

The Acting EPA Regional Administrator, Region 7, Edward Chu, signed the following notice on 10/23/2020, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version of the rule for purposes of compliance. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's govinfo website (<https://www.govinfo.gov/app/collection/fr>) and on Regulations.gov (<https://www.regulations.gov>) in Docket No. EPA-R07-OAR-2017-0416. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7]

**Air Plan Approval; Iowa; Air Quality Implementation Plan-
Muscatine Sulfur Dioxide Nonattainment Area and Start-up,
Shutdown, Malfunction SIP Call Withdrawal**

AGENCY: Environmental Protection Agency (EPA)

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision, submitted by the state of Iowa, through the Iowa Department of Natural Resources (IDNR), to the EPA on May 26, 2016, for the purpose of providing for attainment of the 2010 1-hour primary Sulfur Dioxide (SO₂) National Ambient Air Quality Standard (NAAQS) in the Muscatine County, Iowa nonattainment area (NAA). The Muscatine County NAA is comprised of a portion of the county. The EPA concludes that Iowa has appropriately demonstrated that its SIP provides for attainment with the 2010 1-hour primary SO₂ NAAQS in the NAA, and that the plan meets the other applicable requirements under the Clean Air Act (CAA or Act). As a part of approving the

attainment demonstration, the EPA is taking final action to approve into the Iowa SIP the SO₂ emissions limits and associated compliance parameters for the NAA. The EPA is also applying a policy regarding startup, shutdown, and malfunction (SSM) exemption provisions in the Iowa SIP that is consistent with the EPA's national policy. In light of this policy and the EPA's evaluation of Iowa's SIP, the EPA is withdrawing the SIP call issued to Iowa as part of the EPA's 2015 SSM SIP Action. This action is limited to the SIP call issued to Iowa and the associated evaluation of the Iowa SIP and does not otherwise change or alter the SIP call issued to other states as part of the EPA's 2015 SSM SIP Action.

DATES: This rule will become effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2017-0416. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information 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 through www.regulations.gov or

in hard copy at the Atmospheric Programs Section, Air Planning and Development Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219. The EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Ashley Keas, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7629; email address: keas.ashley@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," and "our" is used, we mean the EPA.

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I. Background for This Action

A. The Muscatine Attainment Plan

On June 22, 2010, the EPA published a new 1-hour primary SO₂ NAAQS of 75 parts per billion (ppb), which is met at an

ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations does not exceed 75 ppb, as determined in accordance with appendix T of 40 CFR part 50.¹ On August 5, 2013, the EPA designated the first set of areas of the country as nonattainment for the 2010 1-hour SO₂ NAAQS, including the partial Muscatine County NAA in Iowa.² The designations were effective October 4, 2013, which triggered a requirement for Iowa to submit a SIP revision with a plan for how the Muscatine NAA would attain the 2010 1-hour SO₂ NAAQS as expeditiously as practicable in accordance with CAA sections 110, 172 and 191-192. Section 191(a) of the CAA directs states to submit SIPs for areas designated as nonattainment for the 2010 1-hour SO₂ NAAQS to the EPA within 18 months of the effective date of the designation, *i.e.*, by no later than April 4, 2015, in this case. Section 192(a) requires that such plans provide for NAAQS attainment as expeditiously as practicable, but no later than 5 years from the effective date of the nonattainment designation, *i.e.*, no later than October 4, 2018 in this case. Section 172(c) of part D of title I of the CAA lists the required components of a NAA plan

¹ See 75 FR 35520, codified at 40 CFR 50.17(a)-(b).

² See 78 FR 47191, codified at 40 CFR part 81, subpart C.

submittal. The base year emissions inventory (section 172(c)(3)) is required to show a "comprehensive, accurate, current inventory" of all relevant pollutants in the NAA. The NAA plan must identify and quantify any expected emissions from the construction of new sources to account for emissions in the area that might affect reasonable further progress (RFP) toward attainment, or that might interfere with attainment and maintenance of the NAAQS, and it must provide for a nonattainment new source review (NNSR) program (section 172(c)(5)). The attainment demonstration must include a modeling analysis showing that the enforceable emissions limitations and other control measures taken by the state will provide for RFP and expeditious attainment of the NAAQS (section 172(c)(2), (4), (6) and (7)). The NAA plan must include an analysis of the reasonably available control measures (RACM) considered, including reasonably available control technology (RACT) (section 172(c)(1)). Finally, the attainment plan must provide for contingency measures (section 172(c)(9)) to be implemented either in the case that RFP toward attainment is not made, or in the case that the area fails to attain the NAAQS by the attainment date. The EPA's regulations at 40 CFR part 51, subparts F and G further prescribe the procedural and substantive

requirements attainment plans must meet in order to obtain the EPA's approval.

On April 23, 2014, the EPA issued a guidance document entitled, "Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions" (hereafter April 2014 Guidance).³ The April 2014 Guidance provides recommendations for the development of SO₂ attainment SIPs to satisfy CAA requirements for NAAs (see, e.g., sections 172 and 191-192). As detailed in the EPA's April 2014 guidance, such attainment plans are to contain six CAA-required elements: an emissions inventory of current emissions for all sources of SO₂ within the NAA; a NNSR permit program; an attainment demonstration using an EPA-approved air dispersion model; contingency measures; RFP; and implementation of a control strategy. The state noted that as part of its control strategy, 58 construction permits in the attainment plan relied on the SIP-called SSM-related provisions in Iowa Administrative Code (IAC) 567-24.1(1) ("Condition 6" of each permit). Therefore, the state's NAA plan SIP submission requested that the EPA not act on Condition 6 of the included permits, and accordingly

³ Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions; April 23, 2014.

this language is not incorporated into the SIP.⁴ An attainment demonstration must also meet the requirements of 40 CFR 51.112 and part 51, appendix W, and include inventory data, modeling results, and emissions reduction analyses on which the state has based its projected attainment. The April 2014 Guidance also discusses the option to utilize emission limits with longer averaging times of up to 30 days so long as the state meets various suggested criteria to ensure attainment of the 2010 1-hour SO₂ NAAQS.

On March 18, 2016, the EPA published a document that the state of Iowa failed to submit the required SO₂ attainment plan for the Muscatine area by the SIP submittal deadline.⁵ This finding initiated a deadline under CAA section 179(a) for the potential imposition of new source and highway funding sanctions. Iowa submitted an attainment demonstration for the Muscatine NAA on May 26, 2016 and the SIP became complete by operation of law on November 26, 2016. Due to the SIP submittal becoming complete by

⁴ As discussed in section II of this document, the EPA Region 7 Office is taking final action to apply the policy related to SSM provisions in the Iowa SIP as also detailed in the June 22, 2020, proposal and therefore is also withdrawing the SIP call issued to Iowa as part of the EPA's 2015 SSM SIP Action. For these reasons, if Iowa requests that the EPA act on Condition 6 of the 58 construction permits submitted to the EPA as part of the control strategy for the attainment plan, the EPA could propose to approve those provisions based on the rationale set forth in this document as well as in the prior proposals and associated RTC document.

