

about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination 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.

#### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will be enforced for 3 hours that will prohibit entry within a portion of the Anacostia River. It is categorically

excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 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:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

- 2. Add § 165.T05–0212 to read as follows:

#### § 165.T05–0212 Safety Zone; Anacostia River, Washington, DC.

(a) **Location.** The following area is a safety zone: All navigable waters of the Anacostia River within 500 feet of the fireworks barge in approximate position latitude 38°52'15.39" N, longitude 77°00'09.39" W located near Nationals Park, in Washington, DC. These coordinates are based on datum NAD 83.

(b) **Definitions.** As used in this section—

*Captain of the Port (COTP)* means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

*Designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing the safety zone described in paragraph (a) of this section.

(c) **Regulations.** (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this

section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone at 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

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

(e) **Enforcement period.** This section will be enforced from 7:30 p.m. to 9:30 p.m. on April 16, 2022, or in the event of inclement weather, from 7:30 p.m. through 9:30 p.m. on April 17, 2022.

Dated: April 1, 2022.

**David E. O'Connell,**

*Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.*

[FR Doc. 2022–07403 Filed 4–6–22; 8:45 am]

**BILLING CODE 9110–04–P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R05–OAR–2021–0411; FRL–9547–02–R5]

#### Air Plan Approval; Minnesota; Bulk Silos PM<sub>10</sub> FESOP Update

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a site-specific revision to the Minnesota State Implementation Plan (SIP) for particulate matter less than 10 microns (PM<sub>10</sub>) for the portland cement distribution terminal owned and operated by Bulk Silos, LLC (Bulk Silos), formerly known as Lafarge North America Corporation on Childs Road Terminal (Lafarge-Childs Road Terminal), located in Saint Paul, Ramsey County, Minnesota. In its June 16, 2021, submittal, the Minnesota Pollution Control Agency (MPCA) requested that EPA approve certain conditions contained in Bulk Silos' 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 (CAA). MPCA's submission

included an updated modeling demonstration to show the construction changes incorporated in the title I SIP Conditions will not interfere with the ability to maintain the National Ambient Air Quality Standards (NAAQS), as Bulk Silos' allowable PM<sub>10</sub> emissions limits will be decreased with this action.

**DATES:** This direct final rule will be effective June 6, 2022, unless EPA receives adverse comments by May 9, 2022. 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-2021-0411 at <https://www.regulations.gov>, or via email to [arra.sarah@epa.gov](mailto:arra.sarah@epa.gov). For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *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 <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Olivia Davidson, 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) 886-0266, [davidson.olivia@epa.gov](mailto:davidson.olivia@epa.gov). The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever

“we,” “us,” or “our” is used, we mean EPA.

## II. What is the background for this action?

Bulk Silos is a portland cement distribution terminal in the Ramsey County PM<sub>10</sub> maintenance area, also known as the Red Rock Road maintenance area, in St. Paul (Ramsey County), Minnesota. The area was designated nonattainment for the 1987 PM<sub>10</sub> standard on March 15, 1991 (56 FR 11101), and was redesignated to attainment on July 26, 2002 (67 FR 48787). On June 16, 2021, MPCA submitted a request to EPA to approve into the Minnesota SIP the conditions cited as “Title I Condition: 40 CFR 50.6 (PM<sub>10</sub> SIP).” The submission contains measures for Bulk Silos to implement changes that increase efficiency through new and existing equipment, as well as clarifying amendments to the document’s language. MPCA posted a background document and permit issuance notice for public comment in the Minnesota State Register on April 30, 2021, and the comment period ended on June 1, 2021. MPCA received no comments on the document or permit.

Bulk Silos currently operates six silos with pollution control equipment; the silos are used for storage and distribution of cementitious products. The material is currently received by rail, stored in silos, and distributed by truck. The facility is subject to a State Individual Permit containing title I PM<sub>10</sub> SIP conditions (Permit No. 12300391-002, published September 11, 2007, 72 FR 51713), which will continue to apply until this SIP revision is approved by the EPA. These conditions are intended to ensure that the Red Rock Road area continues to maintain the PM<sub>10</sub> NAAQS.

