other sources using blast furnace gas to meet that emission rate or demonstrate compliance with applicable emission limits based on that emission rate. Indiana has not provided a demonstration which fully addresses the effect on the attainment demonstration of relaxing the SIP requirements to allow the facility to generate, use, and flare higher-sulfur blast furnace gas. Likewise, in the SIP disapproval that was the subject of the *Montana Sulphur* case, the state's attainment demonstration had assumed SO_2 emissions from flares would occur at a certain rate, but had not shown in its enforceable SIP emissions limits how the assumed emissions would be achieved. It is true that EPA has not required all flares in all SO_2 SIPs to be subjected to emission limits. But where an attainment demonstration relies upon SO_2 emissions to occur at certain levels, including those from flares, the SIP must contain adequate emission limits to support the demonstration. The problem both in *Montana Sulphur* and here was that the attainment demonstration submitted by the state could not be so supported. (The blast furnace flare limit helped support Indiana's demonstration for the ArcelorMittal facility when the SO_2 SIP was approved in 1989.) Consequently, EPA's disapproval of the proposed SIP relaxation is fully consistent with the Court's reasoning in the *Montana Sulphur* case and with EPA's SIP disapproval action that was the subject of that case.

Comment: The flare SO_2 limit is in units of lb/mmBtu. This is not a mass limit, which would be given as pounds of SO_2 per hour (lb/hr). Therefore the form of the limit is not designed to be protective of the NAAQS. Only the mass based lb/hr limits are relevant to ensuring SO_2 NAAQS attainment in the SIP. The 0.07 lb/mmBtu SO_2 emission rate is a factor that is no longer necessary or relevant after the lb/hr limits were established and included in the SIP. Exclusion of this limit is no less protective than the current SIP limit.

Response: Emission limits given in units of lb/mmBtu are common in SO_2 SIPs. By directly limiting the sulfur content of the fuels combusted in a given unit or facility, this type of limit allows flexibility of unit operations. When the individual units are modeled at their maximum heat input rates (in units of million British Thermal Units per hour), assuming fuel at the lb/mmBtu limit, the SIP can be shown to protect the NAAQS for any actual heat input rate, including continual maximum operations, with compliant fuel. The removal of a lb/mmBtu emission limit would enable the burning of a higher-sulfur fuel, which could result in SO_2 concentrations in excess of the NAAQS and adversely affect public health.

Comment: Given the existing flare SIP limit of 0.07 lb/mmBtu, an emission rate of 8.9 lb/hr could be assumed for the flare, for modeling purposes. Over a year of continuous operation, this would total less than 39 tons per year, which is below the Significant Emission

Rate for SO_2 (40 tons per year). Actual emissions would be lower, because flares operate intermittently. Since the facility is in an attainment area, the flare would normally be excluded from modeling because it was considered de minimis. Recent EPA guidance suggests that intermittent sources can be excluded from modeling.

Response: The commenter's statements regarding the relative importance of the flare's SO_2 emissions do not eliminate the need for a CAA section 110(l) demonstration addressing the full effects of the proposed SIP revision. The comment references the flare's total annual emissions while in compliance with the current SO_2 emission limit, but it does not consider the increase in annual SO_2 emissions which the proposed SIP revision would allow. In comparing the flare's total annual emissions to the Significant Emission Rate, the commenter appears to be referencing New Source Review/Prevention of Significant Deterioration program requirements which are not relevant to this SIP action. The designation of an area as attainment of the NAAQS does not automatically exempt emission sources from inclusion in SIP attainment demonstrations. It is not clear that ArcelorMittal's blast furnace flare would qualify as an intermittent source under EPA's March 1, 2011, memorandum *Additional Clarification Regarding Application of Appendix W Modeling Guidance for the 1-hour NO_2 National Ambient Air Quality Standard* (which is what EPA assumes the commenter is referencing), or that it would be appropriate to disregard the flare's emissions in a SIP modeling analysis per this memorandum, and the state did not provide an analysis justifying such an approach within a modeled demonstration for the 1-hour SO_2 standard.

Comment: The pressure surge events that concern EPA are rare and unexpected events that cannot be quantified. The allowable SO_2 emission rates are sufficiently conservative to account for all such surges within the current allowable emissions inventory. Therefore, the commenter disagrees with EPA's assertion that the SIP revision would enable an increase in allowable SO_2 emissions.

Response: EPA referenced pressure surges in the March 20, 2013, notice of proposed rulemaking because the documentation provided by the state indicated that the blast furnace flare gas generation or distribution systems were known to experience pressure surge events. However, the state's declarations regarding flare usage and worst-case facility operations did not address these events. We acknowledge the commenter's additional assurances regarding the frequency and magnitude of pressure surges. As discussed above, EPA is not solely concerned with pressure surge events, but also with the effect on air quality of removing the blast furnace flare limit from the SIP.

Comment: The commenter declared a strong economic incentive to use this gas as fuel, flaring as little of it as possible.