⁵ See 81 FR 14736.

operation of law, the sanctions under section 179(a) were never imposed. Additionally, under CAA section 110(c), the finding triggered a requirement that the EPA promulgate a Federal Implementation Plan (FIP) within two years of the finding unless, by that time (a) the state has made the necessary complete submittal and (b) the EPA has approved the submittal as meeting applicable requirements. With this final action to approve the Iowa SIP, the EPA's statutory obligation to issue a FIP no longer applies.

On August 24, 2017, the EPA proposed to approve Iowa's SIP submittal, which included all the specific attainment planning elements mentioned previously and new SO₂ emission limits at Grain Processing Corporation (GPC), Muscatine Power and Water (MPW), and Monsanto, the three primary SO₂ sources located inside the boundaries of the NAA.⁶ The emission limits at MPW have an averaging time of 21 days, longer than the 1-hour form of the primary SO₂ NAAQS. These longer-term average limits were developed in accordance with the April 2014 Guidance. The 30-day public comment period closed on September 25, 2017. The EPA received three sets of comments on the proposed approval of Iowa's SIP

⁶ See 82 FR 40086.

submission. One set of comments was from an anonymous source and was in support of the proposed rule, a second set of comments was from the Sierra Club, and a third set of comments was from the Iowa Environmental Council (IEC), both of which were adverse to the proposed rule. All of the public comments are available in the docket for this final rulemaking action. Among the adverse comments, the EPA received comment suggesting that insufficient information was provided in the docket to allow the reviewer the ability to fully evaluate the attainment plan and the EPA's proposed action to approve it. Another comment similarly stated that insufficient emissions inventory information for the 2018 attainment year was provided in the proposed action.

As a result of these comments suggesting insufficient information was available, on January 9, 2018, the EPA published, in the *Federal Register*, a supplemental notice of proposed rulemaking (SNPRM) that: (1) provided additional information in the docket and clarified that all information, including large files, were available upon request; (2) provided an updated 2018 projected emissions

inventory⁷; and (3) re-opened the comment period to afford the public an opportunity to comment on the specific additions of information only.⁸ The 30-day public comment period closed on February 9, 2018. The EPA received eight sets of comments during the public comment period for the supplemental notice. One set of comments from the Sierra Club and one set of comments from an anonymous submitter were adverse to the proposed action. The Sierra Club comments were largely related to the longer-term average limits for MPW, while the anonymous submitter requested additional modeling information. Six sets of comments were not directly related to the proposed action.

On both the August 24, 2017, and January 9, 2018, notices of proposed rulemaking, the EPA received adverse comments related to SSM provisions in the Iowa SIP. As a result of adverse comments received on the proposal actions, the EPA published a second SNPRM on June 22, 2020, to provide additional detail regarding technical support for approving the attainment demonstration and control strategy submitted by Iowa for the Muscatine NAA. This proposal also detailed the policy under consideration by the EPA Region 7 Office

⁷ IDNR concurred with the EPA's updated emissions inventory via email dated December 18, 2017. See Document Q in the docket for this action.

⁸ See 83 FR 997.

related to SSM provisions in the Iowa SIP and, if adopted, proposed to withdraw the SIP call issued to Iowa as part of the EPA's 2015 SSM SIP Action. The 30-day public comment period closed on July 22, 2020. The EPA received three sets of comments during this third public comment period. Two sets of comments, one from the SSM Coalition and one from NEDACAP (National Environmental Development Association's Clean Air Project), were supportive of the EPA's proposed action. The third set of comments represents a joint set of adverse comments submitted by several environmental and public health organizations (Earthjustice, Environmental Integrity Project, Iowa Environmental Council, Natural Resources Defense Council, and Sierra Club). All of the public comments received on the three aforementioned proposals⁹ are included in the public docket for this action at www.regulations.gov. Also included in the docket for this action is a Response to Comment (RTC) document which includes summaries of the adverse comments received on the three proposals along with the EPA's responses to those comments. No response is needed for comments in support of or not related to the proposed actions. For a comprehensive discussion of Iowa's SO₂ attainment SIP and the EPA's

⁹ See 82 FR 40086, 83 FR 997, and 85 FR 37405, respectively.

analysis and rationale for approval, please also refer to the August 24, 2017, January 9, 2018, and June 22, 2020, proposed rulemakings.¹⁰ The EPA also updated Document A, “Index of Docket Documents” in the docket to this rulemaking for ease of referencing supporting materials for this action.

B. The EPA’s 2015 SSM SIP Action

On June 30, 2011, Sierra Club (Petitioner) filed a petition for rulemaking (petition) asking the EPA to consider how identified air agency rules in the EPA-approved SIPs treated excess emissions during periods of startup, shutdown, or malfunction of industrial process or emission control equipment. On July 12, 2015, the EPA responded to the petition, restated and updated its national policy regarding SSM provisions in SIPs, and found pursuant to CAA section 110(k)(5) that a number of the identified provisions were “substantially inadequate” to meet Clean Air Act requirements, requiring certain states to amend those provisions.¹¹ This action is referred to as the 2015 SSM SIP Action.¹²

¹⁰ See 82 FR 40086, 83 FR 997, and 85 FR 37405, respectively.

¹¹ A CAA section 110(k)(5) finding of substantial inadequacy is known as a “SIP call” and referenced as such in this action.

¹² See 80 FR 33840.

