Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate, or to private sector, of $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under state or local law and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 4, 1997.

Michael J. Sanderson,

Acting Regional Administrator.

[FR Doc. 97–21695 Filed 8-14-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 031–1031; FRL–5875–5]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the State Implementation Plan (SIP) submitted by the state of Iowa to achieve attainment of the primary National Ambient Air Quality Standard (NAAQS) for sulfur dioxide (SO_2) for Muscatine County, Iowa. The SIP was submitted to satisfy the requirements of section 110 and part D of title I of the Clean Air Act (Act), and regulates certain sources of SO_2 emissions in Muscatine, Iowa. The effect of the EPA's proposed action is to make this revision to the Iowa SIP federally enforceable.

DATES: Comments must be received on or before September 15, 1997.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION:

I. Background

On March 10, 1994, the EPA published a document in the **Federal Register** (59 FR 11193) designating a portion of Muscatine County, Iowa, nonattainment for SO_2. Additional information on the events leading to nonattainment designation are contained in the Technical Support Document (TSD) which accompanied that document.

Areas designated nonattainment are subject to section 110 and part D of title I of the Act. On June 13, 1996, and April 25, 1997, the state of Iowa submitted information satisfying these requirements. An evaluation of the adequacy of this submittal with the Federal requirements is discussed below.

II. Description and Analysis of State Submittal

In 1991 and 1992 there were violations of the primary SO_2 NAAQS at one of three state air monitors in Muscatine, Iowa. This resulted in designation of a portion of Muscatine County as nonattainment in 1994. The state determined that there were two major emission sources contributing to the violations of the NAAQS. They were Grain Processing Corporation (GPC), a wet grain milling facility, and Muscatine Power and Water (MPW), a municipal power plant. In the course of modeling the impacts of these emission sources, it was also determined that a third source, Monsanto Corporation, contributed to a modeled violation of the SO_2 NAAQS in the vicinity of its own facility.

The state of Iowa's Department of Natural Resources negotiated emission reductions with GPC, MPW, and Monsanto. The reductions were incorporated into revised construction permits. These permits have been submitted as a part of the section 110 SIP revision and thus will be federally enforceable when approved by the EPA.

The normal process for establishing a control strategy for an area where a NAAQS violation has occurred is to conduct an air dispersion modeling analysis to determine the degree of emissions reductions required by the sources contributing to the monitored violations.

The NAAQS violations occurred at the Musser Park monitor, which is located north of and nearest to the GPC facility. Two additional monitors, one located further north of the sources, and one located to the south near MPW, have never recorded any violations of the NAAQS.

Dispersion modeling performed by the state using the EPA's Industrial Source Complex (ISC) model significantly under predicted monitored values at the Musser Park monitor, but was highly accurate at the other downwind monitoring site. Consequently, the state initially used an alternative methodology, roll-back analysis, to estimate emission rates needed to attain the NAAQS at the Musser Park monitoring site. A roll-back analysis takes a monitored ambient exceedance recorded during a specific set of facility operating conditions and determines the amount of the exceedance due to each of the source's SO_2 emitting operations in use at that time. The estimates are then linearly ''rolled back'' to acceptable SO_2 emission limits which provide for attainment of the NAAQS under that set of operating conditions. Ultimately, the state, GPC, and MPW negotiated reductions of allowable emissions of 24 percent and 60 percent, respectively, and reductions of actual emissions of 4 percent and 13 percent, respectively. These emission reductions were incorporated into revised construction permits for each source. These permits are proposed for approval as part of this

SIP revision and thus will be federally enforceable. The TSD for this action contains further information on the modeling analysis and the establishment of the final emission limits.

Although the ISC model was not sufficiently accurate to be the basis for the control strategy at GPC and MPW, it was judged to be reliable for predicted emissions in the vicinity of the Monsanto facility. Modeling here indicated one small area of nonattainment on plant property to which the public had access. Monsanto agreed to accept emission limits and operating conditions in its permits to eliminate the modeled exceedances of the SO_2 NAAQS.

