

other information necessary to address the safety concerns regarding the notified use, FDA may determine that the FCN is no longer effective because there is no longer a basis to conclude that the intended use is safe.

(2) Data or other information available to FDA demonstrate that the manufacturer or supplier specified in the FCN has stopped or intends to stop producing, supplying, or using a food contact substance for the intended use. Such data or other information includes but is not limited to:

(i) A request from the manufacturer or supplier.

(A) The manufacturer or supplier specified in the FCN may request in writing that FDA determine that an FCN is no longer effective on the basis that it has stopped producing, supplying, or using a food contact substance for the intended food contact use in the United States or that it intends to stop producing, supplying, or using a food contact substance for the intended food contact use in the United States by a specified date. FDA will notify the manufacturer or supplier whether FDA is granting the request.

(B) If FDA grants the request, FDA may determine that the FCN is no longer effective on the basis that the manufacturer or supplier has stopped producing, supplying, or using a food contact substance for the intended use in the United States or that it intends to stop producing, supplying, or using a food contact substance for the intended food contact use in the United States by a specified date. When such a request is based on the intent to stop producing, supplying, or using a food contact substance for the intended food contact use in the United States at a future date, FDA will include in the notice described in paragraph (b) of this section the date specified in the request as the compliance date by which the manufacturer or supplier will stop producing, supplying, or using the food contact substance for the intended food contact use in the United States.

(ii) Other data or information available to FDA.

(A) If other data or information available to FDA demonstrate that a food contact substance is no longer produced, supplied, or used for an intended food contact use in the United States, FDA will inform the affected manufacturer or supplier specified in the FCN, in writing. FDA will include a specified time period by which the manufacturer or supplier must provide FDA with data or other information that demonstrate that the manufacturer or supplier continues to produce, supply,

or use a food contact substance for the intended use in the United States.

(B) If the manufacturer or supplier fails, by the specified date, to provide data or other information that demonstrate that the manufacturer or supplier continues to produce, supply, or use a food contact substance for the intended use in the United States; or if the manufacturer or supplier confirms that it has stopped producing, supplying, or using the food contact substance for the intended food contact use in the United States, FDA may determine that the FCN is no longer effective.

(3) The intended use of the food contact substance identified in the FCN is authorized by a food additive regulation.

(i) FDA will inform the manufacturer or supplier specified in the FCN in writing that the intended use of the food contact substance identified in the FCN is authorized by a food additive regulation. FDA will include a specified time period by which the manufacturer or supplier must respond to FDA with data or other information about whether the intended use of the food contact substance is authorized by a food additive regulation.

(ii) If a manufacturer or supplier fails, by the specified date, to supply data or other information that demonstrate that the intended use of the food contact substance identified in the FCN is not authorized by a food additive regulation, FDA may determine that the FCN is no longer effective on the basis that the intended use of the food contact substance is authorized under a food additive regulation.

(4) The intended use of the food contact substance identified in the FCN is covered by a threshold of regulation exemption.

(i) FDA will inform the manufacturer or supplier specified in the authorizing FCN in writing that the intended use of the food contact substance identified in the FCN is covered by a threshold of regulation exemption. FDA will include a specified time period by which the manufacturer or supplier must respond to FDA with data or other information about whether the intended use of the food contact substance is covered by a threshold of regulation exemption.

(ii) If a manufacturer or supplier fails, by the specified date, to supply data or other information that demonstrate that the intended use of the food contact substance identified in the FCN is not covered by a threshold of regulation exemption, FDA may determine that the FCN is no longer effective on the basis that the intended use of the food contact

substance is covered under a threshold of regulation exemption.

(b) If FDA determines that an FCN is no longer effective, FDA will publish a notice of its determination in the **Federal Register** stating that a detailed summary of the basis for FDA's determination that the FCN is no longer effective has been placed on public display and that copies are available upon request. If FDA determines it would be protective of public health, FDA may include a separate compliance date for the use of the food contact substance in food contact articles, including food contact substances that were produced, supplied, or used by the manufacturer or supplier before publication of the notice in the **Federal Register** or before the compliance date described in paragraph (a)(2)(i)(B) of this section. The date that the notice publishes in the **Federal Register** is the date on which the notification is no longer effective. FDA's determination that an FCN is no longer effective is final agency action subject to judicial review.

