public inspection at the (Facility Name) during normal office hours.''

(ii) *Appeal rights.* If the USPS-operated retail facility subject to discontinuance is a post office, the Final Determination must include the following notice: ''Pursuant to Public Law 94–421 (1976), this Final Determination to (close) (consolidate) the (Facility Name) may be appealed by any person served by that office to the Postal Regulatory Commission, 901 New York Avenue, NW., Suite 200, Washington, DC 20268–0001. Any appeal must be received by the Commission within 30 days of the first day this Final Determination was posted. If an appeal is filed, copies of appeal documents prepared by the Postal Regulatory Commission, or the parties to the appeal, must be made available for public inspection at the (Facility Name) during normal office hours.''

(3) *Disapproval.* The responsible Headquarters Vice President or a designee may disapprove the proposed discontinuance and return it and the record to the District Manager with written reasons for disapproval. The District Manager or a designee must post, in each affected USPS-operated retail facility where the proposal was posted under paragraph (d)(1) of this section, a notice that the proposed closing or consolidation has been determined to be unwarranted.

(4) *Return for further action.* The responsible Headquarters Vice President or a designee may return the proposal of the District Manager with written instructions to give additional consideration to matters in the record, or to obtain additional information. Such instructions must be placed in the record.

(5) *Public file.* Copies of each Final Determination and each disapproval of a proposal by the responsible Headquarters Vice President must be placed on file in the Postal Service Headquarters library.

(g) *Implementation of final determination*—(1) *Notice of final determination to discontinue USPS-operated retail facility.* The District Manager must:

(i) Provide notice of the Final Determination by posting a copy prominently in the USPS-operated retail facilities in each affected USPS-operated retail facilities where the proposal was posted under paragraph (d)(1) of this section, including the USPS-operated retail facilities likely to be serving the affected customers. The date of posting must be noted on the first page of the posted copy as follows: ''Date of posting.''

(ii) Ensure that a copy of the completed record is available for public inspection during normal business hours at each USPS-operated retail facility where the Final Determination is posted for 30 days from the posting date.

(iii) Provide copies of documents in the record on request and payment of fees as noted in chapter 4 of Handbook AS–353, *Guide to Privacy, the Freedom of Information Act, and Records Management.*

(2) *Implementation of determinations not appealed.* If no appeal is filed, the official closing date of the office must be published in the *Postal Bulletin* and effective, at the earliest, 60 days after the first day that Final Determination was posted. A District Manager may request a different date for official discontinuance in the Retail Change Announcement document submitted to the responsible Headquarters Vice President or a designee. However, the USPS-operated retail facility may not be discontinued sooner than 60 days after the first day of the posting of the notice required by paragraph (g)(1) of this section.

(3) *Actions during appeal*—(i) *Implementation of discontinuance.* If an appeal is filed, only the responsible Headquarters Vice President may direct a discontinuance before disposition of the appeal. However, the USPS-operated retail facility may not be permanently discontinued sooner than 60 days after the first day of the posting of the notice required by paragraph (g)(1) of this section.

(ii) *Display of appeal documents.* The Office of General Counsel must provide the District Manager with copies of all pleadings, notices, orders, briefs, and opinions filed in the appeal proceeding.

(A) The District Manager must ensure that copies of all these documents are prominently displayed and available for public inspection in the USPS-operated retail facilities where the Final Determination was posted under paragraph (g)(1)(i) of this section. If the operation of that USPS-operated retail facility has been suspended, the District Manager must ensure that copies are displayed in the USPS-operated retail facilities likely to be serving the affected customers.

(B) All documents except the Postal Regulatory Commission's final order and opinion must be displayed until the final order and opinion are issued. The final order and opinion must be displayed at the USPS-operated retail facility to be discontinued for 30 days or until the effective date of the discontinuance, whichever is earlier. The final order and opinion must be displayed for 30 days in all other USPS-operated retail facilities where the Final Determination was posted under paragraph (g)(1)(i) of this section.