In the 2015 SSM SIP Action, among other things, the EPA defined the following terms:

Automatic Exemption:

A generally applicable provision in a SIP that would provide that if certain conditions existed during a period of excess emissions, then those exceedances would not be considered violations of the applicable emission limitations.¹³

Emission Limitation:

In the context of a SIP, a legally binding restriction on emissions from a source or source category, such as a numerical emission limitation, a numerical emission limitation with higher or lower levels applicable during specific modes of source operation, a specific technological control measure requirement, a work practice standard, or a combination of these things as components of a comprehensive and continuous emission limitation in a SIP provision. In this respect, the term emission limitation is defined as in section 302(k) of the CAA. By definition, an emission limitation can take various forms or a combination of forms, but in order to be permissible in a SIP it must

¹³ See 80 FR 33840, page 33842

be applicable to the source continuously, i.e., cannot include periods during which emissions from the source are legally or functionally exempt from regulation. Regardless of its form, a fully approvable SIP emission limitation must also meet all substantive requirements of the CAA applicable to such a SIP provision, e.g., the statutory requirement of section 172(c)(1) for imposition of reasonably available control measures and reasonably available control technology (RACM and RACT) on sources located in designated NAAs.¹⁴

The EPA used the U.S. Court of Appeals for the D.C. Circuit's decision in *Sierra Club v. Johnson*, 551 F.3d 1019 (D.C. Cir. 2008) (*Sierra Club*), to further support its position in the 2015 SSM SIP Action that SIPs may not contain SSM exemption provisions. In *Sierra Club*, the D.C. Circuit reviewed an EPA rule promulgated pursuant to CAA section 112 that contained an automatic SSM exemption and found that "the SSM exemption violates the CAA's requirement that some section 112 standard apply continuously."¹⁵ In the 2015 SSM SIP Action, the EPA applied

¹⁴ See 80 FR 33840, page 33842

¹⁵ 551 F.3d at 1027-1028

the *Sierra Club* court's interpretation of CAA section 302(k) definition of "emission limitation" in the CAA section 112 context to the requirements of CAA section 110. CAA section 110(a)(2)(A) provides that SIPs shall include "enforceable *emission limitations* and other control measures, means, or techniques . . . as may be necessary or appropriate to meet the applicable requirements of this chapter." The EPA's application of the *Sierra Club* decision to CAA section 110 SIP requirements rested on the Agency's premise that the D.C. Circuit's interpretation of the definition of "emission limitation" in CAA section 302(k) applied generally to the Act. The EPA thus determined that *Sierra Club* was consistent with the EPA's national policy at that time, expressed through previously issued guidance documents and regulatory actions prohibiting exemption provisions for otherwise applicable emission limits in SIPs (such as automatic exemptions granted for startup, shutdown, and malfunction events). Based on this premise, the EPA interpreted the lack of continuous control as creating a substantial risk that exemptions could permit excess emissions that could ultimately result in a NAAQS violation.

C. The SSM SIP Call for Iowa

As part of the Agency's response to the 2011 petition from Sierra Club, the EPA evaluated dozens of existing SIP provisions across numerous states - including the Iowa SIP - related to automatic excess emission exemptions for consistency with the EPA's national policy at that time. As a result, the EPA issued findings in its 2015 SSM SIP Action that certain SIP provisions for 36 states (including Iowa) were substantially inadequate to meet CAA requirements. In the 2015 SSM SIP Action, the EPA granted the Sierra Club's petition with respect to IAC subrule 567-24.1(1), finding that the provision was substantially inadequate and issuing a SIP call for that provision, and the EPA denied the petition with respect to IAC 567-24.1(4).^{16,17}

In the 2015 SSM SIP Action, the EPA found IAC 567-24.1(1) to be substantially inadequate to meet the requirements of the Act on the basis that this provision automatically allows for exemptions from the otherwise applicable SIP

¹⁶ IAC 567-24.1(1) states that excess emissions during a period of startup, shutdown, or cleaning of control equipment is not a violation of the emission standard if the startup, shutdown or cleaning is accomplished expeditiously and in a way that is consistent with good practice for minimizing emissions.

¹⁷ IAC 567-24.1(4) states that incidents of excess emissions (other than an incident during start-up, shutdown or cleaning of control equipment) are violations. If the source believes that the excess emissions are due to a malfunction the source must meet the burden of proof that the incident was not preventable by reasonable maintenance and control measures. Meeting the burden of proof does not guarantee that the excess emissions will not be enforced; the rule states that enforcement will be considered after review of the source's report.

emission limitations, which was found at the time to be inconsistent with CAA sections 110(a)(2)(A), 110(a)(2)(C), and 302(k).¹⁸ Specifically, IAC 567-24.1(1) explicitly states that excess emissions during periods of startup, shutdown, and cleaning of control equipment are not violations of the emission standard.¹⁹ Iowa has not submitted a SIP revision in response to the SIP call issued for IAC 567.24.1(1).

D. The EPA's 2020 SSM SIP Guidance Memorandum

On October 9, 2020, the EPA issued a Guidance Memorandum outlining a new national policy related to specific SIP provisions governing excess emissions during SSM events.²⁰ The new guidance memorandum superseded the guidance provided in the 2015 SSM SIP Action on automatic exemption and affirmative defense provisions, but did not alter the determinations made in the 2015 SSM SIP Action that identified specific state SIP provisions that were substantially inadequate to meet the requirements of the

¹⁸ See 80 FR 33969.

¹⁹ The provision does not provide for an exemption during periods of malfunction. However, for ease of reference, the EPA Region 7 Office refers to Iowa's provision as an "SSM" provision in order to align with public comments which regularly reference "SSM" events and provisions.

²⁰ Memorandum from Administrator Wheeler to Regional Administrators, dated October 9, 2020, titled "Inclusion of Provisions Governing Periods of Startup, Shutdown, and Malfunctions in State Implementation Plans." <https://www.epa.gov/air-quality-implementation-plans/guidance-inclusion-provisions-governing-periods-startup-shutdown>.

Act. Specifically, in this guidance memorandum, the EPA expressed that exemption provisions - both those referred to as "automatic exemptions"²¹ and those termed "director discretion provisions"²² in the 2015 SSM SIP Action - may be permissible in SIPs under certain circumstances. The general requirements in CAA section 110 to attain and maintain the NAAQS and the latitude provided to states through the SIP development process create a framework in which a state may be able to ensure attainment and maintenance of the NAAQS notwithstanding the presence of SSM exemptions in the SIP. It is permissible for a SIP to contain SSM exemptions only if the SIP is composed of numerous planning requirements that are collectively NAAQS-protective by design. Such redundancy helps to ensure that the NAAQS are both attained and maintained, which was Congress's goal in creating the SIP development and adoption process. In evaluating whether the requirements of a SIP are collectively NAAQS protective despite the inclusion of an SSM exemption provision, the EPA will conduct an in-depth analysis of the SIP, including a

²¹ "Automatic exemption" means a generally applicable provision in a SIP that would provide that if certain conditions existed during a period of excess emissions, then those exceedances would not be considered violations of the applicable emission limitations.

²² The term "director's discretion provision" means, in general, a regulatory provision that authorizes a state regulatory official unilaterally to grant exemptions or variances from otherwise applicable emission limitations or control measures, or to excuse noncompliance with otherwise applicable emission limitations or control measures.

multifactor, weight-of-the-evidence exercise that balances many considerations.

