

another section. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by March 24, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2011-0011 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov).

C. *Mail:* EPA-R03-OAR-2011-0011, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R03-OAR-2011-0011. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail

address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Irene Shandruk, (215) 814-2166, or by e-mail at [shandruk.irene@epa.gov](mailto:shandruk.irene@epa.gov).

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the same title, concerning the definition of "fuel-burning equipment," that is located in the "Rules and Regulations" section of this **Federal Register** publication. 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.

Dated: February 1, 2011.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2011-3723 Filed 2-18-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R07-OAR-2010-1083; FRL-9268-4]

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

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Environmental Protection Agency's (EPA) authority in the Clean Air Act (CAA), section 110 (k)(5), to call for plan revisions, EPA is proposing to find that the Iowa State Implementation Plan (SIP) is substantially inadequate to maintain the 2006 24-hour National Ambient Air Quality Standard (NAAQS) for PM<sub>2.5</sub> in Muscatine County, Iowa. The specific SIP deficiencies needing revision are described below. EPA is also proposing to finalize 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 the final rule.

**DATES:** Comments must be received on or before March 24, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2010-1083, by one of the following methods:

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

2. *E-mail:* [casburn.tracey@epa.gov](mailto:casburn.tracey@epa.gov).

3. *Mail:* Tracey Casburn, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. *Hand Delivery or Courier:* Deliver your comments to: Tracey Casburn, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

*Instructions:* Direct your comments to Docket ID No. EPA-R07-OAR-2010-1083. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The

<http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <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:** Tracey Casburn at (913) 551-7016 or by e-mail at [casburn.tracey@epa.gov](mailto:casburn.tracey@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 is the basis for the proposed finding?
- II. How can Iowa correct the inadequacy and when must the correction be submitted?
- III. What action is EPA proposing?
- IV. Statutory and Executive Order Reviews
- V. Statutory Authority

### **I. What is the basis for the proposed finding?**

EPA promulgated the 2006 24-hour NAAQS for PM<sub>2.5</sub> 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<sub>2.5</sub> was set at a level of 35 micrograms (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 35µg/m<sup>3</sup>. The computation of this 3-year average of the 98th percentiles of 24-hour concentrations is commonly referred to as the design value (dv) and is based on the most recent 3 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<sub>2.5</sub> 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<sub>2.5</sub>, 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<sub>2.5</sub> 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 (dv) for the current 24-hour PM<sub>2.5</sub> 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, IA, and is the only PM<sub>2.5</sub> State or Local Air Monitoring (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 proposed rulemaking. The 2007–2009 dv for the Garfield School monitor is 38 µg/m<sup>3</sup>. Historically, the Garfield School monitoring location has recorded fluctuating PM<sub>2.5</sub> values very near or above the NAAQS. Historical values are shown in Table 1. Preliminary data for 2010 indicate 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<sub>2.5</sub> standard in 2009, because, at that time, available certified monitoring data demonstrated that the dv 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

Section 110(k)(5) of the CAA provides, in relevant part, that “[w]henver 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<sub>2.5</sub> standards, based upon 2007–2009 data, and have shown violations of the standard in the past (based upon 2005–2007 data), EPA

believes the SIP is substantially inadequate to maintain the 2006 24-hour NAAQS for PM<sub>2.5</sub> in this area. Therefore, EPA proposes to require revisions to the SIP as described further below.

## II. How can Iowa correct the inadequacy and when must the correction be submitted?

EPA believes that 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<sub>2.5</sub> 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<sub>2.5</sub> standards, however, EPA is proposing to find the SIP substantially inadequate to maintain the 2006 24-hour NAAQS for PM<sub>2.5</sub>, 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, EPA is proposing to require 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.

EPA is proposing that all adopted measures to achieve reductions, determined through the modeling demonstration to be necessary to attain and maintain the 2006 24-hour PM<sub>2.5</sub> standard, should be implemented no later than two years after the issuance of the final SIP Call. EPA believes that this schedule is reasonable, because the Iowa Department of Natural Resources has already performed a substantial portion of its analysis of the nature of the PM<sub>2.5</sub> 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 design value during the calendar year after the necessary controls are implemented should be at or below the 24-hour PM<sub>2.5</sub> standard. EPA proposes that the contingency measures would be triggered if the design value is above the standard in the calendar year after the implementation of controls necessary for attainment, or in any subsequent year. EPA is proposing that the SIP revision 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. EPA also seeks comments on whether any additional contingency measure triggers would be appropriate, or whether contingency measures should be adopted in advance and available for prompt implementation once 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 proposes to require the submittal within 18 months following any final finding of substantial inadequacy. EPA proposes that the 18-month period would begin on the effective date of the final rulemaking. EPA seeks comments on the proposed deadline and on whether an alternate deadline should be established.