(4) *Actions following appeal decision*—(i) *Determination affirmed.* If the Commission dismisses the appeal or affirms the Postal Service's determination, the official closing date of the office must be published in the Postal Bulletin, effective anytime after the Commission renders its opinion, if not previously implemented under § 241.3(g)(3)(i). However, the USPS-operated retail facility may not be discontinued sooner than 60 days after the first day of the posting of the notice required under § 241.3(g)(1).

(ii) *Determination returned for further consideration.* If the Commission returns the matter for further consideration, the responsible Headquarters Vice President must direct that either:

(A) Notice be provided under paragraph (f)(3) of this section that the proposed discontinuance is determined not to be warranted or

(B) The matter be returned to an appropriate stage under this section for further consideration following such instructions as the responsible Headquarters Vice President may provide.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 2011–17529 Filed 7–13–11; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2010–1083; FRL–9434–7]

Finding of Substantial Inadequacy of Implementation Plan; Call for Iowa State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Pursuant to the Environmental Protection Agency's (EPA) authority in the Clean Air Act (CAA or Act), section 110(k)(5), to call for plan revisions, EPA is making a finding that the Iowa State Implementation Plan (SIP) is substantially inadequate to maintain the 2006 24-hour National Ambient Air Quality Standard (NAAQS) for Fine Particulate Matter ($PM_{2.5}$) in Muscatine County, Iowa. The specific SIP deficiencies needing revision are described below. EPA is also finalizing

a timeline for Iowa to revise its SIP to correct these deficiencies by a date which is no later than 18 months after the effective date of this rule.

DATES: This final rule is effective on August 15, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2010–1083. All documents in the docket are listed on the *http://www.regulations.gov* Web site.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information 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 *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Steven Brown at (913) 551–7718 or by e-mail at *brown.steven@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

I. What action is EPA taking?
II. What is the background of this action?
III. How can Iowa correct the inadequacy and when must the correction be submitted?
IV. What are EPA's comment responses?
V. What action is EPA taking?

I. What action is EPA taking?

EPA is finding that the Iowa SIP is substantially inadequate to maintain the 2006 24-hour NAAQS for $PM_{2.5}$ in Muscatine County, Iowa. EPA is also finalizing a timeline for Iowa to revise its SIP to correct these deficiencies by a date no later than 18 months after the effective date of this rule. EPA proposed this rule on February 2, 2011 (76 FR 9706). EPA received comments from the State of Iowa Department of Natural Resources (IDNR), the Iowa Environmental Council, and 15 Iowa citizens. A summary of these comments on the proposed rule and EPA's responses are found in Section IV. EPA's finding is based on complete, quality-assured, quality controlled and certified ambient monitoring data from the 2007–2009 monitoring period. Based on the 2010 monitoring data in Iowa's Certification Request, the Muscatine area continues to violate the 2006 24-hour $PM_{2.5}$ standard based on the 2008–2010 monitoring data with a design value of 37 micrograms per cubic meter ($\mu g/m^3$).

II. What is the background of this action?

EPA promulgated the 2006 24-hour NAAQS for $PM_{2.5}$ on October 17, 2006 (71 FR 61144) based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to fine particulate matter. The 2006 standard for 24-hour $PM_{2.5}$ was set at a level of 35 µg of particulate matter less than 2.5 micrometers (µm) in diameter, per cubic meter of air. The standard is met when the 3-year average of the 98th percentile of 24-hour concentrations is equal to or less than 35 $\mu g/m^3$. The computation of this 3-year average of the 98th percentiles of 24-hour concentrations is commonly referred to as the design value and is based on the most recent three years of quality assured data.

Section 110(a)(2)(B) requires each state to establish and operate appropriate devices, methods, systems and procedures necessary to monitor, compile and analyze data on ambient air quality. Pursuant to this authority, the state maintains a network of air quality monitors for $PM_{2.5}$ in accordance with 40 CFR Part 58 which meets applicable requirements. Monitors called State or Local Air Monitoring Stations (SLAMS) make up the ambient air quality monitoring sites whose data are primarily used for determining compliance with the NAAQS.