The policy contained in the 2015 SSM SIP Action - that SIPs that included exemption provisions cannot be consistent with CAA requirements - was predicated on the idea that an emission limitation or standard could not apply continuously, in line with the CAA section 302(k)'s definition of "emission limitation," if the SIP permitted exemptions for any period of time from the emission limitation or standard. Under this policy, the presumed lack of "continuous emission limitations or standards" was viewed as creating a substantial risk that exemptions could permit excess emissions that could ultimately result in a NAAQS violation. However, for SIPs with overlapping planning requirements that together ensure attainment and maintenance of the NAAQS, a prohibition on exemption provisions was unnecessary and came at the expense of state autonomy and flexibility. The EPA now believes that the general requirements in CAA section 110 to attain and maintain the NAAQS and the inherent flexibilities of the SIP development process create a continuous framework in which a state may, depending on the other features of its SIP, be able to ensure attainment and maintenance of the

NAAQS notwithstanding the presence of SSM exemptions in a SIP.

The 2015 SSM SIP Action cited the D.C. Circuit's decision in *Sierra Club*, as discussed in section I.B. of this document, as support for the position that SIPs may not contain SSM exemption provisions. The EPA's application of the *Sierra Club* decision to CAA section 110 SIP requirements rested on the Agency's premise that the D.C. Circuit's interpretation of the definition of "emission standards" in CAA section 302(k) applied generally to the whole Act. Although the *Sierra Club* decision does not allow sources to be exempt from complying with CAA section 112 emission standards during periods of SSM, that holding is not binding on the EPA's consideration of SIPs under CAA section 110. In the *Sierra Club* decision, the court explained, "[i]n requiring that sources regulated under section 112 meet the strictest standards, Congress gave no indication that it intended the application of MACT standards to vary based on different time periods." 551 F.3d at 1028. That is, the court found that when the EPA promulgates standards pursuant to CAA section 112, a single or some combination of CAA section 112-compliant standards must apply continuously, but the court did not make any

statement applying its holding beyond CAA section 112. *Cf. Sierra Club*, 551 F.3d at 1027 (“When sections 112 and 302(k) are read together, then, Congress has required that there must be continuous section 112-compliant standards.”) *See also id.* (“[s]ection 302(k)’s inclusion of this broad phrase in the definition of ‘emission standard’ suggests that emissions reduction requirements ‘assure continuous emission reduction’ without necessarily continuously applying a single standard.”). The general duty provision that applied during SSM periods was “neither ‘a separate and independent standard under CAA section 112(d),’ nor ‘a free-standing emission limitation that must independently be in compliance’ with section 112(d), nor an alternative standard under section 112(h).” *Id.* at 1028. The decision itself did not address whether the rationale articulated with respect to SSM exemptions in CAA section 112 rules applies to SIPs approved under section 110. It also did not address what forms of SIP provisions could combine to appropriately create continuous protections.

The EPA took the position in the 2015 SSM SIP Action that the legal reasoning in *Sierra Club* applied equally to CAA section 112 rules and section 110 approved SIPs. More specifically, in the 2015 SSM SIP Action, the EPA

interpreted CAA section 302(k)'s definition of "continuous" to apply broadly to both sections 112 and 110. But further consideration has shown that an alternative reading of the relevant statutory sections is superior as a matter of both law and policy.

Fundamentally, CAA sections 112 and 110 have different goals and establish different approaches for implementation by the state and the EPA. The court in *Sierra Club* recognized that Congress intended "that sources regulated under section 112 meet the strictest standards," a requirement without a similar analog in CAA section 110. *Sierra Club* at 1028. CAA section 112 sets forth specific standards for specific source categories once they are listed for regulation pursuant to CAA section 112(c). Once listed, the statute directs the EPA (not the states) to use a specific and exacting process to establish nationally applicable, category-wide, technology-based emissions standards. See 42 U.S.C. 7412(d) (requiring the EPA to establish emission standards, known as "maximum available control technology" or "MACT" standards, for major sources that "require the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section" that the EPA determines is achievable considering statutory

factors). States do not have a role in establishing section 112 standards and do not generally enjoy flexibility in determining how the ultimate requirements of CAA section 112 will be met.

In contrast, the CAA sets out a different requirement for section 110 SIPs, reflecting that SIP development and implementation rely on a federal-state partnership and are designed to be flexible for each state's circumstances. The CAA sets the minimum requirements to attain, maintain, and enforce ambient air quality standards, while allowing each state to customize its own approach for the sources and air quality challenges specific to its own circumstances. It is important to note that the EPA sets the NAAQS for each criteria pollutant²³ to provide the requisite degree of protection for public health and welfare, but does not direct the states on how to achieve the NAAQS.

Implementation of the NAAQS, then, is fundamentally different in nature than the source-specific standards the EPA issues under section 112. Therefore, the D.C. Circuit's

²³ Pursuant to CAA section 108, the EPA was required to publish a list including each air pollutant (and air quality criteria for such pollutant) – emissions of which, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare and the presence of which in the ambient air results from numerous or diverse mobile or stationary sources. Pursuant to CAA section 109, the EPA was required to publish regulations prescribing a national primary ambient air quality standard and a national secondary ambient air quality standard for each air pollutant for which air quality criteria had been issued.

concern that section 112 standards must apply “continuously” to regulate emissions from a particular source are not necessarily applicable in the context of section 110, where a state’s plan may contain a broad range of measures, including limits on the emissions of multiple pollutants from multiple sources of various source categories - all directed towards Congress’s broad goal of timely attainment and maintenance the NAAQS.

It is important also to note that the list of potential CAA section 110(a)(2)(A) measures that a state may implement are required only “as may be necessary or appropriate to meet the applicable requirements of this chapter.” This language suggests that Congress intended to give states the flexibility to craft a plan that makes the most sense for that state, so long as the set of emissions limitations, control measures, means and techniques, when taken as a whole, meet the requirements of attaining and maintaining the NAAQS.