The emission limits imposed upon the sources are contained in the following permits:

GPC Permits dated September 18, 1995: #95-A–374; Boilers 1,2,3,5,6,7, #74-A–015-S; Source 97, Wet Milling No. 3 Germ Drier, #79-A–194-S; Source 15, Wet Milling Nos. 1 and 2 Germ Driers, #79-A–195-S; Source 126, Wet Milling No. 4 Germ Drier. Permit #95-A–374 contains the requirement for the installation of a continuous emission monitor (CEM) on the stack servicing the permitted boilers.

MPW Permits dated September 14, 1995: #74-A–175-S; Boiler 7, #95-A–373; Boiler 8. Permit #74-A–175 requires the installation of a CEM on boiler stack 7. The CEMs provide for continuous measurement of SO_2 emissions and the subsequent determination of compliance with the permit emission limits. All permits contain the state's standard notification, recordkeeping, and reporting requirements.

Monsanto Permits dated July 18, 1996: #76-A–265-S3; B–6 Boiler, and #76-A–161-S3; B–7 Boiler.

III. Nonattainment Plan Provisions (Part D, Section 172(c))

The following discusses how the submission complies with the pertinent provisions of the General Preamble for Implementation of title I of the 1990 Amendments and the *SO_2 Guideliine Document*, as well as section 172(c) of the Act, which sets forth the requirements for part D SO_2 SIPs.

Section 172(c)(1)—In General. The plan complies with the requirements to implement reasonably available control measures by providing for expeditious attainment of the SO_2 NAAQS through the emission limits imposed on the sources by enforceable permits.

Section 172(c)(2)—Reasonable Further Progress (RFP). Section 171(l) of the amended Act defines RFP as ''such annual incremental reductions in emissions of the relevant air pollutant as are required by (part D) or may reasonable be required by the EPA for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.'' As discussed in the General Preamble for SO_2 (57 FR 13547), there is usually a single ''step'' between precontrol nonattainment and postcontrol attainment. Therefore, for SO_2, with its discernible relationship between emissions and air quality and significant and immediate air quality improvement, RFP is construed as ''adherence to an ambitious compliance schedule.''

The state has met the requirement to implement reasonably available control measures and RFP by providing for expeditious attainment of the SO_2 NAAQS through the establishment of emissions limits and operating restrictions imposed on the sources by the state construction permits submitted as part of the state plan. Implementation plans required under section 191(a) shall provide for attainment as expeditiously as practicable but no later than five years from the date of the nonattainment designation, in this case by March 1999. However, the state permits required compliance (and attainment) by March 15, 1996. The sources met this compliance date, and the EPA believes that this date was as expeditious as practicable.

Section 172(c)(3)—Inventory. This section of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. The emission inventory also should include a comprehensive, accurate, and current inventory of allowable emissions in the area.

A detailed emission inventory was included in the state—s submittal. In order to better quantify actual emission from the 100 ''nontraditional'' sources at GPC, source testing was conducted on two occasions on a number of representative emission points. In addition to the four major sources in the area, an emissions inventory was obtained for modeling purposes from three additional minor sources in Muscatine, and from 36 sources outside of Muscatine but within 50 kilometers.

Section 172(c)(5)—Permits for New and Modified Major Stationary Sources. Section 172(c)(5) and section 173 of the amended Act contains SIP requirements for state construction permitting programs. Any new or modified major stationary source constructed in a nonattainment area must comply with the state submitted and federally approved New Source Review (NSR) Program. The state has an approved NSR program. However, revisions were required to make the state rules compliant with the 1990 Amendments. The state adopted revisions and the EPA approved them in **Federal Register** documents dated June 23, 1995, and October 30, 1995. The EPA action proposing approval of the state's emission offset rule has been published and a final action is pending.

Section 172(c)(6)—Other Measures. This section states that SIP provisions shall include enforceable emission limitations, and such other control measures, means or techniques, as well as schedules and timetables for compliance as may be necessary, to provide for attainment by the applicable attainment date.

The state SIP provides for expeditious attainment of the SO_2 NAAQS through the emission limits and operating restrictions that are set forth in the permits issued by the state. The emission reductions contained in these documents should ensure that the area continues to attain the NAAQS.