(c) FDA's determination that an FCN is no longer effective does not preclude any manufacturer or supplier from submitting a new FCN for the same food contact substance, including for the same intended use, after FDA has determined that an FCN is no longer effective, unless the intended use of the food contact substance is authorized by a food additive regulation or covered by a threshold of regulation exemption. The new submission must be made under §§ 170.100 and 170.101.

Dated: January 20, 2022.

**Janet Woodcock,**

*Acting Commissioner of Food and Drugs.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R07-OAR-2021-0932; FRL-9461-01-R7]

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

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to determine that the Muscatine sulfur dioxide (SO<sub>2</sub>) nonattainment area attained the 2010 1-

hour SO<sub>2</sub> primary national ambient air quality standard (NAAQS) by the applicable attainment date of October 4, 2018, based upon a weight-of-evidence analysis using available air quality information. Additional analysis of the attainment determination is provided in a Technical Support Document (TSD) included in the docket to this proposed rulemaking. This action, if finalized, will address the EPA's obligation under a consent decree which establishes a deadline of March 31, 2022 for the EPA to determine under Clean Air Act (CAA) section 179(c) whether the Muscatine SO<sub>2</sub> nonattainment area attained the NAAQS by the October 4, 2018 attainment date.

**DATES:** Comments must be received on or before February 25, 2022.

**ADDRESSES:** You may send comments, identified by Docket ID No. EPA-R07-OAR-2021-0932 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

**Instructions:** All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Written Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Jason Heitman, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7664; email address: [heitman.jason@epa.gov](mailto:heitman.jason@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," and "our" refer to the EPA.

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### I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2021-0932, at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

### II. Background

#### A. The 2010 SO<sub>2</sub> National Ambient Air Quality Standards

Under section 109 of the CAA, the EPA has established primary and secondary NAAQS for certain pervasive air pollutants (referred to as "criteria pollutants") and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established. The primary NAAQS represent ambient air quality standards the attainment and maintenance of which the EPA has determined, including a margin of safety, are requisite to protect the public health. The secondary NAAQS represent ambient air quality standards the attainment and maintenance of which the EPA has determined are requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air.

Under the CAA, the EPA must establish a NAAQS for SO<sub>2</sub>. SO<sub>2</sub> is primarily released to the atmosphere through the burning of fossil fuels by power plants and other industrial facilities. SO<sub>2</sub> is also emitted from industrial processes including metal extraction from ore and heavy equipment that burn fuel with a high sulfur content. Short-term exposure to

SO<sub>2</sub> can damage the human respiratory system and increase breathing difficulties. Small children and people with respiratory conditions, such as asthma, are more sensitive to the effects of SO<sub>2</sub>. Sulfur oxides at high concentrations can also react with compounds to form small particulates that can penetrate deeply into the lungs and cause health problems.

The EPA first established primary SO<sub>2</sub> standards in 1971 at 0.14 parts per million (ppm) over a 24-hour averaging period and 0.3 ppm over an annual averaging period (36 FR 8186, April 30, 1971). In June 2010, the EPA revised the NAAQS for SO<sub>2</sub> to provide increased protection of public health, providing for revocation of the 1971 primary annual and 24-hour SO<sub>2</sub> standards for most areas of the country following area designations under the new NAAQS. The 2010 NAAQS is 75 parts per billion (ppb) (equivalent to 0.075 ppm) over a 1-hour averaging period (75 FR 35520, June 22, 2010). A violation of the 2010 1-hour SO<sub>2</sub> NAAQS occurs when the annual 99th percentile of ambient daily maximum 1-hour average SO<sub>2</sub> concentrations, averaged over a 3-year period, exceeds 75 ppb.

#### B. Designations, Classifications, and Attainment Dates for the 2010 SO<sub>2</sub> National Ambient Air Quality Standards

Following promulgation of any new or revised NAAQS, the EPA is required by CAA section 107(d) to designate areas throughout the nation as attaining or not attaining the NAAQS.

On August 5, 2013, the EPA finalized its first round of designations for the 2010 primary 1-hour SO<sub>2</sub> NAAQS (78 FR 47191). In the 2013 action, the EPA designated 29 areas in 16 states as nonattainment for the 2010 SO<sub>2</sub> NAAQS, including a portion of Muscatine County in Iowa. The designation was based on air quality monitoring data from 2009–2011 showing violations of the NAAQS. The EPA's initial round of designations for the 2010 SO<sub>2</sub> NAAQS including the Muscatine nonattainment area (NAA) became effective on October 4, 2013. Pursuant to CAA sections 172(a)(2) and 192(a), the maximum attainment date for the Muscatine NAA is October 4, 2018, five years after the effective date of the final action designating the area as nonattainment for the 2010 SO<sub>2</sub> NAAQS.

