

with Indian Tribal Governments, because it does 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.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final "Environmental Analysis Check List"

and a final "Categorical Exclusion Determination" will be available in the docket where indicated under

### ADDRESSES.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–085 to read as follows:

#### § 165.T05–085 Safety Zone; Chesapeake Bay, Susquehanna River, Havre de Grace, MD.

(a) Location. The following area is a safety zone: All waters located in the Susquehanna River, within a 50-yard radius of pier number 5 of the old US-40 Highway bridge (bridge number 1206000), located at approximate position latitude 39°33'11" N, longitude 076°05'09" W (North American Datum 1983).

(b) Regulations. All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.23 of this part.

(1) All vessels and persons are prohibited from entering this zone, except as authorized by the Coast Guard Captain of the Port, Baltimore, Maryland.

(2) Persons or vessels requiring entry into or passage within the zone must request authorization from the Captain of the Port or his designated representative by telephone at (410) 576–2693 or on marine band radio channel 16 VHF–FM.

(3) All Coast Guard assets enforcing this safety zone can be contacted on marine band radio channels 13 and 16 VHF–FM.

(4) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer

on board a vessel displaying a Coast Guard Ensign.

(c) Definitions. The Captain of the Port means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(d) Enforcement. The U.S. Coast Guard may be assisted in the patrol and enforcement of the zones by Federal, State and local agencies.

(e) Enforcement period. This section will be enforced from 12 p.m. on August 27, 2007, until 12 p.m. on September 24, 2007. In the event removal operations are completed prior to 12 p.m. on September 24, 2007, the Captain of the Port may cease enforcement of this regulation at that time.

Dated: August 27 2007.

**Brian D. Kelley,**

*Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.*

[FR Doc. E7–17816 Filed 9–10–07; 8:45 am]

BILLING CODE 4910–15–P

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R05–OAR–2006–1023; FRL–8464–8]

#### Approval and Promulgation of Air Quality Implementation Plans; Minnesota

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a site-specific revision to the Minnesota State Implementation Plan (SIP) for particulate matter less than 10 microns (PM–10) for Lafarge North America Corporation (Lafarge), Childs Road Terminal located in Saint Paul, Ramsey County, Minnesota. In its December 18, 2006, submittal, the Minnesota Pollution Control Agency (MPCA) requested that EPA approve certain conditions contained in Lafarge's federally enforceable state operating permit (FESOP) into the Minnesota PM SIP. The request is approvable because it satisfies the requirements of the Clean Air Act (Act). We are also taking action on Minnesota's request to revoke the Administrative Order for Lafarge that EPA had previously approved into the Minnesota SIP. The rationale for the approval and other information are provided in this rulemaking action.

**DATES:** This direct final rule will be effective November 13, 2007, unless EPA receives adverse comments by

October 11, 2007. 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-2006-1023, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: mooney.john@epa.gov.

3. *Fax*: (312) 886-5824.

4. *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R05-OAR-2006-1023. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at

[www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification,

EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://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 legal holidays. We recommend that you telephone Christos Panos, Environmental Engineer, at (312) 353-8328 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Christos Panos, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8328, [panos.christos@epa.gov](mailto:panos.christos@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. General Information

1. What Is the Background for This Action?
2. Why Is EPA Taking This Action?
3. What Is a "Title I Condition?"

II. What Action Is EPA Taking?

III. Statutory and Executive Order Reviews

**I. General Information**

*1. What Is the Background for This Action?*

The Lafarge Childs Road Terminal is located at 2145 Childs Road in Saint Paul, Ramsey County, Minnesota. Minnesota originally submitted Administrative Orders for the Lafarge Childs Road Terminal as part of the PM-10 SIP for Ramsey County in 1991 and 1992. These Administrative Orders contain the PM-10 emission limits and operating restrictions imposed on the facility to provide for attainment and maintenance of the PM-10 NAAQS. Subsequent revisions to the Administrative Orders were submitted in 1994 and 1997. The following Lafarge Childs Road Terminal Administrative Order revisions have been approved into the Minnesota PM-10 SIP: (1)

Second Amended Findings and Order, dated and effective November 30, 1992, approved into the SIP February 15, 1994 (60 FR 7218); (2) Amendment One to Second Amended Findings and Order, dated and effective December 21, 1994, approved into the SIP June 13, 1995 (60 FR 31088); and, (3) Amendment Two to Second Amended Findings and Order, dated and effective September 23, 1997, approved into the SIP February 8, 1999 (64 FR 5936).