In accordance with section 107(d)(1)(B) of the CAA, no later than 2 years after promulgation of a new or revised NAAQS, the Administrator must designate all areas, or portions thereof, within each state as nonattainment, attainment or unclassifiable. This process is commonly referred to as the ''designations process.''

With respect to all pollutants, including $PM_{2.5}$, if monitoring data demonstrates that an area does not comply with the NAAQS, or contributes to a violation in a nearby area, that area is designated as nonattainment. If monitoring data demonstrates that an area complies with the NAAQS, and the area does not contribute to air quality problems in nearby areas that do not comply with the NAAQS, the area is designated attainment. If there is not enough information to determine if an area is compliant with the NAAQS it is designated as unclassifiable. On November 13, 2009, EPA promulgated its final designations for the 2006 24-hour $PM_{2.5}$ standards (74 FR 58688). These designations were determined based upon air quality monitoring data for calendar years 2006–2008 (which were the most recent three years of data prior to the initial designations). The entire State of Iowa was designated as unclassifiable/attainment (74 FR 58729) at that time based on that set of data.

On May 20, 2010, the State submitted certified SLAMS monitoring data, for calendar year 2009, in accordance with 40 CFR Part 58. When determining the design value for the current 24-hour $PM_{2.5}$ standard based upon air quality monitoring data for calendar years 2007–2009, EPA concluded that a monitor in the Muscatine area recorded data violating the standard. The monitor (site ID# 191390015) is located in the City of Muscatine, Muscatine County, Iowa, and is the only $PM_{2.5}$ SLAM station in the county. The SLAM stations make up the ambient air quality monitoring sites that are primarily needed for NAAQS comparisons. Site ID# 191390015 is often referred to as the ''Garfield School'' monitor and will be referred to as such in this rulemaking. The 2007–2009 design value for the Garfield School monitor is 38 $\mu g/m^3$. Historically, the Garfield School monitoring location has recorded fluctuating $PM_{2.5}$ values very near or above the NAAQS. Historical values are shown in Table 1. The monitoring data in Iowa's Certification Request for 2010 indicates that the Muscatine area continues to violate the 2006 24-hour standard based on 2008–2010 monitoring data.

The area was not designated nonattainment at the time of EPA's initial designations rulemaking for the 2006 24-hour $PM_{2.5}$ standard in 2009, because, at that time, available certified monitoring data demonstrated that the design value was compliant with the standard.

TABLE 1—HISTORICAL DESIGN VALUES AT THE GARFIELD SCHOOL MONITOR

Monitoring years	Design value
2001–2003	35
2002–2004	35
2003–2005	38
2004–2006	34
2005–2007	36
2006–2008	35
2007–2009	38

TABLE 1—HISTORICAL DESIGN VALUES AT THE GARFIELD SCHOOL MONITOR—Continued

Monitoring years	Design value
2008–2010	37

Section 110(k)(5) of the CAA provides, in relevant part, that ''[w]henever the Administrator finds that the applicable implementation plan for an area is substantially inadequate to attain or maintain the relevant national ambient air quality standard, * * * the Administrator shall require that state to revise the plan as necessary to correct such inadequacies.''

Because monitor data in the Muscatine area show violations of the 2006 24-hour $PM_{2.5}$ standard, based upon 2007–2009 data, and have shown violations of the standard in the past (based upon 2005–2007 data), EPA has determined that the SIP is substantially inadequate to maintain the 2006 24-hour NAAQS for $PM_{2.5}$ in this area. EPA received no comments on the monitoring data or proposed finding of substantial inadequacy. Accordingly, EPA is finalizing the proposed action and Iowa must revise the SIP as described herein.

III. How can the State correct the inadequacy and when must the correction be submitted?

The State must submit several specific plan elements to EPA in order to correct the inadequacy of the SIP identified above. These specific elements are: (1) A revised emissions inventory for all sources (including area sources, mobile sources and other significant sources) that could be expected to contribute to the violating monitor because of their size, proximity, or other relevant factors consistent with 40 CFR 51.114(a); (2) a modeling demonstration consistent with Appendix W to 40 CFR part 51 showing what reductions will be needed to attain and maintain the $PM_{2.5}$ NAAQS in the area; (3) adopted measures to achieve reductions determined necessary to attain and maintain the NAAQS, with enforceable schedules for implementing the measures as expeditiously as practicable; and (4) contingency measures as described below.