### III. Proposed Determination

#### A. Applicable Statutory and Regulatory Provisions

Section 179(c)(1) of the CAA requires the EPA to determine whether a nonattainment area attained an applicable standard by the applicable attainment date based on the area's air quality as of the attainment date.

A determination of whether an area's air quality meets applicable standards is generally based upon the most recent three years of complete, quality-assured data gathered at established state and local air monitoring stations (SLAMS) in a nonattainment area and entered into the EPA's Air Quality System (AQS) database. Data from ambient air monitors operated by state and local agencies in compliance with the EPA monitoring requirements must be submitted to AQS. Monitoring agencies annually certify that these data are accurate to the best of their knowledge. All data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix T (for SO<sub>2</sub>). In general, for SO<sub>2</sub> EPA does not rely exclusively on monitoring data to determine whether the NAAQS is met unless it has been demonstrated that the monitors were appropriately sited to record expected maximum ambient concentrations of SO<sub>2</sub> in an area.

Under EPA regulations in 40 CFR 50.17 and in accordance with 40 CFR part 50, appendix T, the 2010 1-hour annual SO<sub>2</sub> standard is met at an ambient air quality monitoring site when the design value is less than or equal to 75 ppb. Design values are calculated by computing the three-year average of the annual 99th percentile daily maximum 1-hour average concentrations. When calculating 1-hour primary standard design values, the calculated design values are rounded to the nearest whole number or 1 ppb by convention. An SO<sub>2</sub> 1-hour primary standard design value is valid if it encompasses three consecutive calendar years of complete data. A year is considered complete when all four quarters are complete, and a quarter is complete when at least 75 percent of the sampling days are complete. A sampling day is considered complete if 75 percent of the hourly concentration values are reported; this includes data affected by exceptional events that have been approved for exclusion by the Administrator.

#### B. Monitoring Network Considerations

Section 110(a)(2)(B)(i) of the CAA requires states to establish and operate air monitoring networks to compile data on ambient air quality for all criteria

pollutants. The EPA's monitoring requirements are specified by regulation in 40 CFR part 58. These requirements are applicable to state, and where delegated, local air monitoring agencies that operate criteria pollutant monitors.

In section 4.4 of appendix D to 40 CFR part 58, the EPA specifies minimum monitoring requirements for SO<sub>2</sub> to operate at SLAMS. SLAMS produce data that are eligible for comparison with the NAAQS, and therefore, the monitor must be an approved Federal reference method (FRM) or Federal equivalent method (FEM) monitor.

The minimum number of required SO<sub>2</sub> SLAMS is described in sections 4.4.2 and 4.4.3 of appendix D to 40 CFR part 58. According to section 4.4.2, the minimum number of required SO<sub>2</sub> monitoring sites is determined by the population weighted emissions index for each state's core based statistical area. Section 4.4.3 describes additional monitors that may be required by an EPA regional administrator.

Under 40 CFR 58.10, states are required to submit annual monitoring network plans (AMNP) for ambient air monitoring networks for approval by the EPA. Within the Muscatine NAA, the State is responsible for assuring that each monitoring site meets air quality monitoring requirements. Iowa submits an AMNP to the EPA that describes the various monitoring sites operated by the State. Each AMNP discusses the status of the air monitoring network as required under 40 CFR 58.10 and addresses the operation and maintenance of the air monitoring network in the previous year. The EPA regularly reviews these AMNPs for compliance with the applicable reporting requirements in 40 CFR part 58. With the EPA's approval of Iowa's most recent AMNP, the State has met the applicable minimum monitoring requirements.<sup>1</sup>

The EPA also conducts regular "technical systems audits" (TSAs) during which we review and inspect ambient air monitoring programs to assess compliance with applicable regulations concerning the collection, analysis, validation, and reporting of ambient air quality data.

During the 2015–2017 data period, Iowa operated three SO<sub>2</sub> SLAMS in the Muscatine SO<sub>2</sub> NAA: Greenwood Cemetery (AQS ID 19–139–0016); High School East Campus (AQS ID 19–139–0019); and Musser Park (AQS ID 19–139–0020).

<sup>1</sup> EPA's letter approving Iowa's 2021 monitoring network plan dated December 2, 2021 is included in the docket for this action.