EPA is proposing to require 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 expeditious as practicable based upon implementation of Federal, state and local measures. As discussed previously, we expect that the date will be no later than the beginning of the calendar year after the implementation of controls necessary for attainment (two years after the finding of substantial inadequacy and SIP Call). EPA will establish a specific date for attainment at the same time it takes final action on the state's SIP revision.

Notwithstanding the date for attainment, the 2006 24-hour PM<sub>2.5</sub> standard can only be achieved when the average of three consecutive years of data shows those PM<sub>2.5</sub> concentrations are at or below the levels of the 2006 24-hour standard.

## III. What action is EPA proposing?

EPA proposes the following actions relating to the Iowa SIP for PM<sub>2.5</sub> for Muscatine County. EPA proposes to:

1. Find that the SIP is substantially inadequate to maintain the NAAQS for 24-hour PM<sub>2.5</sub> in the area;
2. Require 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<sub>2.5</sub> in the area, including an emissions inventory, modeled attainment demonstration, adopted control measures and contingency measures as described in this proposal;
3. Require the state to submit revisions to the SIP within 18 months of the effective date of the final SIP Call determination;
4. Require that all adopted measures to achieve reductions determined necessary to attain and maintain the 2006 24-hour PM<sub>2.5</sub> standard be implemented no later than two years after the issuance of the SIP Call determination.
5. Require that the SIP provide for attainment and maintenance of the 2006 24-hour PM<sub>2.5</sub> NAAQS in the Muscatine County, IA area as expeditiously as practicable, which EPA expects to be no later than the beginning of the calendar year after the implementation of controls necessary for attainment (two years after the finding of substantial inadequacy and SIP Call).

We are soliciting comments on these proposed actions. Final rulemaking will occur after consideration of any comments.

## IV. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 proposed action:

- 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 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, 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.

#### V. 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, Iowa, Particulate matter, State Implementation Plan.

Dated: February 10, 2011.

**Karl Brooks,**

*Regional Administrator, Region 7.*

[FR Doc. 2011–3862 Filed 2–18–11; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Chapter I

[EPA–09–0W–2010–0976–FRL–9268–5]

RIN–2009–ZA00

### Water Quality Challenges in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary

**AGENCY:** Environmental Protection Agency.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is publishing an advance notice of proposed rulemaking (ANPR) to seek comments from interested parties on possible EPA actions to address water quality conditions affecting aquatic resources in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay Delta Estuary) in California. EPA is asking the public to consider broadly whether EPA should be taking new or different actions under its programs to address recent significant declines in multiple aquatic species in the Bay Delta Estuary. EPA is not limiting its request to actions that would require rulemaking. There may be a range of changes in EPA’s activities in the Bay Delta Estuary that would be constructive, including enforcement, research, revisions to water quality standards, etc. EPA will consider all comments before deciding what changes, if any, should be pursued. After reviewing the comments and completing its evaluation, EPA will provide the results of its review and any proposed next steps to the public. This ANPR identifies specific issues on which EPA solicits comment, including potential site-specific water quality standards and site-specific changes to pesticide regulation. In addition to the specific issues on which EPA solicits comments, EPA is interested in comments on any other aspects of EPA’s programs affecting Bay Delta Estuary aquatic resources. This notice contains a summary version of the ANPR. Information on accessing the unabridged version is included in the **SUPPLEMENTARY INFORMATION** section below.

**DATES:** Written comments must be submitted by April 25, 2011.

**ADDRESSES:** Written comments, identified by docket number EPA–R09–0W–2010–0976, may be submitted electronically at the *Federal Rulemaking Portal* (<http://www.regulations.gov>). Hard copy comments should be addressed to Erin Foresman, U.S.

Environmental Protection Agency, 75 Hawthorne Street, WTR–3, San Francisco, California 94105. See **SUPPLEMENTARY INFORMATION** for file formats and other information about filing.

*Filing Instructions:* All comments will be included in the public docket without change and will be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail.

*Regulations.gov* is an “anonymous access” system and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., confidential business information). To inspect the hard copy materials, please schedule an appointment during normal business hours with Erin Foresman, [foresman.erin@epa.gov](mailto:foresman.erin@epa.gov), (916) 557–5253.

**FOR FURTHER INFORMATION CONTACT:** Erin Foresman at U.S. Environmental Protection Agency, Region 9, Water Division, 75 Hawthorne Street, San Francisco, California 94105; [foresman.erin@epa.gov](mailto:foresman.erin@epa.gov), (916) 557–5253.

**SUPPLEMENTARY INFORMATION:** Detailed information describing the current state of Bay Delta Estuary aquatic resources, summaries of scientific knowledge regarding Bay Delta Estuary water quality stressors, and water quality regulatory and non-regulatory activities in the Bay Delta Estuary is contained in the Unabridged ANPR provided on EPA Region 9’s Web site (<http://www.epa.gov/region9/water/watershed/sfbay-delta/index.html>) and in the electronic docket available at <http://www.regulations.gov>.