The Muscatine area is currently designated as attainment of the 2006 24-hour $PM_{2.5}$ standard, however, EPA finds the SIP substantially inadequate to maintain the 2006 24-hour NAAQS for $PM_{2.5,}$ due to the monitor in the Muscatine area (Garfield School) recording data violating the standard (considering 2007–2009 monitoring data). In this instance, the CAA requirements relating to nonattainment areas are not expressly applicable. Therefore, consistent with the general SIP requirements in section 110 of the CAA, and as discussed in the February 2, 2011, proposed SIP Call. (76 FR 9706), EPA is requiring a SIP revision which includes adopted measures to achieve reductions determined necessary to attain and maintain the NAAQS, as well as contingency measures, as described below.

Consistent with the February 2, 2011, proposal, all adopted measures to achieve reductions, determined through the modeling demonstration to be necessary to attain and maintain the 2006 24-hour $PM_{2.5}$ standard, should be implemented no later than two years after the issuance of this final SIP Call. EPA believes that this schedule is reasonable, because IDNR has already performed a substantial portion of its analysis of the nature of the $PM_{2.5}$ problem in the area and the types of controls which might be necessary to address the problem.

EPA believes that it is reasonable to expect that the 98th percentile value for the calendar year after the necessary controls are implemented should be at or below the 24-hour $PM_{2.5}$ standard. Contingency measures will be triggered if that value is above the standard in the calendar year after the implementation of controls necessary for attainment, or in any subsequent year. The SIP revision must contain an enforceable commitment to adopt and implement sufficient contingency measures, once triggered, in an expeditious and timely fashion that is comparable and analogous to requirements for contingency measures in CAA section 175A(d). To do so, the SIP revision should clearly identify measures which could be timely adopted and implemented, a schedule and procedure for adoption and implementation, and a specific time limit for action by the State. The schedule for adoption and implementation should be as expeditious as practicable, but no longer than 24 months after being triggered.

Section 110(k)(5) of the CAA provides that after EPA makes a finding that a plan is substantially inadequate, it may establish a reasonable deadline for the State to submit SIP revisions correcting the deficiencies, but the date cannot be later than 18 months after the State is notified of the finding. Consistent with this provision, EPA is requiring the submittal within 18 months following the final finding of substantial inadequacy. The 18-month period begins on the effective date of this rule.

This rule requires the State to establish a specific date in its SIP revision by which the Muscatine area will attain the standard. The date must be as expeditiously as practicable based upon implementation of Federal, State and local measures. As discussed previously, we expect that the date for attainment (for the purpose of this rule, the date by which the 98th percentile 24 hour $PM_{2.5}$ value must be at or below 35 $\mu g/m^3$) will be the first full calendar year following the required implementation of controls. In this case, the date will be the first full calendar year which begins after the two year anniversary of the effective date of this rule. EPA will establish a specific date for attainment at the same time it takes final action on the State's implementation plan revision in response to this final SIP Call. Notwithstanding the date for attainment, the 2006 24-hour $PM_{2.5}$ standard can only be achieved when the average of three consecutive years of data show those $PM_{2.5}$ concentrations are at or below the levels of the 2006 24-hour standard.

IV. What is EPA's response to comments?

As stated above, on February 22, 2011, EPA proposed to find that the Iowa SIP was substantially inadequate to maintain the 2006 24-hour $PM_{2.5}$ NAAQS (76 FR 9106). EPA received 17 comments on the proposed rule. We note that all of the comments related to the proposed remedy (the timing and content of the SIP to be required as a result of the SIP call). EPA received no comments on the underlying proposed finding of substantial inadequacy and we are finalizing that finding on the basis of the rationale stated in EPA's February 2, 2011, proposal and in section II, above. Below we set forth a summary of the comments regarding the proposed remedy and EPA's responses:

Comment 1: Fifteen citizens commented that the new SIP should be completed in less than 18 months.