#### C. Data Considerations and Proposed Determination

CAA section 179(c)(1) requires the Agency to "determine, based on the area's air quality as of the attainment date, whether the area attained the standard by that date." The EPA first assessed what air quality information was available related to making a determination of attainment by the attainment date for the Muscatine area. The EPA chose to employ a weight-of-evidence approach for making this determination because the EPA does not have any analysis (including modeling) associated with the monitor siting to demonstrate that the monitors record maximum ambient SO<sub>2</sub> concentrations in the NAA, nor does EPA have modeling of actual emissions to support a determination based on modeled ambient concentrations whether the area attained the NAAQS by the attainment date. The available modeling of permitted allowable emissions in the area, as discussed later in this document, does not on its own provide a basis for determining whether the area attained by the attainment date. Thus, EPA relied upon SO<sub>2</sub> emissions data and trends, relevant air monitoring data and trends, SO<sub>2</sub> monitoring data incorporated with local meteorological data, as well as available modeling information in order to make its determination under CAA section 179(c)(1). The EPA believes our analysis of multiple types of air-quality related information to support our determination is consistent with section 179(c)(1)'s direction to determine the area's air quality as of the attainment date. Further detail on EPA's weight-of-evidence analysis is contained in the technical support document (TSD) included in the docket for this action.

##### i. Emissions Information

There are four facilities that emit or have historically emitted SO<sub>2</sub> located in or near the Muscatine NAA. Three are located within the nonattainment area—Grain Processing Corporation (GPC), Muscatine Power and Water (MPW), and Monsanto. Louisa Generating Station (LGS) is located south of the nonattainment area. Table 1 provides the annual emissions from 2011–2020 from each individual source along with the total combined emissions among the four facilities. In the 2011–2015 timeframe, GPC was the largest SO<sub>2</sub> source in the Muscatine area, with the majority of SO<sub>2</sub> emissions attributed to GPC's boilers using coal. A fuel switch at GPC's coal-fired boilers to natural gas occurred on July 14, 2015, and this change led to large reductions of SO<sub>2</sub>

emissions at GPC. Prior to 2018, Monsanto was fueled primarily by coal, with SO<sub>2</sub> emissions associated with its main boiler. As required by a construction permit, Monsanto converted its coal-fired boiler to use only natural gas in 2018 which eliminated nearly all SO<sub>2</sub> emissions from Monsanto.

The EPA first evaluated annual SO<sub>2</sub> emissions trends within the Muscatine nonattainment area. By 2017, total annual emissions in the Muscatine area had dropped approximately 72% from 2014 (24,181 tons per year (tpy) in 2014 to 6,781 tpy in 2017). Much of the

reduction in emissions can be attributed to GPC's fuel conversion to natural gas in July of 2015, evident by the more than 50% reduction in annual SO<sub>2</sub> emissions at GPC from 2014 (13,075 tpy) to 2015 (6,191 tpy) and further reductions to below 200 tpy in 2016 and 2017. Overall, GPC's annual SO<sub>2</sub> emissions were reduced by 98.7% from 2014 to 2017.

In addition to emissions decreases within the nonattainment area, the EPA also looked at emissions at LGS, the nearby source located outside the nonattainment area. In the Louisa County Data Requirements Rule (DRR)

modeling,<sup>2</sup> Iowa modeled LGS using its permitted allowable rate of 4,270.89 lbs/hour,<sup>3</sup> which would correspond to an annual total of 18,706 tpy. Actual annual emissions at LGS during the 2015–2017 timeframe ranged between 5,129 tpy and 6,098 tpy, significantly below the annual total of 18,706 tpy that corresponded with modeled attainment. In addition, the actual maximum hourly emission rate at LGS since 2011, as reported to EPA Clean Air Markets Division (CAMD) database<sup>4</sup> is 4,014.7 lb/hr, which is also below the 1-hour modeled emission rate.