The previous SIP revision, approved September 11, 2007 (72 FR 51713), consisted of a FESOP issued to Lafarge-Childs Road Terminal which serves as a joint title I/FESOP document. In the September 11, 2007, action, EPA approved into the Minnesota PM<sub>10</sub> SIP the portions of Minnesota Air Emission Permit No. 12300391-002 issued to Lafarge-Childs Road Terminal on November 17, 2006, cited as “Title I condition: SIP for PM<sub>10</sub> NAAQS.” As part of that action, EPA approved Minnesota’s request to revoke from the SIP several Administrative Orders for Lafarge-Childs Road Terminal that had been approved on February 15, 1994 (60 FR 7218), June 13, 1995 (60 FR 31088), and February 8, 1999 (64 FR 5936).

The 2007 title I SIP revisions approved 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. The modeling results demonstrated that to comply with the FESOP, Lafarge-Childs Road Terminal was limited to a maximum daily throughput of 1,100 tons per day (tpd) using a 24-hour rolling average and an annual throughput of 100,000 tons per year (tpy), using a 12-month rolling average.

This SIP revision is being approved in conjunction with a major amendment to a State Individual Permit containing federally enforceable title I SIP conditions (Air Emission Permit No. 12300391-102), submitted to EPA on June 16, 2021. The submittal included the replacement of three existing fabric filters, the construction of three new silos, a new bucket elevator, twelve new fabric filters, paving of roads, and new barge unloading operations. The suggested facility changes in operation require increased throughput limits for overall facility operations, truck loading operations, and bucket elevator operations. To offset increases in throughput limits, Bulk Silos’ new permit allows unloading of product from one silo at a time, and the emission limits of unloading will be decreased after approval of the updated title I SIP conditions. Further, MPCA included updated modeling with improved emission factors demonstrating decreased allowable PM<sub>10</sub> emissions with the proposed facility changes and reduced emission limits. New equipment would not be operable by Bulk Silos until EPA approves the requirements into Minnesota’s SIP.

## II. What is EPA’s analysis of the SIP revision?

MPCA’s June 16, 2021, submission contains amended SIP conditions that, when combined, decrease total allowable emission rates of PM<sub>10</sub> from Bulk Silos while increasing throughput limits, adding/improving fabric filters, and constructing three new silos. See Table 1 at the end of this review for a list of detailed changes to PM<sub>10</sub> allowable emissions limits associated with this action. Additionally, see “Process flow diagram” included at the end of MPCA’s Background document submission for a detailed diagram of the facility’s operations. The amended SIP conditions in the provided background document include:

#### A. New Fabric Filters, New Construction

New construction in the SIP revision would include the installation of twelve new fabric filters: Replacement of three fabric filters (Treatment “TREA” 5, 6 and 9 replacing TREA 1–3) and installation of nine new fabric filters (TREA 7, 8, 10–16). Additionally, the revised SIP would authorize construction and operation of a new bucket elevator (Equipment “EQUI” 5) and three new silos (EQUI 8–10). Further, because Bulk Silos’ roadways have been paved since the issuance of Permit No. 123000391–102, the SIP revision will remove the emission limit requirements for unpaved roads at the permit condition addressing fugitive emissions at “FUGI” 2. The facility will be subject to emission limit requirements for paved roads that were previously SIP-approved on July 27, 2020 (85 FR 45094), and contain permit content requirements in Minnesota Rule (Minn. R.) 7007.0800, subpart 2(A) and subpart 5, prevention of airborne particulate matter in Minn. R. 7011.0150, and standards for dry bulk agricultural commodity requirements in Minn. R. 7011.1005, subpart 1(A).

#### B. Throughput Limits

Throughput limits for facility operations, specifically silo unloading (COMG 2), truck loading operations (EQUI 4), and bucket elevator operations (EQUI 5), will be increased or established for new processes with this SIP revision. Previously, unloading operations were limited to rail and required throughput limits of 1,100 tpd/100,000 tpy, truck loading operations had no emission limits, and the facility did not include bucket elevator operations or barge unloading. The proposed revisions add barge unloading to the facility’s operations, incorporate

throughput limits of 2,500 tpd/740,000 tpy each for unloading and truck loading, and 1,100 tpd/100,000 tpy for the proposed bucket elevator operations. Facility-specific emission factors and other proposed facility changes demonstrate no increased emissions of PM<sub>10</sub> from increased throughput limits based on improved modeling. Permit No. 12300391–102 includes language specifying “This requirement expires upon startup of the Project” for current operational throughput, or silo unloading (COMG 2, 5.3.1 and 5.3.2). Additionally, the permit states the increased limits would go into effect “Upon startup of the Project” (COMG 2, 5.3.3 and 5.3.4) for operational throughput, and similarly for the newly established truck loading throughput limits (EQUI 4, 5.7.3 and 5.7.4) and bucket elevator throughput limits (EQUI 5, 5.8.1 and 5.8.2). See Table 1 for equipment-specific emission limit changes from the effective permit (No. 12300391–002, 72 FR 51713) to the new permit (No. 12300391–102).