Response: The CAA section 110(k)(5) requires that whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant NAAQS, the Administrator shall require the state to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the state of the inadequacies and may establish reasonable deadlines (not to exceed 18 months after the date of such notice) for the submission of such plan revisions. EPA believes the 18 month deadline for Iowa to submit its revised SIP is appropriate.

In order to revise the SIP, the State must conduct modeling; analyze the modeling; and determine what emission reductions are needed and the appropriate emission controls to achieve those reductions. The rulemaking process includes the opportunity for the public to comment on the proposed SIP revisions, including the proposed emission controls, at the State level. Once the public has been given adequate opportunity to submit comments, the State must respond to those comments, finalize its plan, and then submit it to EPA for review and approval. In order to have a complete submittal for EPA review, the State must ensure EPA that all of the requirements in 40 CFR part 51, Appendix V are met, including for example, a control strategy demonstration with adequate justification which has been fully vetted through the public process.

As described above, the process for developing and finalizing the State's plan can take a significant amount of time, much of which is used to allow the public (as well as affected sources) time to comment on the proposal. Therefore, EPA has determined that the 18 month timeframe is reasonable for submission of the plan.

Comment 2: Fourteen citizens commented that the adopted measures to achieve reductions determined necessary to attain and maintain the 2006 24-hour $PM_{2.5}$ NAAQS should be implemented in less than two years.

Response: As stated in the response to Comment 1, section 110(k)(5) of the CAA requires the State to submit a revised SIP to EPA within 18 months of the date of this action, and EPA has determined that the 18 month deadline is reasonable for submission of the SIP. If, as anticipated, IDNR cannot complete the SIP sooner than 18 months after this final action, sources would then be required to implement controls within 6 months after the revised SIP has been developed and submitted. As discussed above, the State and affected sources will not know which specific controls will be required until the SIP has gone through the State rulemaking process, including opportunity for public comment. Depending on the nature of the final controls selected, it may not be reasonable to establish a deadline shorter than two years after EPA promulgates the final SIP call rule. In the proposal EPA stated that this two year deadline is an outside date, and that compliance with the control strategy necessary to achieve the standard should be as expeditious as practicable, but no later than that date. If, during the SIP development process, the State or EPA determines that compliance can be achieved earlier than the two year outside date, then compliance would be required by the earlier date. Therefore, EPA has determined that this deadline is reasonable.

Comment 3: Two citizens commented regarding the health effects of high levels of air pollution in Muscatine. One commenter states that Muscatine residents experience high incidences of lung disease, cardiac problems, renal and other serious life threatening illnesses, as well as death that may be caused by ''air toxicants'' including $PM_{2.5}$ and sulfur dioxide (SO_2).

Response: EPA acknowledges the health effects of high levels of $PM_{2.5}$ and SO_2. The adverse health effects of the high concentrations of these pollutants are the primary considerations EPA takes into account when setting the NAAQS levels. The primary NAAQS levels are intended to be protective of human health. EPA has determined that the Muscatine area is not meeting the current 24-hour NAAQS for $PM_{2.5}$ and, therefore, the current level of air quality is not protective of human health. This action will help ensure that the Muscatine area air quality returns to levels of $PM_{2.5}$ concentrations that are protective of human health.

EPA is also addressing air quality issues related to SO_2 through the new NAAQS standard promulgated on June 22, 2010, by EPA (72 FR 35520). The attainment status of the Muscatine area with respect to the SO_2 one-hour NAAQS is yet to be determined. Nonattainment areas will be required to develop plans addressing the CAA nonattainment area requirements for SO_2. In the preamble to the rule, EPA also describes how most areas not designated as nonattainment for the SO_2 NAAQS will be required to develop a plan to maintain the standard (72 FR 35520, 35552–35554). Therefore, the State will also need to address SO_2 emissions in the Muscatine area in implementing the applicable requirements for the SO_2 NAAQS.