TABLE 1—SO<sub>2</sub> EMISSIONS (TONS) FROM 2011 TO 2019 FOR SOURCES WITHIN AND NEARBY THE MUSCATINE NONATTAINMENT AREA. EMISSIONS ARE FROM EPA'S NATIONAL EMISSIONS INVENTORY (NEI)

Source	2011	2012	2013	2014	2015	2016	2017	2018	2019
GPC .....	11,970	11,640	12,761	13,075	6,191	187	173	84	89
MPW .....	2,374	2,015	2,169	1,821	1,714	1,769	1,167	1,458	1,715
Monsanto .....	537	543	469	502	402	349	208	–0	–0
Louisa .....	7,306	8,743	8,285	8,783	6,098	5,129	5,233	7,332	5,286
Total .....	22,187	22,941	23,684	24,181	14,405	7,434	6,781	8,874	7,090

EPA's evaluation of emissions at sources within and outside of the nonattainment area indicate significant reductions in emissions in the 2015–2017 timeframe compared to pre-2015 emissions.

ii. Monitoring Data

Under 40 CFR 58.15, monitoring agencies must certify, on an annual basis, data collected by FRM or FEMs at all SLAMS, including special purpose monitors, that meet EPA quality assurance requirements. In doing so, monitoring agencies must certify that the previous year of ambient concentration and quality assurance data are completely submitted to AQS and that the ambient concentration data are accurate to the best of their knowledge. Iowa annually certifies that the data it submits to AQS are quality assured, including data collected at monitoring sites in the Muscatine SO<sub>2</sub> NAA.

For the Muscatine SO<sub>2</sub> NAA the applicable attainment date is October 4, 2018. In accordance with appendix T to 40 CFR part 50, where determinations of SO<sub>2</sub> NAAQS compliance may be made based on well-sited air quality monitors, compliance with the NAAQS is based on three consecutive calendar years of data. The three calendar year period preceding the attainment date for the Muscatine SO<sub>2</sub> NAA is January 1, 2015–December 31, 2017.

The 3-year design values of 1-hour SO<sub>2</sub> from 2011 through 2020 for the three Muscatine area monitors are provided in Table 2 and the annual 99th percentile of 1-hour SO<sub>2</sub> concentrations are shown in Table 3. All monitor violations occur before the 2015–2017 timeframe, with all three monitors showing violations from 2011–2016. No monitor violation of the 3-year design value has occurred since 2016, with the largest of the three 2015–2017 1-hour SO<sub>2</sub> design values of 65 ppb at the

Musser Park site. The trends indicated in the monitored design values are consistent with EPA's evaluation of the emissions trends discussed above. As emission reductions were implemented at the sources in the nonattainment area, SO<sub>2</sub> concentrations recorded at the area's air quality monitors decreased. Specifically, coal combustion at GPC ceased in mid-2015 and coal combustion at Monsanto ceased in late 2017. Significant decreases in 1-hour daily maximum SO<sub>2</sub> concentrations at the air quality monitors are consistent with that timeline. While the most recent complete and quality-assured design values (2018–2020) for the Greenwood Cemetery, High School East Campus, and Musser Park sites (15, 18, and 20 ppb, respectively) were recorded after the area's attainment date, they indicate the effectiveness of the area's control measures. These design values are no greater than 27% of the level of the 2010 1-hour SO<sub>2</sub> NAAQS.

TABLE 2—DESIGN VALUES (ppb) FOR THE 2010 1-HOUR SO<sub>2</sub> NAAQS FOR THE MUSCATINE MONITORING SITES

Site name	2011–2013	2012–2014	2013–2015	2014–2016	2015–2017	2016–2018	2017–2019	2018–2020
Greenwood Cemetery (19–139–0016) .....		101	97	77	45	20	17	15
High School E Campus (19–139–0019) .....			128	84	42	22	21	18

<sup>2</sup> EPA relied on the DRR modeling submitted by Iowa to designate Louisa County, containing LGS, as attainment/unclassifiable for the 2010 1-hour SO<sub>2</sub> NAAQS in December 2017 (83 FR 1098).

<sup>3</sup> The 1-hour SO<sub>2</sub> modeling rate used for LGS was developed from the current 30-day rolling permit

limit and actual emissions following the approach outlined in the EPA's 2014 *Guidance for 1-Hour SO<sub>2</sub> Nonattainment Area State Implementation Plans*.

<sup>4</sup> <https://ampd.epa.gov/ampd/>.