The SIP revision submitted by MPCA on December 18, 2006, consists of a FESOP issued to the Lafarge Childs Road Terminal, which serves as a joint Title I/FESOP document. The PM-10 control measures, recordkeeping and reporting requirements contained in the Administrative Orders previously approved in the PM-10 SIP are now identified as "Title I condition: SIP for PM-10 NAAQS" in the joint Title I/FESOP document. The state has requested that EPA approve the following: (1) The inclusion into the Minnesota PM SIP only the portions of Minnesota Air Emission Permit No. 12300391-002, issued to Lafarge North America Corporation—Childs Road Terminal on November 17, 2006, cited as "Title I condition: SIP for PM-10 NAAQS"; and, (2) that the Administrative Orders for Lafarge—Childs Road Terminal currently included in Minnesota's PM-10 SIP be subsequently revoked.

Minnesota held a public hearing regarding the SIP revision and the joint Title I/FESOP document on November 16, 2006. No comments were received at the public meeting and only EPA provided comments during the 30 day public comment period.

*2. Why Is EPA Taking This Action?*

EPA is taking this action because: (1) Lafarge has proposed changes to the allowable methods for delivery of cementitious products which require changes to certain SIP conditions; and (2) EPA and the state have agreed to the transfer of SIP requirements from Administrative Orders into joint Title I/Title V—FESOP documents. Further, the state's request provides for attainment and maintenance of the PM-10 National Ambient Air Quality Standards (NAAQS) and satisfies the applicable PM-10 requirements of the Act.

Lafarge receives, transfers, stores, and ships cementitious products. The PM-10 emission sources contained in the SIP for Lafarge include a Barge Aeration Unit, the Vacuum Pump Exhaust and the Silo Storage System. The barge-to-silo operations and related equipment have been removed since the issuance of

the original Administrative Order. Six storage silos remain in operation at Childs Road Terminal for storing cementitious material, with delivery and transport of the material by truck.

Proposed changes to Childs Road Terminal include the installation of a new rail siding for rail delivery of material to the silos, the installation of a related railcar-to-silo pneumatic conveyance, the redesign of the pneumatic conveyance system to allow dedicated use of Silos Nos. 1 and 2, and the installation of new pollution control devices (a low temperature fabric filter) on each of the two dedicated silos. Operation of the remaining Silos Nos. 3–6, also equipped with a fabric filter, remain unchanged with truck unloading.

The original air quality dispersion modeling for the SIP and the initial Administrative Order were based on Lafarge's 1995 annual throughput of material of 120,000 tons per year (tpy). The 2004 annual throughput was 11,280 tons with a 2005 reported annual throughput of 24,454 tons. Annual throughput is expected to increase to 26,600 tpy in 2009 after installation of the proposed changes. Revised air dispersion modeling was conducted using the AERMOD model to ensure continued attainment of the PM-10 NAAQS in the area. Based on the modeling results, the FESOP limits Lafarge to a maximum daily throughput of 1,100 tons per day using a 24-hour rolling average and an annual throughput of 100,000 tpy, using a 12-month rolling average. The modeling analysis also included PM-10 emissions from the nearby Metropolitan Council Environmental Services wastewater treatment plant, in combination with a conservative background concentration, and predicted a 24-hour concentration of 146.2 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) and an annual concentration of 41.3  $\mu\text{g}/\text{m}^3$ , therefore demonstrating attainment of the PM-10 NAAQS.