Comment 4: Two citizens commented on the emissions seen at or near Grain Processing Corporation (GPC). A commenter stated that residents who live near GPC must either stay indoors or be exposed to air pollutants when the boilers are fired.

Response: As a result of this action, IDNR is required to submit a SIP that will demonstrate how the Muscatine area will reach attainment of the health-based $PM_{2.5}$ NAAQS. As part of the SIP development, Iowa will conduct an analysis of the sources contributing to exceedances of the standard, which will include GPC. The State will require emissions reductions from contributing sources sufficient to bring the area back into attainment with the health-based PM NAAQS. Further opportunity for public review of the State's plan will be provided by the State and EPA.

Comment 5: One citizen commented on the exceedances of the ambient air monitors at the Garfield monitor noting ongoing exceedances of the standard.

Response: As explained in Section II, EPA has analyzed the historical and current monitoring data and has reached the conclusion that the area is not achieving the standard. EPA agrees that the Garfield monitor has shown exceedances of the 2006 24-hour $PM_{2.5}$ standard. EPA is taking this action to address the resulting violations of the NAAQS to bring the Muscatine area into attainment.

Comment 6: IDNR commented that EPA should be more flexible regarding the modeling demonstration required as part of the SIP. IDNR stated that the modeling requirement for this SIP call should allow for the use of the modeling protocol developed by Iowa as well as future EPA guidance and procedures that may not be part of Appendix W.

Response: The proposed rule states that the modeling demonstration should be consistent with Appendix W. EPA does not read this language as precluding the use of Iowa's modeling protocol and any future guidance. Appendix W provides the guidelines to establish the modeling protocol and specifically allows for the use of alternative models. 40 CFR part 51, Appendix W, Section 3.2. EPA will approve the use of alternatives if appropriate and adequately justified. Any future guidance will be addressed at the time it is issued.

Comment 7: IDNR commented that it is not reasonable to expect that the design value during the calendar year after the necessary controls are implemented should be at or below the 24-hour $PM_{2.5}$ standard. Further, IDNR commented that the determination that the attainment date has been met should be based on data representative of conditions after the implementation of controls. IDNR also commented that the attainment date should be determined within two years following the implementation of controls and should be assessed using the 98th percentile concentrations. IDNR stated that if the 98th percentile concentrations for the first and second calendar years after controls are implemented are below the level of the NAAQS, a deferment or extension of the attainment date should occur, even if the design value is over the standard.

Response: EPA believes it is reasonable to expect the monitored values in the area to be below the level of the NAAQS in the year after installation of controls. IDNR has already done a substantial analysis of air quality and the sources that contribute to the $PM_{2.5}$ problems in the area. The modeling should identify all of the emissions reductions which are necessary to attain the standard. The SIP should also identify the controls which will result in the required emissions reductions. As discussed in Section III, above, the date for implementation of controls should be two years after the effective date of this final rule (in 2013), and the date for attainment will be the first full calendar year following the required implementation of controls, i.e. 2014. For clarification, the calculation of this value would only consider the air quality data in the calendar year after the controls are fully implemented, and thus would not include the data from the previous two years (prior to controls, i.e. 2012 and 2013). In other words, in the year after implementation of controls (2014), the 98th percentile of 24-hour concentrations should be equal to or less than 35 $\mu g/m^3$.

This action is a SIP Call under section 110(k)(5). The area has not yet been designated as nonattainment and therefore, there is no statutory process for extending the ''attainment date.'' Through this action, EPA is setting forth a date by which the area must meet the NAAQS standard.

Comment 8: IDNR commented that because Muscatine is not currently designated as a nonattainment area, therefore, it is not clear why contingency measures analogous to those specified in CAA section 175A(d) are appropriate for the area.