Because the purposes and mechanisms of CAA sections 110 and 112 are different, it is reasonable to interpret the same term (emission limitation) to have different meanings in those sections; a singular interpretation may not

necessarily apply statute-wide. The U.S. Supreme Court has recognized that principles of statutory construction are not so rigid as to necessarily require that the same terminology has the exact same meaning in different parts of the same statute. See *Env'tl. Defense v. Duke Energy Corp.*, 549 U.S. 561, 574 (2007). The Court explained in *Duke Energy* that there is "no effectively irrebuttable presumption that the same defined term in different provisions of the same statute must be interpreted identically." *Id.* at 575-6. "Context counts," stated the Court; terms can have "different shades of meaning" reflecting "different implementation strategies" even in the same statute. *Id.* at 574, 76 (citations omitted). See also *Utility Air Regulatory Group v. EPA*, 573 U.S. 302, 320 (2014) ("a statutory term - even one defined in the statute - may take on distinct characters from association with distinct statutory objects calling for different implementation strategies." (citations omitted)). Indeed, the D.C. Circuit's decision interpreting section 112 acknowledged that "the court must examine the meaning of certain words or phrases *in context*." *Sierra Club*, 551 F.3d at 1027.

The text of CAA section 110(a)(2)(A) reflects the increased flexibility built into section 110 as compared to section 112. The requirement that the "emissions standards" the EPA issues under section 112, see, e.g., section 112(c)(2), apply continuously may, as the D.C. Circuit held, prevent the EPA from providing SSM exemptions in those standards. However, at the same time, it is reasonable to interpret the concept of continuous "emission limitations" in a SIP to be focused not on a single standard that applies invariably, but rather on whether the various components of the state's SIP operate together in a continuous manner to ensure attainment and maintenance of the NAAQS. Unlike section 112, which relies exclusively on "emissions standards," section 110 relies on a web of potential control mechanisms—"emission limitations and other control measures, means or techniques (including economic incentives . . .), as well as schedules and timetables for compliance." And section 110 gives the State discretion to choose among these mechanisms "as may be necessary or appropriate to meet the applicable requirements of this chapter." Therefore, it is reasonable to conclude that the *Sierra Club* decision's disapproval of SSM provisions under section 112 should not be extended to CAA section 110.

Determining whether a specific exemption provision will be permissible in an identified state SIP will involve an in-depth analysis of the SIP to determine whether it is composed of numerous planning requirements that are, when taken collectively, protective of the NAAQS. The EPA anticipates that this will be a multifactor, weight-of-the-evidence exercise that balances many considerations. In such an instance, the EPA believes it may conclude that a SIP adequately provides for attainment and maintenance of the NAAQS, even if the SIP allows exemptions to specific emission limits for discrete periods, such as SSM events. A state may be able to demonstrate that a combination of emission limitations "as may be necessary or appropriate" that apply during normal operations but not during SSM periods and "other control measures, means, or techniques" that may apply during SSM periods - such as general duty provisions in the SIP with respect to criteria pollutants, work practice standards, best management practices, or alternative emission limits - are protective of the NAAQS.

In addition to reviewing any information provided by the state, the EPA may consider other available evidence and provide additional analysis, as necessary, when reviewing SSM emission limitation exemptions in SIPs. For example,

the EPA could also consider a state's air quality and whether a state has any current nonattainment areas for a NAAQS as factors in its overall weight-of-the-evidence analysis, particularly when considering whether to withdraw a SIP call issued in 2015 for an exemption provision. A state's SIP provisions may be more likely to be protective of the NAAQS where the State has already attained the NAAQS and its current air quality does not exceed the standard.

The EPA will also consider the SSM provision itself. For example, a requirement that sources use best practicable air pollution control practices to minimize emissions during startup, shutdown, or malfunction periods may be considered favorably in determining whether a given exemption provision (in combination with the other provisions of the SIP) is approvable. If the provision contains limitations on whether SSM events are considered emission standard violations or requires that source owners or operators limit the duration and severity of SSM events, it may be reasonable to conclude that such a provision, when considered alongside other factors, will not jeopardize a state's ability to attain and maintain the NAAQS.

II. The EPA's Evaluation of the Iowa SIP

As a result of adverse comments received on the prior proposal actions, the EPA Region 7 Office published a second SNPRM on June 22, 2020, to provide additional detail regarding technical support for approving the attainment demonstration and control strategy submitted by Iowa for the Muscatine NAA. Also in that SNPRM, the EPA Region 7 Office announced that it was considering adopting a policy regarding SSM exemption provisions in the Iowa SIP, and, if adopted, proposed to withdraw the SIP call issued to Iowa as part of the 2015 SSM SIP Action. During the course of preparing a final decision on the June 22, 2020 proposal to withdraw the SIP call issued to Iowa, the EPA issued a guidance memorandum containing a new national policy addressing SSM exemption provisions in SIPs, as discussed in section I.D. of this document. In reliance on the rationale articulated both in the June 22, 2020 proposal and the RTC document associated with this final action, and consistent with this new national policy, the EPA is taking final action to withdraw the SIP call issued to Iowa as part of the EPA's 2015 SSM SIP Action.

Related to the SSM exemption provisions in the Iowa SIP, and as detailed in the EPA's June 22, 2020, NPRM, the EPA Region 7 Office evaluated the Iowa SIP and identified numerous provisions

in the SIP that, when taken as a whole, demonstrate that the SIP in its entirety is protective of the NAAQS.²⁴ Specifically, as detailed later in this section as well as in the June 22, 2020 NPRM, the Iowa SIP includes a series of overlapping requirements that provide for robust testing, reporting, and accountability for sources, including during periods of excess emissions. Such overlapping requirements enable Iowa Department of Natural Resources (IDNR) to implement the NAAQS, allowing IDNR to maintain oversight, work with sources to maintain compliant operation, and, if necessary, enforce against sources.

Although IAC 567-24.1(1) was SIP called as part of the EPA's 2015 SSM SIP Action, the provision contains limitations on whether SSM events are considered emission standard violations and requires that source owners or operators limit the duration and severity of SSM events. IAC 567-24.1(1) states:

24.1(1) Excess emission during a period of startup, shutdown, or cleaning of control equipment is not a violation of the emission standard if the startup, shutdown or cleaning is accomplished expeditiously and in a manner consistent with good practice for minimizing emissions. Cleaning of control equipment which does

²⁴ See 85 FR 37405.

not require the shutdown of the process equipment shall be limited to one six-minute period per one-hour period.

While the subrule does allow for an exemption for excess emissions, it also provides for two key backstops that protect air quality and help to ensure attainment and maintenance of the NAAQS: 1) startup, shutdown and cleaning is to be accomplished expeditiously; and, 2) startup, shutdown, and cleaning is to be accomplished in a way that is consistent with good practice for minimizing emissions. IAC 567-24.1(4) clarifies that an "expeditious manner" is the time necessary to determine the cause of the excess emissions and to correct it within a reasonable period of time. IAC 567-24.1(4) also states that a "reasonable period of time" is eight hours plus the period of time required to shut down the process without damaging the process or control equipment.