#### C. Changes to Modeling Requirements

To approve the new conditions listed in Permit No. 12300391–102, the MPCA conducted Significant Impact Level (SIL) modeling to determine compliance with the PM<sub>10</sub> NAAQS using both existing and new PM<sub>10</sub> emissions sources. The permit update replaces equivalent-or-better modeling demonstration requirements at the permit condition titled Total Facility “TFAC” 1, 5.1.1 and 6.1.1 to include specific modeling triggers when future changes are made in the parameters contained in Appendix A or emission sources. Specifically, TFAC 5.1.1 indicates no change can be made to the facility that would result in an increase in PM<sub>10</sub> or PM<sub>2.5</sub> emissions until it can

be demonstrated that it would not cause an exceedance of the NAAQS and 6.1.1 contains corrective actions for failed emission rate performance tests.

#### D. Facility-Specific Emissions Factors

The required modeling exercise to review and reissue Permit No. 12300391–102 to Bulk Silos included new, significantly lower process-specific factors not identified in prior modeling demonstrations for the facility, provided by Bulk Silos through performance testing<sup>1</sup> and reference from EPA’s Compilation of Air Pollutant Emissions Factors (AP–42).<sup>2</sup> The SIL modeling demonstration allowed MPCA to increase throughput limits while decreasing the allowable PM<sub>10</sub> emission rate (Table 1). Performance testing requirements at a minimum of once every 60 months will be used to demonstrate continued compliance and verify the updated emission factors (see 6.2.1 (permit condition titled Component Group “COMG” 2 unloading silos), 6.3.1 (COMG 3 existing unloading silos), 6.4.1 (COMG 4, bucket elevator and silo 3 operations), 6.5.1 (EQUI 4, truck loading operations)).

### III. PM<sub>10</sub> SIP and Emissions Impacts

The approval of MPCA’s submittal would strengthen the Minnesota SIP by requiring more stringent emission limits, counteracting the revision of increased throughput limits. Table 1, below, shows the previous emission limit and new emission limit applicable to each unit at the facility. Considered together, allowable emissions will be decreased by 1.18 lb/hr and 0.45 lb/hr for the 24-hour limit and the annual limit, respectively. These changes become effective upon the effective date of EPA’s approval of MPCA’s June 16, 2021, request.

TABLE 1—SUMMARY OF CHANGES TO ALLOWABLE PM<sub>10</sub> EMISSIONS IN REVISED TITLE I SIP CONDITIONS FOR BULK SILOS

| Unit description                | Previous unit ID                | New unit ID                   | Previous PM <sub>10</sub> emission limit | New emission PM <sub>10</sub> limit |
|---------------------------------|---------------------------------|-------------------------------|--|-------------------------------------|
| Pneumatic Conveyance to Silo 6. | EQUI 1 .....                    | COMG 2 (EQUI 11 excluded)     | 0.25 lb/hr* .....                        | 0.009 lb/hr.*                       |
| Pneumatic Conveyance to Silo 5. | EQUI 2 .....                    |                               | 0.25 lb/hr.*                             |                                     |
| Unloading Silos .....           | EQUI 3 (EQUI 6, 7, 11, AND 12). |                               | 0.84 lb/hr.*                             |                                     |
| New Silos .....                 | EQUI 8, 9, 10 .....             | EQUI 11 .....                 | NA.                                      |                                     |
| Silo 3 (storage silo) .....     | EQUI 11 .....                   | EQUI 4 .....                  | 0.84 lb/hr* .....                        | 0.0008 lb/hr.*                      |
| Truck loading .....             | EQUI 4 .....                    | EQUI 5 (bucket elevator ..... | .04 lb/hr, * 0.15 tpy ** .....           | 0.009 lb/hr.*                       |
| New Bucket Elevator .....       | NA .....                        |                               | NA .....                                 | 0.0031 lb/hr.*                      |

<sup>1</sup> New emission factors were calculated based on methods contained in AP–42 (Compilation of Air Pollution Emission Factors) Section 11.12 and an emission factor created using the results of Bulk

Silos’ self-reported performance test ([https://www.epa.gov/sites/production/files/2020-09/documents/toc\\_kwrd.pdf](https://www.epa.gov/sites/production/files/2020-09/documents/toc_kwrd.pdf)).