Response: EPA understands that it is ArcelorMittal's intent to use its blast furnace gas as fuel rather than flaring it, thus minimizing flare emissions. However, the company has acknowledged the need to use the flare for the safe operation of the blast furnace gas operating system, regardless of the economic incentives to do otherwise. Whether the flare is used frequently or not, the full effect of removing the flare's emission limit must be addressed. The state did not provide a CAA section 110(l) demonstration which adequately addressed the effect of the proposed SIP revision on air quality, taking into consideration the facility's ability to continue using all of its generated gases as fuel and the lack of a sulfur limit on blast furnace gas.

Comment: The commenter stated that the amount of process gas generation is limited by enforceable restrictions. The facility's Part 70 operating permit places a limit on the amount of hot metal that can be produced in the blast furnace, which effectively limits the amount of blast furnace gas that can be produced by the facility. The coke oven batteries have enforceable SIP limits on the amount of coke oven gas that can be produced. The commenter said that the maximum amount of blast furnace gas and coke oven gas that can be generated within these restrictions can be consumed in the existing combustion units when operated at maximum capacity. When IDEM modeled the allowable emissions from the facility, combustion of all the blast furnace gas and coke oven gas is properly included and there is no additional blast furnace gas to attribute to the flare.

Response: The commenter referred to hot metal production limits within the facility's Part 70 permit which were originally derived from a construction permit and are therefore permanent. The commenter stated that these restrictions would affect blast furnace gas production, but did not provide calculations or documentation which identified the maximum amount of blast furnace gas that can be generated while in compliance with the hot metal limitation in the facility's Part 70 permit. The total coke oven gas production allowable under the cited coke battery limits was not given. The SIP includes SO_2 emission limits for various fuel combustion units at ArcelorMittal which can use blast furnace gas and coke oven gas, such as the blast furnace stoves, coke battery underfire, slab mill soaking pits, and power station boilers, which are referred to in this document as ''the combustion units.'' No calculations were provided to show the amount of process gas by volume which can be burned in the combustion units at their maximum heat input capacities, for comparison with maximum gas production in support of the commenter's assertion. The state's submittal did not address the amounts of each fuel gas which corresponded to the emission rates used in the dispersion modeling analysis which the state cited in support of the SIP revision. Therefore, EPA does not have sufficient information to confirm that the maximum amount of blast furnace gas and coke oven gas which can be generated within the facility's enforceable production restrictions can be entirely consumed in the combustion units when operated in compliance with the SO_2 SIP emission limits.

Comment: The sum of allowable SO_2 lb/hr rates for all combustion units burning process gases at the ArcelorMittal facility is 8,692 lb/hr. This rate is more than double the maximum SO_2 emissions from combustion of all the process gases that can be produced at the facility within current enforceable restrictions on hot metal and coke oven gas. The commenter provided calculations to support this assertion.

Response: The calculations which the commenter provided appear to be based on actual annual facility gas production data, rather than a calculated maximum value which would be allowed by the enforceable limits, as suggested by the comment. The comment letter contains a table of calculated SO_2 emissions from blast furnace gas and coke oven gas. This table is identical to a table in ArcelorMittal's June 29, 2011, letter to IDEM. In that letter, the blast furnace gas production data was identified as the facility's highest recent annual production amount (2004), and the coke oven gas was identified as the highest recent annual production amount (2009). EPA has already considered this information. The June 29, 2011, letter did not indicate that the 2004 blast furnace gas production totals represented the maximum amount of process gas that could be generated while in compliance with the hot metal limit in the Part 70 permit. The

comment on EPA's March 20, 2013, proposed disapproval does not provide additional calculations or documentation to identify the true maximum blast furnace gas production which would be possible within the hot metal limitation in ArcelorMittal's Part 70 permit, or to demonstrate that the 2004 actual production value is equal to the maximum possible production rate. EPA therefore concludes that the comment continues to cite actual production data from 2004, which is not sufficient to prove that the existing SIP limits will continue to accommodate all of the gas ArcelorMittal can generate, when the blast furnace gas sulfur content is no longer restricted by the flare limit.

Comment: Since the worst-case scenario attributes no blast furnace gas to the flare, a change in the actual emissions at the flare is irrelevant for purposes of attainment and maintenance of the SO_2 NAAQS. Any increase in emissions at the flare reflects a corresponding reduction from another source already modeled and must be considered a departure from the worst-case scenario that must be modeled for the attainment demonstration. This is how EPA endorsed modeling similar sources in Lake County.

Response: A change in actual SO_2 emissions at the flare is only irrelevant if the SIP truly covers all possible blast furnace gas production and sulfur content increases which would be allowed under the revised SIP. The range of potential blast furnace gas sulfur content at this facility has not been established. When blast furnace gas is no longer assured of meeting 0.07 lb/mmBtu, the new worst-case operating scenario may differ from the scenario which was previously modeled to support the original SO_2 SIP for this facility. The state has not demonstrated that the SIP fully covers new potential operating scenarios which could occur.