In addition to backstops built into the exemption provision itself, the remainder of Iowa's SIP contains further protections. On March 22, 2018, the EPA approved Iowa's 2010 SO₂ infrastructure SIP as submitted to the EPA on July 29, 2013. Therefore, Iowa has the requisite statutory authority that provides an adequate framework for attaining and maintaining the

NAAQS.²⁵ As detailed in the EPA Region 7 Office's technical support document for Iowa's 2010 SO₂ infrastructure SIP approval, the director of the IDNR has the duty to ensure that the NAAQS is attained and maintained in accordance with federal laws and regulations, and is granted broad oversight, authority, and discretion with which to do so.²⁶

Iowa Code 455B.132 designates IDNR as the Agency to prevent, abate, or control air pollution. The Environmental Protection Commission (EPC) governs the environmental services of IDNR and has the duty to develop emission limits and compliance schedules in order to abate, control, and prevent air pollution.²⁷ The EPC adopts, amends, or repeals rules that are necessary to obtain approval of the state SIP under CAA section 110.²⁸ The EPC is also charged with adopting, amending, or repealing ambient air quality standards necessary to protect public health and welfare.²⁹ Furthermore, 455B.134(9) states that the director shall issue orders consistent with rules to cause the abatement

²⁵ See 83 FR 12486.

²⁶ See 83 FR 12486. The technical support document is included in the docket for the final action on Iowa's 2010 SO₂ infrastructure SIP at Docket ID: EPA-R07-OAR-2017-0267.

²⁷ Iowa Code 455B.133.1 ("Duties"). The EPC is a panel of nine citizens who provide policy oversight over Iowa's environmental protection efforts. The EPC's members are appointed by the Governor and confirmed by vote of the Senate for 4-year terms.

²⁸ Iowa Code 455B.133.2

²⁹ Iowa Code 455B.133.4

or control of air pollution, or to secure compliance with permit conditions.

The IDNR director's duty to ensure the NAAQS is attained and maintained is reflected in specific provisions throughout Iowa's SIP, as detailed below. First, in adopting the NAAQS into its state regulations, IAC 567-28.1 requires that IDNR implement the NAAQS *"in a time frame and schedule consistent with implementation schedules in federal laws and regulations."* For NAAs, CAA section 172(c), among other relevant statutory provisions, requires state plans to provide for attainment as expeditiously as practicable and for the implementation of reasonable available control measures (RACM) as expeditiously as practicable. As mentioned previously, the EPA has approved Iowa's 2010 SO₂ infrastructure SIP, meaning that the EPA has, through notice and comment rulemaking, found that the SIP provides for the implementation, maintenance, and enforcement of the NAAQS. Other than the Muscatine 2010 1-hour SO₂ NAA, there are no other NAAs, for any criteria pollutant, in the state.³⁰ As can be seen via recent ambient air quality monitoring data for SO₂, monitored air quality in the Muscatine NAA is well below the NAAQS of 75 parts per billion (ppb). The current 3-year (2017-

³⁰ The partial Pottawattamie County 2008 Lead NAAQS nonattainment area was redesignated to attainment in October 2018. *See* 83 FR 50024.

2019) SO₂ design value for the area is 25 ppb.³¹ As detailed in the prior proposals and the RTC document contained in the docket for this action, the highest modeled concentration in the Muscatine NAA, based on permitted emissions limits, is 187.87 ug/m³ or 72 ppb, which demonstrates attainment of the 2010 SO₂ NAAQS. Additionally, all areas in Iowa are currently monitoring air quality design values that are below the NAAQS for all criteria pollutants for the 2017-2019 period.³²

Furthermore, the SIP provides for emergency powers comparable to that of the EPA Administrator under CAA section 303, and the state has a fully approved emergency episodes plan that meets the applicable requirements of 40 CFR part 51 subpart H at IAC 567-26.1-4. IAC 567-28.1, in concert with IAC 567-26.1-4 and the state's statutory provisions detailed further below, lay out IDNR's responsibility and authority for ensuring that air quality is protected, and the NAAQS are attained and maintained in the state of Iowa, notwithstanding an exemption for startup-, shutdown-, and cleaning-related excess emissions in the SIP. The attainment status of areas in the State as well as monitored air quality demonstrate successful implementation on the part of the state.

³¹ At the time of this document, complete 2020 ambient air quality data had not been certified in the Air Quality System. Annual data certification is not required until May 1 of the following calendar year.

³² See <https://www.iowadnr.gov/Environmental-Protection/Air-Quality/Monitoring-Ambient-Air>.

The Iowa SIP also provides IDNR with the specific discretion of whether to issue a construction permit for a source based solely on an analysis of that source's impact on attainment or maintenance of the NAAQS. Specifically, IAC 567-22.3(1) states:

A construction permit shall be issued when the director concludes that (...) the expected emissions from the proposed source or modification in conjunction with all other emissions will not prevent the attainment or maintenance of the ambient air quality standards specified in 567-Chapter 28.

Additionally, IAC 567-22.3(5) provides IDNR with the discretion to modify "an existing permit for a major stationary source or an emission limit contained in an existing permit for a major stationary source if necessary to attain or maintain an ambient air quality standard." Accordingly, these provisions provide the state air agency with the authority to limit the issuance of construction permits and modify existing permits to ensure that the NAAQS is attained and maintained. This authority, when considered along with the enforcement, maintenance, and oversight provisions discussed herein, ensures accountability for sources and, when taken as a whole, protects air quality and provides for attainment and maintenance of the NAAQS, even

though the Iowa SIP allows exemptions for excess emissions during periods of startup, shutdown, and cleaning. Of note, the State has been implementing its SIP-approved construction program, which includes issuing construction permits with Condition 6 (as mentioned previously, Condition 6 relies upon the SIP-called SSM-related provisions in IAC 567-24.1(1)), and has not monitored a NAAQS violation resulting in the need to revise a permit due solely on emissions from SSM events.

In addition to specific discretion afforded the IDNR director to ensure attainment and maintenance of the NAAQS, there are a number of direct requirements on sources in Iowa's approved SIP. IAC 567-24.1(2) details the initial report that a source owner or operator must submit when an emission limit is exceeded. Such incidences are to be reported to the appropriate IDNR regional office within eight hours of the onset of an incident. Reports are to be submitted via email, in person, or over the telephone. At a minimum, initial incident reports are to include the quantity, duration, cause and remedial steps taken for periods of excess emissions. IAC 567-24.1(3) requires that a written report is to be submitted as a follow-up to all required initial reports to the IDNR within seven days of the onset of the event. The written report is, at a minimum, to include the information required for initial reports under 24.1(2). In addition, written

reports are to include, if the owner claims that the excess emission was due to malfunction, documentation to support such a claim.