TABLE 2—DESIGN VALUES (ppb) FOR THE 2010 1-HOUR SO<sub>2</sub> NAAQS FOR THE MUSCATINE MONITORING SITES—Continued

Site name	2011–2013	2012–2014	2013–2015	2014–2016	2015–2017	2016–2018	2017–2019	2018–2020
Musser Park (19–139–0020) .....	217	194	158	113	65	34	25	20

TABLE 3—ANNUAL 99TH PERCENTILE OF 1-HOUR DAILY MAXIMUM SO<sub>2</sub> CONCENTRATIONS (ppb) MUSCATINE MONITORING SITES

Site name	2013	2014	2015	2016	2017	2018	2019	2020
Greenwood Cemetery (19–139–0016) .....	84	117	91	24	20	15	16	14
High School E Campus (19–139–0019) .....	147	161	75	30	20	16	25	13
Musser Park (19–139–0020) .....	179	179	116	45	35	24	16	20

iii. Meteorology

The EPA does not have conclusive evidence to support that the monitors are sited in the area of maximum ambient SO<sub>2</sub> concentrations. EPA would typically rely on the siting analysis performed to originally site the monitors or modeling of actual emissions to demonstrate the monitors are sited in the area of maximum concentrations. There is not a specific analysis associated with the siting of the monitors nor does EPA have access to modeling of actual emissions for sources in or near the nonattainment area to make such a determination. In the absence of that information, EPA has also evaluated local meteorology along with the monitored SO<sub>2</sub> values to evaluate the likelihood of maximum ambient concentrations occurring in locations that the monitors could not record. Hourly wind speeds and direction were collected from the Muscatine Airport, which is located approximately 8 kilometers southwest of GPC and the Musser Park and High School SO<sub>2</sub> monitors. The hourly winds were combined into a dataset with the coinciding one hour monitored SO<sub>2</sub> concentrations and plotted using SO<sub>2</sub> pollution roses. This analysis provides information to help determine from where (and potentially what source) the monitored impacts were coming. In summary, the monitors appear to be positioned in downwind areas of relatively high impacts as indicated by pollution roses. Full details of the local meteorology analysis and pollution roses are provided in the TSD.

iv. Modeling Information

The EPA considered relying on two separate modeling demonstrations for the Muscatine area. Modeling performed by the State of Iowa for purposes of the control strategy and attainment demonstration for the area was

submitted to EPA in May 2016. EPA later approved the attainment plan and modeling in a final action in November 2020 (85 FR 73218). That final action has since been remanded without vacatur to EPA.<sup>5</sup> The State of Iowa also submitted modeling pursuant to the SO<sub>2</sub> DRR for LGS in January 2017. This DRR modeling was the basis for EPA’s Round 3 designation of Attainment/Unclassifiable for Louisa County (containing LGS) in December 2017 (83 FR 1098). Both sets of modeling rely on permitted allowable emissions rates<sup>6 7</sup> that were in place by the October 4, 2018, attainment date and were previously found by EPA to demonstrate attainment of the NAAQS as noted above. However, the EPA is not relying on Iowa’s attainment demonstration modeling as a basis for our proposed determination, because that modeling may be revisited as part of the EPA’s reconsideration action per the D.C. Circuit’s remand of EPA’s approval of Iowa’s attainment plan. Rather, as discussed above, we are relying on the DRR modeling to provide a comparison between the much higher modeled emission rates at the sources and the actual recorded emissions to provide additional evidence that the entire area was attaining the NAAQs as of October 4, 2018.

<sup>5</sup> The final approval action was challenged in the D.C. Cir. on January 15, 2021 and was placed in abeyance on February 3, 2021. *Sierra Club v. EPA*, No. 21–1022 (D.C. Cir.). EPA filed an unopposed motion to the court for a voluntary remand without vacatur and indicated that EPA would take a final reconsideration action no later than December 1, 2023. The D.C. Circuit granted EPA’s motion on December 17, 2021.

<sup>6</sup> The permits containing the emissions limits also contain exemptions for periods of startup, shutdown, and cleaning.

<sup>7</sup> Monsanto was modeled with actual emissions for the Louisa County DRR modeling demonstration.

v. Conclusion

In sum, and as discussed further in the TSD, we propose to find that the weight of the available evidence indicates that the Muscatine area attained the 2010 1-hour SO<sub>2</sub> NAAQS in the 2015–2017 timeframe by the October 4, 2018 attainment date. Specifically, the significant reductions in emissions during the relevant time period from sources within the nonattainment area and a nearby source outside the nonattainment area, coupled with corresponding decreased monitored SO<sub>2</sub> concentrations within the nonattainment area during that same time period lead us to our proposed determination that the area attained by its attainment date. Local meteorological data help confirm that the air quality monitors are unlikely to have missed high concentrations, and the available modeling information and emissions data of the nearby LGS source (which may not be reflected in the air quality monitoring data from within the nonattainment area) also supports the EPA’s determination, as actual historical emissions from that source during the relevant time period were significantly below the emissions that were modeled to be consistent with attainment of the NAAQS.