Comment: One of the commenters disagreed with EPA's statement that the limitations on the sulfur content of the process gases need to be addressed in the SIP. The comment stated that the purpose of the SIP is to attain and maintain the NAAQS and ensure reasonable further progress, and for this purpose, IDEM established the SO_2 lb/hr emission limits for all fuel burning sources that use process gases when operating at their full utilization rates. These rates were modeled and attainment of the SO_2 NAAQS was demonstrated at the time of adoption of 326 IAC 7–4–14 as noted in 53 FR 34314 (September 6, 1988). The modeled rates were included as emission limits in the SIP. The conservative modeled scenario provides an adequate margin of safety to ensure than the attainment demonstration remains valid and protective of the NAAQS. The modeled emission rates for the combustion units remain unchanged and are not affected by the SIP revision. Therefore, the revision does not interfere with protection of the NAAQS. The other commenter added the statement that the limits established to support compliance of the NAAQS are applicable regardless of the sulfur content in the fuel used.

Response: The SIP revision request removes an emission limit which is directly linked to the sulfur content of the blast furnace gas generated and used at ArcelorMittal. The sulfur content of the blast furnace gas is directly linked to the facility's compliance with its remaining lb/hr SIP emission limits, because the emissions from many of those units correspond directly to the sulfur content of the blast furnace gas and coke oven gas which are allowed to be used together as fuel. The state has not demonstrated how ArcelorMittal will continue to meet and demonstrate continuous compliance with these limits if blast furnace gas is no longer assured of meeting a sulfur content of 0.07 lb/mmBtu. The state has not limited or quantified the expected increase in blast furnace gas sulfur content under the revised SIP. The existing SIP does not require the sulfur content of blast furnace gas to be analyzed for compliance purposes. The facility's sampling and analysis plan under 326 IAC 7–4–14(1)(F) would allow ArcelorMittal to calculate its combustion unit SO_2 emissions by assuming that its blast furnace gas sulfur content is 0.07 lb/mmBtu, even though the SIP would no longer require the gas to meet that limit at any combustion unit. The state has not shown that 0.07 lb/mmBtu will continue to be a representative SO_2 emission factor for ArcelorMittal's blast furnace gas. The compliance requirements for the combustion units have not been revised. The state has not provided a basis for EPA to conclude that the revised SIP will have no effect on the operation of the combustion sources or on the facility's need to flare excess fuel gases. Therefore, the state has not demonstrated that relaxing ArcelorMittal's SIP will satisfy the requirements of CAA section 110(l).

Comment: The commenter disagrees that actual flaring data is needed for the SIP revision. Actual flaring events reflect something other than the worst-case operating scenario for blast furnace gas combustion and are therefore irrelevant for establishing attainment and maintenance of the NAAQS.

Response: As the commenter states, actual flaring data is not in itself a requirement for SIP approval. The state's arguments for removing the flare limit hinge on the concept that the facility intends to and is able to use all of its process gas in its combustion units, minimizing flare usage, and that flare usage events correspond to overall facility emissions below the SIP allowable levels. EPA's proposed disapproval simply pointed out that no historical flaring data was provided.

III. What action is EPA taking?

EPA is disapproving Indiana's December 10, 2009, submittal requesting a SIP revision to remove the SO_2 emission limit on the blast furnace gas flare at ArcelorMittal Burns Harbor in Porter County. The commenters on the proposed disapproval contend primarily that the facility's blast furnace gas flare does not need an emission limit in order to maintain the NAAQS. The comments did not demonstrate that the revised SIP satisfactorily addresses the results of removing an emission limit that had had the effect of requiring the facility to maintain a specific sulfur content in its blast furnace gas. Nor did other information in the record provide a basis to conclude that this SIP revision satisfies the requirements of CAA section 110(l). Accordingly, EPA is disapproving the submittal.

IV. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

This site-specific action is exempt from review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

Paperwork Reduction Act

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.*).

Regulatory Flexibility Act

This action merely disapproves state law as not meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, I certify 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.*).

Unfunded Mandates Reform Act

Because this rule disapproves pre-existing requirements under state law

and does not impose any additional enforceable duty beyond that required by state law, it does not contain an unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does 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). This action merely disapproves a state rule, and does not alter the relationship or the distribution of power and responsibilities established in the CAA.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (59 FR 22951, November 9, 2000).

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This SIP disapproval under section 110 will not in-and-of itself create any new rules but simply disapproves a state rule proposed for inclusion into the SIP.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant energy action,'' this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

National Technology Transfer Advancement Act

In reviewing state submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. 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.

Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this action. In reviewing SIP submissions, EPA's role is to approve or disapprove state choices, based on the criteria of the CAA. Accordingly, this action merely disapproves certain state requirements for inclusion into the SIP under section 110 and will not in-and-of itself create any new requirements. Accordingly, it 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.

Congressional Review Act

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 rule 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. section 804(2).

Petitions for Judicial Review

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 February 25, 2014. 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 recordkeeping requirements, Sulfur oxides.

Dated: December 12, 2013.

Susan Hedman,

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 52.781 is amended by adding paragraph (h) to read as follows:

§ 52.781 Rules and regulations.

* * * * *

(h) *Disapproval.* EPA is disapproving the December 10, 2009 submittal of 326 IAC 7–4–14 as a revision to the Indiana SIP.

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