Response: Although this area is not designated as a nonattainment area, the area currently is not attaining the NAAQS, and appears in the past to have gone in and out of attainment. EPA is taking this action to call for a SIP which includes a control strategy to ensure that the area attains and then continues to maintain the standard. To ensure that the area continues to maintain the standard in the future, EPA has concluded that the State must develop contingency measures which would address any future violations after the control strategy to achieve attainment has been successfully implemented. The proposed rule states that the SIP submission must contain an enforceable commitment to adopt and implement sufficient contingency measures, once triggered (i.e., once the 98th percentile of 24-hour concentrations for a particular year exceeds 35 $\mu g/m^3$), in an expeditious and timely fashion that is comparable and analogous to requirements for contingency measures in CAA section 175A(d). EPA did not state or intend to imply that section 175A(d) is literally applicable to the Muscatine area, but rather provided that IDNR follow 175A(d) as a guide for developing and implementing its contingency measures. Contrary to commenter's contention, section 175A(d) contingency measures are not designed for implementation in nonattainment areas, but rather for implementation after areas have been redesignated to attainment. In other contexts as well, EPA has looked to section 175A as a guide for attainment area maintenance plan contingency measures. For example, EPA used section 175A(d) as a model for maintenance plan contingency measures for certain areas designated attainment for the 1997 8-hour ozone standard, see Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act,* May 20, 2005 and attainment area section 110(a)(1) maintenance plans following this guidance. Thus EPA's invocation of section 175A(d) with respect to the Muscatine area is consistent with the purpose of that section and EPA's past practice. EPA did not receive comments on whether any additional contingency measure triggers would be appropriate, or whether contingency measures should be adopted in advance and implemented automatically once triggered. Therefore, EPA is adopting its proposed approach and requiring that the SIP submission include contingency measures using 175A(d) as a guide in developing the measures. The specific requirements for contingency measures for this plan are described in section III, above.

Comment 9: The Iowa Environmental Council (IEC) commented that EPA should issue its final SIP call at the earliest possible date so that corrective actions can be put into practice quickly. IEC also commented on the health effects of high levels of $PM_{2.5}$ in the Muscatine area. Finally, the commenter stated that it is imperative that IDNR assure that Muscatine reduces its $PM_{2.5}$ concentrations and prove that these reductions can at last be maintained in the long run.

Response: See responses to comments 1, 3, and 8 above.

V. What actions is EPA taking?

EPA is taking the following actions relating to the Iowa SIP for $PM_{2.5}$ for Muscatine County. EPA:

1. Finds that the SIP is substantially inadequate to maintain the NAAQS for 24-hour $PM_{2.5}$ in the area;

2. Requires that Iowa revise and submit to EPA a SIP to meet all of the applicable requirements of section 110 of the Act with respect to $PM_{2.5}$ in the area, including an emissions inventory, modeled attainment demonstration, adopted control measures and contingency measures as described in EPA's February 2, 2011, proposal;

3. Requires the State to submit revisions to the SIP within 18 months of the effective date of this rule;

4. Requires that all adopted measures to achieve reductions determined necessary to attain and maintain the 2006 24-hour $PM_{2.5}$ standard be implemented no later than two years after the issuance of this rule;

5. Requires that the SIP provide for attainment and maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in the Muscatine County, Iowa area as expeditiously as practicable, beginning (as described in response to Comment 7) no later than the calendar year after the implementation of controls necessary for attainment (two years after the effective date of this rule).

Statutory and Executive Order Reviews

Under the CAA, a finding of substantial inadequacy and subsequent obligation for a State to revise its SIP arise out of section 110(a) and 110(k)(5). The finding and State obligation do not directly impose any new regulatory requirements. In addition, the State obligation is not legally enforceable by a court of law. EPA would review its intended action on any SIP submittal in response to the finding in light of applicable statutory and Executive Order requirements, in subsequent rulemaking acting on such SIP submittal. For those reasons, this rule:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive

Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the finding of SIP inadequacy would not apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 12, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

Statutory Authority

The statutory authority for this action is provided by sections 110 and 301 of the CAA, as amended (42 U.S.C. 7410 and 7601).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Iowa, Particulate matter, State implementation plan.

Dated: June 28, 2011.

Karl Brooks,

Regional Administrator, Region 7.

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