<sup>2</sup> See EPA’s documentation of AP–42 at <https://www.epa.gov/air-emissions-factors-and-quantification/ap-42-compilation-air-emissions-factors#5thed>.

TABLE 1—SUMMARY OF CHANGES TO ALLOWABLE PM<sub>10</sub> EMISSIONS IN REVISED TITLE I SIP CONDITIONS FOR BULK SILOS—Continued

| Unit description    | Previous unit ID | New unit ID  | Previous PM <sub>10</sub> emission limit | New emission PM <sub>10</sub> limit |
|---------------------|------------------|--------------|--|-------------------------------------|
| Unpaved roads ..... | FUGI 2 .....     | FUGI 2 ..... | 0.3 tpy ** .....                         | NA.                                 |

\* Daily average.

\*\* 24-Hour rolling average and 12 month rolling average.

The approval of the SIP revisions allows the unloading of product into EQUIIs 1, 2, 6, 7, 8, 9, 10, or 12, contained in COMG 2. Product would no longer be loaded into Silo 3 (EQUI 11). Instead, Silo 3 would serve as a storage silo to transfer cementitious product between silos 7–9 (EQUI 8, 9 and 10). Units contained in COMG 2 are collectively subject to the Unloading Process Throughput limits and the “New SIP PM<sub>10</sub> Limit” of 0.009 lb/hr. Previously, EQUI 3 contained EQUI 6, EQUI 7, EQUI 11, and EQUI 12. These four units are subject to the combined PM<sub>10</sub> limit of 0.84 lb/hr at COMG 1 until startup of the Project. Then, the PM<sub>10</sub> limit for EQUIIs 6, 7, and 12 will be encompassed by the PM<sub>10</sub> limit at COMG 2 and the PM<sub>10</sub> limit for EQUI 11 will be at EQUI 11.

#### IV. Section 110(l) Obligations

In this action, EPA is approving MPCA’s request to update title I SIP Conditions related to the Bulk Silos’ portland cement distribution terminal. MPCA’s submission includes a noninterference demonstration clarification letter included within the docket of this rulemaking intended to show that its SIP revision is approvable under Section 110(l) of the CAA; such a demonstration is sometimes called an anti-backsliding demonstration. Section 110(l) provides that EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment or reasonable further progress (RFP), or any other applicable requirement of the CAA.

Additionally, Section 110(l) makes clear that each SIP revision is subject to the requirements of Section 110(l). A state may demonstrate the revision will not interfere with attainment of the NAAQS through an air quality modeling analysis. As previously mentioned, MPCA performed a SIL modeling demonstration to determine compliance with the PM<sub>10</sub> NAAQS, concluding that the facility changes at Bulk Silos will not interfere with the facility’s ability to maintain the PM<sub>10</sub> NAAQS and total allowable PM<sub>10</sub> emissions will be decreased. The modeling demonstration included updated facility-specific

emission factors developed through performance testing. Further, MPCA has made updates to the modeling requirements in the Bulk Silos’ permit, specifically, TFAC 5.1.1 states no change can be made to the facility that would result in an increase in PM<sub>10</sub> or PM<sub>2.5</sub> emissions until it can be demonstrated that it would not cause an exceedance of the NAAQS. For these reasons, we conclude that the revisions will not interfere with attainment and maintenance of the NAAQS, RFP, or any other applicable requirement of the CAA. EPA has determined that MPCA’s SIP submission meets the requirements of section 110(l) of the CAA.

#### V. 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), include 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).

#### VI. What action is EPA taking?

EPA is approving a revision to Minnesota’s PM<sub>10</sub> SIP for Bulk Silos, as submitted by MPCA on June 16, 2021, and reflected in conditions labeled “40 CFR pt. 51, Title I Condition: 40 CFR 50.6 (PM<sub>10</sub> SIP), Title I Condition: 40 CFR pt. 52, subp. Y” in the background document and permit (No. 12300391–102).

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 June 6, 2022 without further notice unless we receive relevant adverse written comments by May 9, 2022. 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 June 6, 2022.

## VII. 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 Minnesota Regulations described in this preamble and set forth in the amendments to 40 CFR part 52 below. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>3</sup>

## VIII. 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.*);

<sup>3</sup> 62 FR 27968 (May 22, 1997).

- 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 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).

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. 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 June 6, 2022. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 31, 2022.