IAC 567-25.1(6), (7), and (8) detail the testing and sampling requirements for owners and operators of pollution control equipment. Specifically, any facility required to install a continuous monitoring system shall provide regular reports to IDNR, including periods of excess emissions. Furthermore, IDNR is granted the authority to require sources to conduct compliance demonstrations, including testing, which *"may be required as necessary to determine actual emissions from a source where that source is believed to have a significant impact on the public health or ambient air quality of an area."* IDNR may also conduct independent emissions testing as deemed necessary. These provisions require sources to report periods of excess emissions, ensuring that the state is aware of any such events. The state could also require sources to conduct testing during such periods, further enabling the state to protect air quality and ensure attainment and maintenance of the NAAQS. Owners or operators of any control equipment are also required to maintain and repair equipment or control equipment in such a way that minimizes and remedies any causes of excess emissions. IAC 567-24.2(1) details the maintenance and repair that owners

or operators are required to undertake, including maintaining operations that minimize emissions, undertaking scheduled routine maintenance, and remedying any cause of excess emissions in an expeditious manner. (“[E]xpeditious manner,” as discussed above, is defined in IAC 567-24.1(4)). Furthermore, IAC 567-24.2(1)(c) states that owners or operators shall:

Minimize the amount and duration of any excess emission to the maximum extent possible during periods of such emissions. These measures may include but not be limited to the use of clean fuels, production cutbacks, or the use of alternate process units or, in the case of utilities, purchase of electrical power until repairs are completed.

IAC 567 24.2(2) provides IDNR with the authority to require owners and operators to develop maintenance plans where, “*in the judgement of the executive director a continued pattern of excess emissions indicative of inadequate operation and maintenance is occurring.*” Such maintenance plans have been required of sources over time as appropriate and are to include numerous maintenance and inspection requirements. Most notably, these plans are to include a contingency plan intended to minimize the frequency, duration, and severity of excess emission events.

Lastly, there are a number of Iowa-specific state regulations that help ensure attainment and maintenance of the NAAQS. Iowa Code 455B.139 states that, if the director has evidence that any person is causing air pollution that creates a public health and safety emergency, the director may, without notice, issue an emergency order requiring the immediate discontinuation of emissions. While not SIP-approved, and therefore not federally enforceable, these codes provide supplemental support that the state has considerable oversight and discretion to enforce against sources and ensure attainment and maintenance of the NAAQS.

As further discussed in section I.D. of this document, the EPA issued a new national guidance memorandum related to SIP provisions containing exemptions for excess emissions during SSM events. Through this final action, the EPA Region 7 Office is applying that national policy based on the evaluation of Iowa's SIP. As such, the EPA Region 7 Office is withdrawing the SIP call issued for Iowa as part of the 2015 SSM SIP Action.³³

III. Final Action

³³ This action is limited to the SIP call issued to Iowa and the associated evaluation of the Iowa SIP and does not otherwise change or alter the SIP call issued to other states as part of the EPA's 2015 SSM SIP Action.

The EPA is taking final action to approve Iowa's SO₂ attainment plan for the Muscatine NAA. The EPA has determined that Iowa's attainment plan and control strategy demonstrates attainment and provides for maintenance of the 2010 1-hour SO₂ NAAQS in the Muscatine NAA and meets the other NAA planning requirements. Specifically, the EPA is approving Iowa's May 26, 2016, SIP revision, which includes the state's modeled attainment demonstration for the Muscatine NAA, RFP, RACT/RACM, base-year and projection-year emission inventories, and contingency measures.

The EPA is further approving numerous permits that Iowa issued containing emission limits and associated monitoring, recordkeeping and reporting requirements that the attainment plan relies on. For Grain Processing Corporation, the EPA is approving permits numbered 75-A-353-S2, 90-A-111-S1, 92-A-383-S2, 92-A-385-S1, 02-A-781-S2, 02-A-782-S2, 03-A-471-S1, 11-A-338-S1, issued on July 6, 2015, and 95-A-374-S4, 15-A-078, 79-A-194-S2, 71-A-067-S4, 75-A-087-S1, 72-A-199-S2, 74-A-014-S1, 74-A-015-S2, 79-A-195-S2, 80-A-149-S5, 80-A-150-S5, 85-A-031-S2, 85-A-032-S2, 85-A-038-P1, 85-A-135-P1, 91-A-068-S2, 93-A-110-P1, 94-A-055-S1, 94-A-061-S1, 09-A-482-S2, 10-A-563-S1, 15-A-202, 15-A-208, 15-A-209, 15-A-326, 06-A-1261-S1, 15-A-354, 15-A-199, issued on December 10, 2015, and 15-A-213, issued on January 26,

2016, and 15-A-203, 15-A-204, 15-A-205, 15-A-206, 15-A-207, 15-A-480, 15-A-481, 15-A-482, 15-A-483, 15-A-484, 15-A-485, 15-A-486, 05-A-926-S4, issued on February 15, 2016, and 15-A-200, 15-A-201 issued on March 25, 2016. For Muscatine Power and Water, the EPA is approving permits numbered 13-A-152-S1, 74-A-175-S4, 95-A-373-P3, 80-A-191-P3 issued on March 2, 2016. For Monsanto, the EPA is approving permits numbered 82-A-092-P11 and 88-A-001-S3, issued May 13, 2015. As noted previously, the EPA is approving these permits with the exception of Condition 6 (Condition 6 relies on the SSM-related provisions of IAC 567-24.1(1)) in each of these permits as requested by Iowa.³⁴

The EPA has determined that the state's attainment plan meets the applicable requirements of sections 110, 172, and 191-192 of the CAA. The EPA's analysis is further discussed in prior proposed rulemakings as well as the RTC found in the docket for this final action.³⁵ The EPA's final action to approve the Iowa SIP terminates the EPA's statutory obligation to issue a FIP for the Muscatine NAA.

³⁴ As discussed in section II of this document, the EPA Region 7 Office is taking final action to apply the policy related to SSM provisions in the Iowa SIP as also detailed in the June 22, 2020, proposal and therefore is also withdrawing the SIP call issued to Iowa as part of the EPA's 2015 SSM SIP Action. For these reasons, if Iowa requests that the EPA act on Condition 6 of the 58 construction permits submitted to the EPA as part of the control strategy for the attainment plan, the EPA could propose to approve those provisions based on the rationale set forth in this document as well as in the prior proposals and associated RTC document.

³⁵ See 82 FR 40086, 83 FR 997, and 85 FR 37405, respectively.