### 3. What Is a "Title I Condition?"

SIP control measures were contained in permits issued to culpable sources in Minnesota until 1990 when EPA determined that limits in state-issued permits are not federally enforceable because the permits expire. The state then issued permanent Administrative Orders to culpable sources in nonattainment areas from 1991 to February of 1996.

Minnesota's consolidated permitting regulations, approved into the state SIP on May 2, 1995 (60 FR 21447), includes the term "Title I condition" which was written, in part, to satisfy EPA requirements that SIP control measures

remain permanent. A "Title I condition" is defined as "any condition based on source-specific determination of ambient impacts imposed for the purposes of achieving or maintaining attainment with the national ambient air quality standard and which was part of the state implementation plan approved by EPA or submitted to the EPA pending approval under section 110 of the act \* \* \*." The rule also states that "Title I conditions and the permittee's obligation to comply with them, shall not expire, regardless of the expiration of the other conditions of the permit." Further, "any title I condition shall remain in effect without regard to permit expiration or reissuance, and shall be restated in the reissued permit."

Minnesota has also initiated using joint Title I/Title V-FESOP documents as the enforceable document for imposing emission limitations and compliance requirements in SIPs. The SIP requirements in joint Title I/Title V-FESOP documents submitted by MPCA are cited as "Title I conditions," therefore ensuring that SIP requirements remain permanent and enforceable. EPA reviewed the state's procedure for using joint Title I/Title V-FESOP documents to implement site-specific SIP requirements and found it to be acceptable under both titles I and V of the Act (July 3, 1997 letter from David Kee, EPA, to Michael J. Sandusky, MPCA). Further, a June 15, 2006, letter from EPA to MPCA clarifies procedures to transfer requirements from Administrative Orders to joint Title I/Title V-FESOP documents.

### II. What Action Is EPA Taking?

EPA is approving into the Minnesota PM-10 SIP a joint Title I/FESOP document which contains certain portions of Minnesota Air Emission Permit No. 12300391-002, issued to Lafarge North America—Childs Road Terminal on November 17, 2006. Specifically, EPA is only approving into the SIP those portions of the joint Title I/FESOP document cited as "Title I condition: SIP for PM-10 NAAQS." In addition, EPA is withdrawing from the Minnesota PM-10 SIP the November 30, 1992, Administrative Order and the December 21, 1994, and September 23, 1997, revisions to the Administrative Order for Lafarge Childs Road Terminal.

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 November 13, 2007 without further notice unless we receive relevant adverse written comments by October 11, 2007. 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. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective November 13, 2007.

### III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, 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). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

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 (65 FR 67249, November 9, 2000). 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 approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. 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.*).

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. 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 November 13, 2007. 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 29, 2007.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart Y—Minnesota**

■ 2. In § 52.1220 the table in paragraph (d) is amended by revising the entry for "Lafarge Corp., Childs Road facility" to read as follows:

**§ 52.1220 Identification of plan.**

\* \* \* \* \*  
(d) \* \* \*

**EPA-APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS**

Name of Source	Permit No.	State effective date	EPA approval date	Comments
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Lafarge North America Corporation, Childs Road Terminal.	12300391-002	11/17/07	9/11/07 [Insert page number where the document begins].	Only conditions cited as "Title I condition: SIP for PM-10 NAAQS."
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[FR Doc. 07-4380 Filed 9-10-07; 8:45 am]  
BILLING CODE 6560-50-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 070213032-7032-01]

RIN 0648-XC48

**Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch for Catcher Processors Participating in the Rockfish Limited Access Fishery in the Central Regulatory Area of the Gulf of Alaska**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific ocean perch by catcher processors participating in the rockfish limited access fishery in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2007 total allowable catch (TAC) of Pacific ocean perch allocated to catcher processors participating in the rockfish limited access fishery in the Central Regulatory Area of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), September 8, 2007, through 2400 hrs, A.l.t., December 31, 2007.