IV. Proposed Action and Request for Public Comment

The EPA conducted a weight-of-evidence analysis, described in detail above and in the TSD, to determine if the Muscatine SO<sub>2</sub> nonattainment area attained the 2010 1-hour SO<sub>2</sub> NAAQS by the October 4, 2018 attainment date by evaluating all available technical information and data relevant to the SO<sub>2</sub> air quality (e.g., emissions, monitoring, meteorological data, and modeling) in the Muscatine, Iowa, area. Based on the analysis and information presented in this document and the TSD contained in

the docket for this action, the EPA proposes to determine that the Muscatine SO<sub>2</sub> NAA attained the 2010 1-hour SO<sub>2</sub> standard by the applicable attainment date of October 4, 2018, consistent with CAA section 179(c)(1).

In addition, this action, if finalized, will address EPA's obligation under a consent decree in *Center for Biological Diversity, et al. v. Regan*, which establishes a deadline of March 31, 2022 for the EPA to determine under CAA section 179(c) whether the Muscatine County SO<sub>2</sub> nonattainment area attained the NAAQS by the October 4, 2018 attainment date.<sup>8</sup>

This proposed action does not constitute a redesignation of the Muscatine SO<sub>2</sub> NAA to attainment for the 2010 1-hour SO<sub>2</sub> NAAQS under CAA section 107(d)(3) because we have not yet approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA and have not determined that the area has met the other CAA section 107(d)(3)(E) requirements for redesignation. The classification and designation status in 40 CFR part 81 will remain nonattainment until the EPA has determined that Iowa has met the CAA requirements for redesignation to attainment for the Muscatine SO<sub>2</sub> NAA.

This is a proposed action and we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

#### V. Environmental Justice Concerns

When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the U.S. as either nonattainment, attainment, or unclassifiable. Area designations address environmental justice concerns by ensuring that the public is properly informed about the air quality in an area.

The EPA utilized the EJSCREEN tool to evaluate environmental and demographic indicators within the area. The tool outputs report is contained in the docket for this action. While the EPA's EJSCREEN tool demonstrates that demographic indicators are consistent or lower than national averages, there are vulnerable populations in the area including low-income populations and persons over 64 years of age.

This action addresses EPA's determination, as required by the CAA,

of whether the Muscatine County, Iowa, area attained the 2010 1-hour SO<sub>2</sub> NAAQS by the relevant attainment date. This action proposes to determine an area has attained the NAAQS by the relevant attainment date, but it does not change the geographic status of the area nor does it impose additional or modify existing requirements on sources. Based on the information presented in this document and the associated technical support document, the EPA is proposing to determine that the air quality in the Muscatine County area is attaining the NAAQS. For these reasons, this proposed action does not result in disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples.

#### VI. Statutory and Executive Order Reviews

This action proposes to determine an area has attained the NAAQS by the relevant attainment date and does not impose additional or modify existing requirements. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- 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 the National Technology Transfer and Advancement Act (NTTA) because this

rulemaking does not involve technical standards; and

- This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The basis for this determination is contained in section V of this action, “Environmental Justice Concerns.”

#### 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: January 20, 2022.

Meghan A. McCollister,  
Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 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. Revise § 52.834 to read as follows:

##### § 52.834 Control strategy: Sulfur dioxide.

(a) *Approval.* On April 21, 1997, the Iowa Department of Natural Resources (IDNR) submitted a maintenance plan and redesignation request for the Muscatine County nonattainment area for the 1971 SO<sub>2</sub> national ambient air quality standard (NAAQS). The maintenance plan and redesignation request satisfy all applicable requirements of the Clean Air Act.

(b) *Determination of attainment by the attainment date.* As of [date 30 days after date of publication of the final rule in the **Federal Register**], the EPA has determined that the Muscatine, Iowa, SO<sub>2</sub> nonattainment area has attained the 2010 1-hour SO<sub>2</sub> primary NAAQS by the applicable attainment date of October 4, 2018.

[FR Doc. 2022–01497 Filed 1–25–22; 8:45 am]

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<sup>8</sup> *Center for Biological Diversity, et al. v. Regan*, No. 3:20–cv–05436–EMC (N.D. Cal. June 25, 2021).