Based on the EPA's evaluation of the Iowa SIP contained in section II of this document, consistent with the EPA's national policy,³⁶ and after carefully considering the comments received, the EPA Region 7 Office is taking final action to withdraw the SSM SIP call for Iowa. The EPA received adverse comments related to the SSM provisions of the Iowa SIP on the aforementioned proposed rulemakings. All of the adverse comments along with the EPA's responses to those comments are included in the separate RTC document contained in the docket for this final action.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of an Iowa regulation described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available through *www.regulations.gov*, and at the EPA Region 7 Office (please contact the applicable person identified in the

³⁶ Memorandum from Administrator Wheeler to Regional Administrators, dated October 9, 2020, titled "Inclusion of Provisions Governing Periods of Startup, Shutdown, and Malfunctions in State Implementation Plans." <https://www.epa.gov/air-quality-implementation-plans/guidance-inclusion-provisions-governing-periods-startup-shutdown>.

FOR FURTHER INFORMATION CONTACT section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the state implementation plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the Clean Air Act as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.³⁷

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this final 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 proposed action:

³⁷ See 62 FR 27968 (May 22, 1997).

- 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.*);
- 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 (Public Law 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 the 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where the 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).

List of Subjects in 40 CFR Part 52

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

Dated: _____

October 23, 2020

Edward Chu,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, title 40 CFR part 52, of the Code of Federal Regulations is amended as set forth below:

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.*

Subpart Q-Iowa

2. In §52.820:

a. The table in paragraph (d) is amended by adding the entries "(112) through (169)" in numerical order.

b. The table in paragraph (e) is amended by adding the entry "(53)" in numerical order.

The additions read as follows:

§52.820 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED IOWA SOURCE-SPECIFIC ORDERS/PERMITS

Name of source	Order/Permit No.	State effective date	EPA approval date	Explanation
* * * * *				
(112) Grain Processing Corporation	95-A-374-S4	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(113) Grain Processing Corporation	15-A-078	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(114) Grain Processing Corporation	79-A-194-S2	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.

(115) Grain Processing Corporation	71-A-067-S4	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(116) Grain Processing Corporation	75-A-087-S1	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(117) Grain Processing Corporation	72-A-199-S2	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(118) Grain Processing Corporation	74-A-014-S1	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416;

				FRL-10016-10-Region 7.
(119) Grain Processing Corporation	74-A-015-S2	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(120) Grain Processing Corporation	75-A-353-S2	7/6/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(121) Grain Processing Corporation	79-A-195-S2	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.

(122) Grain Processing Corporation	80-A-149-S5	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(123) Grain Processing Corporation	80-A-150-S5	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(124) Grain Processing Corporation	85-A-031-S2	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(125) Grain Processing Corporation	85-A-032-S2	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416;

				FRL-10016-10-Region 7.
(126) Grain Processing Corporation	85-A-038-P1	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(127) Grain Processing Corporation	85-A-135-P1	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(128) Grain Processing Corporation	90-A-111-S1	7/6/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.

(129) Grain Processing Corporation	91-A-068-S2	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(130) Grain Processing Corporation	93-A-110-P1	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(131) Grain Processing Corporation	92-A-383-S2	7/6/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(132) Grain Processing Corporation	92-A-385-S1	7/6/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416;

				FRL-10016-10-Region 7.
(133) Grain Processing Corporation	94-A-055-S1	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(134) Grain Processing Corporation	94-A-061-S1	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(135) Grain Processing Corporation	02-A-781-S2	7/6/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.

(136) Grain Processing Corporation	02-A-782-S2	7/6/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(137) Grain Processing Corporation	09-A-482-S2	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(138) Grain Processing Corporation	10-A-563-S1	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(139) Grain Processing Corporation	15-A-200	3/25/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416;

				FRL-10016-10-Region 7.
(140) Grain Processing Corporation	15-A-201	3/25/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(141) Grain Processing Corporation	15-A-202	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(142) Grain Processing Corporation	15-A-203	2/15/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.

(143) Grain Processing Corporation	15-A-204	2/15/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(144) Grain Processing Corporation	15-A-205	2/15/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(145) Grain Processing Corporation	15-A-206	2/15/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(146) Grain Processing Corporation	15-A-207	2/15/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416;

				FRL-10016-10-Region 7.
(147) Grain Processing Corporation	15-A-208	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(148) Grain Processing Corporation	15-A-209	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(149) Grain Processing Corporation	15-A-480	2/15/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.

(150) Grain Processing Corporation	15-A-481	2/15/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(151) Grain Processing Corporation	15-A-482	2/15/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(152) Grain Processing Corporation	15-A-483	2/15/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQ Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(153) Grain Processing Corporation	15-A-213	1/26/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416;

				FRL-10016-10-Region 7.
(154) Grain Processing Corporation	15-A-484	2/15/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(155) Grain Processing Corporation	15-A-485	2/15/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(156) Grain Processing Corporation	15-A-486	2/15/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.

(157) Grain Processing Corporation	15-A-326	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(158) Grain Processing Corporation	03-A-471-S1	7/6/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(159) Grain Processing Corporation	05-A-926-S4	2/15/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(160) Grain Processing Corporation	06-A-1261-S1	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416;

				FRL-10016-10-Region 7.
(161) Grain Processing Corporation	11-A-338-S1	7/6/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(162) Grain Processing Corporation	15-A-354	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(163) Grain Processing Corporation	15-A-199	12/10/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.

(164) Muscatine Power and Water	13-A-152-S1	3/2/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR- 2017-0416; FRL-10016-10- Region 7.
(165) Muscatine Power and Water	74-A-175-S4	3/2/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR- 2017-0416; FRL-10016-10- Region 7.
(166) Muscatine Power and Water	95-A-373-P3	3/2/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR- 2017-0416; FRL-10016-10- Region 7.
(167) Muscatine Power and Water	80-A-191-P3	3/2/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR- 2017-0416;

				FRL-10016-10-Region 7.
(168) Monsanto	82-A-092-P11	5/13/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
(169) Monsanto	88-A-001-S3	5/13/15	[insert date of publication in the Federal Register], [insert Federal Register citation]	2010 1-hour SO ₂ NAAQS Attainment Plan; Condition 6 of the permit is not part of the SIP; EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.

(e) * * *

EPA-APPROVED IOWA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* * * * *				

(53) 2010 1-hour SO ₂ National Ambient Air Quality Standard Attainment Plan	A portion of Muscatine County	5/26/16	[insert date of publication in the Federal Register], [insert Federal Register citation]	EPA-R07-OAR-2017-0416; FRL-10016-10-Region 7.
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