**Debra Shore,**  
*Regional Administrator, Region 5.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 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. In § 52.1220, the table in paragraph (d) is amended by:

- a. Adding an entry for "Bulk Silos" immediately following the entry for "BAE Technology Center"; and
- b. Removing the entry for "Lafarge North America Corporation, Childs Road Terminal".

The addition reads 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  |
|------------------|--------------|----------------------|--|---|
| Bulk Silos ..... | 12300391-102 | 6/3/2021             | 4/7/2022, [INSERT <b>Federal Register</b> Citation]. | Only conditions cited as "Title I Condition: 40 CFR 50.6 (PM <sub>10</sub> SIP)." |
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 [FR Doc. 2022-07288 Filed 4-6-22; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**
**40 CFR Part 52**

[EPA-R07-OAR-2021-0932; FRL-9461-02-R7]

**Air Plan Approval; Iowa; Determination of Attainment by the Attainment Date for the 2010 1-Hour Sulfur Dioxide Standard**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to determine that the Muscatine sulfur dioxide (SO<sub>2</sub>) nonattainment area attained the 2010 1-hour SO<sub>2</sub> primary national ambient air quality standard (NAAQS) by the applicable attainment date of October 4, 2018, based upon a weight-of-evidence analysis using available air quality information. Additional analysis of the attainment determination is provided in a Technical Support Document (TSD) included in the docket to this rulemaking. This action addresses the EPA's obligation under a consent decree which established a deadline of March 31, 2022 for the EPA to determine under Clean Air Act (CAA) section 179(c) whether the Muscatine SO<sub>2</sub> nonattainment area attained the NAAQS by the October 4, 2018, attainment date. The consent decree deadline was extended to June 30, 2022.

**DATES:** This final rule is effective on May 9, 2022.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2021-0932. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not 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 through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

Throughout this document "we," "us," and "our" refer to EPA.

**Table of Contents**

- I. What is being addressed in this document?
- II. Determination
- III. Final Action
- IV. Environmental Justice Concerns
- V. Statutory and Executive Order Reviews

**I. What is being addressed in this document?**

The EPA is taking final action to determine that the Muscatine SO<sub>2</sub> nonattainment area attained the 2010 1-hour SO<sub>2</sub> primary NAAQS by the applicable attainment date of October 4, 2018, based upon a weight-of-evidence analysis using available air quality information. This action also fulfills the EPA's obligation under a consent decree in *Center for Biological Diversity, et al. v. Regan*, No. 3:20-cv-05436-EMC (N.D. Cal June 25, 2021), which established a deadline of March 31, 2022, for the EPA to determine under CAA section 179(c) whether the Muscatine SO<sub>2</sub> nonattainment area attained the NAAQS by the October 4, 2018, attainment date. The consent decree deadline was extended by stipulation to June 30, 2022.

**II. Determination**

CAA section 179(c)(1) requires the Agency to "determine, based on the area's air quality as of the attainment date, whether the area attained the standard by that date."

On January 26, 2022, the EPA published a notice of proposed rulemaking (NPRM) to determine that the Muscatine SO<sub>2</sub> nonattainment area attained the NAAQS by the October 4, 2018, attainment date. (87 FR 3958) During the comment period on EPA's NPRM, open from January 26, 2022, to February 25, 2022, EPA received no comments.

As discussed in the NPRM, the EPA first assessed what air quality information was available related to making a determination of attainment by the attainment date for the Muscatine area. The EPA chose to employ a weight-of-evidence approach for making this determination because the EPA does not have any analysis (including modeling) associated with the monitor siting to demonstrate that the monitors record maximum ambient SO<sub>2</sub> concentrations in the NAA, nor does EPA have modeling of actual emissions to support a determination based on modeled ambient concentrations whether the area attained the NAAQS by the attainment date. The available modeling of permitted allowable emissions in the area, as discussed in the NPRM, does not on its own provide a basis for determining whether the area attained by the attainment date. Thus, EPA relied upon SO<sub>2</sub> emissions data and trends, relevant air monitoring data and trends, SO<sub>2</sub> monitoring data incorporated with local meteorological data, as well as available modeling information in order to make its determination under CAA section 179(c)(1).

The EPA finds that the analysis of multiple types of air-quality related information supports our determination and is consistent with section 179(c)(1)'s direction to determine the area's air quality as of the attainment date. Further detail on EPA's weight-of-evidence analysis is contained in the NPRM and TSD included in the docket for this action.

As discussed in the NPRM and in the TSD, we find that the weight of the available evidence indicates that the Muscatine area attained the 2010 1-hour SO<sub>2</sub> NAAQS in the 2015–2017