Section 172(c)(7)—Compliance with Section 110(a)(2). This section contains general requirements for nonattainment plans. The state has met these requirements. The SIP contains enforceable permits which ensure attainment of the NAAQS. The state has committed to continue its existing ambient monitoring network; it has an approved parts C and D permit program (final approval of the state's emission offset rule is pending); and it has authority to prevent construction of a source which will contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to the NAAQS. It also has demonstrated it has adequate personnel, funding, and authority under state law to carry out the provisions of the SIP. With respect to section 110(a)(2)(K), under which the EPA generally requires modeling in the case of SO_2 and other pollutants (to demonstrate attainment as required by other provisions of section 110(a) and part D), the EPA notes that the ISC model used by the state has been shown to under predict ambient SO_2 concentrations at the Musser Park monitor on known exceedance days. Therefore, as described in more detail above, a negotiated reduction of the permitted emission limits was established.

Section 172(c)(8)—Equivalent Techniques. This section provides that

the EPA may allow the state to use equivalent modeling, emission inventory, and planning procedures in its SIP unless the EPA determines they are less effective than procedures approved by the Administrator. Since attainment of the SO_2 NAAQS could not be demonstrated for all portions of the nonattainment area by modeling (for technical reasons described above and in more detail in the TSD), reductions in both allowable and actual limits were determined for the affected sources based generally on rollback calculations. The EPA believes that this procedure is no less effective than other procedures approved by the Administrator since it results in enforceable reductions in both potential and actual emissions. In addition, although not a basis for approval of the attainment demonstration, the EPA notes that no monitored violations of the NAAQS have been recorded since the reductions have been implemented.

Section 172(c)(9)—Contingency Measures. For SO_2 programs, the EPA interprets ''contingency measures'' to mean that the state agency has a comprehensive program to identify sources of violations of the SO_2 NAAQS and to undertake an aggressive follow-up for compliance and enforcement, including expedited procedures for establishing enforceable consent agreements pending adoption of revised SIPs.

The state has a comprehensive program to identify sources of violations of the SO_2 NAAQS and to undertake an aggressive follow-up for compliance and enforcement. The state has statutory authority to address any exceedances and resultant violations of the NAAQS that may be identified.

The state will continue to maintain the network of the three SO_2 ambient air monitoring stations in the nonattainment area. The state is committed to quickly identifying when exceedances occur and evaluating which sources may be contributing to such occurrences. Direct source monitoring, using CEMs as required in the permits issued to MPW and GPC under this plan, is designed to ensure that the emissions limitations in the permit are not exceeded. Reporting requirements established in those permits provide the state with a mechanism to consistently monitor the operations of those sources.

Section 176(c)—Conformity. The EPA promulgated final general conformity regulations on November 30, 1993. These regulations require the states to adopt general conformity provisions in the SIPs for areas designated nonattainment or subject to a maintenance plan approved under section 175A of the Act. The state submitted its general conformity SIP, which the EPA approved on October 25, 1995. The state is not subject to the transportation conformity requirements.

The state complied with the procedural requirements for submittal of SIPs pursuant to sections 110(a) and 110(l). The state provided for public notice and comment as required. The permits were approved by the Iowa Environmental Protection Commission. The SIP and related documentation was submitted by the governor's designee to the EPA on June 13, 1996, and April 25, 1997.

The SIP submittal was reviewed by the EPA to determine completeness in accordance with the completeness criteria set out in 40 CFR part 51, appendix V. The submittal was found complete and the state was so notified by an EPA letter dated July 16, 1996.

IV. Proposed Action

The EPA is proposing to approve a revision to the state SIP which incorporates emission restrictions and limitations on major SO_2 sources in Muscatine, Iowa, for the purpose of assuring attainment and maintenance of the SO_2 NAAQS. The enforceable permit conditions have been in effect since March 15, 1996. There have been no exceedances of the NAAQS since September 1995.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5. U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

Authority: 42 U.S.C. 7401–7671q.

Dated: July 24, 1997.

William Rice,

Acting Regional Administrator.

[FR Doc. 97–21696 Filed 8-14-97; 8:45 am]

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