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Dated: May 12, 2016.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2016-0051; FRL-9946-51-Region 10]

#### Extension of the Attainment Date for the Oakridge, Oregon 24-Hour PM<sub>2.5</sub> Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to grant a 1-year extension of the attainment date for the Oakridge, Oregon nonattainment area to meet the 2006 24-hour PM<sub>2.5</sub> NAAQS from December 31, 2015 to December 31, 2016, on the basis that the State has met the criteria for such an extension under the Clean Air Act (CAA or Act).

**DATES:** Written comments must be received on or before June 17, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2016-0051 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. 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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**Docket:** All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information that is restricted by statute from disclosure. 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 at <http://www.regulations.gov> or at EPA Region 10, Office of Air, Waste and Toxics, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that 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 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Justin Spenillo at (206) 553-6125, or email address [spenillo.justin@epa.gov](mailto:spenillo.justin@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, it is intended to refer to the EPA.

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#### I. Background for the Proposed Action

On October 17, 2006, the EPA issued its final action to revise the PM<sub>2.5</sub> NAAQS to establish revised 24-hour standards (71 FR 61144). In that action, we promulgated identical revised primary and secondary PM<sub>2.5</sub> standards designed to protect public health and welfare that specified a 24-hour PM<sub>2.5</sub> average concentration of 35 µg/m<sup>3</sup>. Specifically, the 2006 standards require that the 3-year average of the annual 98th percentile concentration may not exceed 35 µg/m<sup>3</sup>.

On November 13, 2009, the EPA issued a final rule designating all areas throughout the country for the 2006 24-hour PM<sub>2.5</sub> NAAQS, effective December 14, 2009 (74 FR 58688). In that action,

the EPA designated Oakridge, Oregon and a small surrounding area as a nonattainment area (Oakridge NAA) based on monitor values at the Willamette Activity Center in Oakridge. As a result of this nonattainment area designation, Oregon is required to prepare and submit to the EPA a State Implementation Plan (SIP) revision to meet attainment plan requirements and to bring the Oakridge NAA into attainment for the 2006 24-hour PM<sub>2.5</sub> NAAQS. The State submitted an attainment plan submission for the Oakridge NAA to the EPA by letter dated December 12, 2012 (2012 Oakridge Plan).

On January 4, 2013, the D.C. Circuit Court issued a decision in *NRDC v. EPA*, 706 F.3d 428, holding that the EPA erred in implementing the 1997 PM<sub>2.5</sub> NAAQS only pursuant to the provisions of subpart 1 of the Act, rather than the particulate matter specific provisions of subpart 4 of Part D of Title I (subpart 4). The Court did not vacate the 2007 PM<sub>2.5</sub> Implementation Rule for the 1997 PM<sub>2.5</sub> NAAQS, but remanded it to the EPA with instructions to promulgate a new implementation rule for the PM<sub>2.5</sub> NAAQS in accordance with the requirements of both subpart 1 and subpart 4. On June 6, 2013, consistent with the Court's remand decision, the EPA withdrew its March 2012 Implementation Guidance recommending that states rely on the 2007 PM<sub>2.5</sub> Implementation Rule for development of attainment plans for the 2006 24-hour PM<sub>2.5</sub> NAAQS. Thus, the EPA withdrew the guidance it initially provided to states for meeting attainment plan requirements for purposes of areas designated nonattainment for the 2006 24-hour PM<sub>2.5</sub> NAAQS, such as the Oakridge NAA.

On June 2, 2014, in response to the *NRDC* decision that it implement the PM<sub>2.5</sub> NAAQS pursuant to subpart 4, the EPA promulgated the “PM<sub>2.5</sub> Subpart 4 Nonattainment Classification and Deadline Rule” (79 FR 31566). In that action, the EPA classified all areas currently designated nonattainment for both the 1997 and 2006 PM<sub>2.5</sub> NAAQS as “Moderate” nonattainment areas. That rule also provided guidance to states on how to meet the subpart 4 requirements and set a deadline of December 31, 2014 for states to submit any revisions to previously submitted attainment plan submissions, as necessary to meet subpart 4 requirements. Thus, the EPA classified the Oakridge NAA as a Moderate nonattainment area for the 2006 24-hour PM<sub>2.5</sub> NAAQS and provided an

opportunity for the state to revise the 2012 Oakridge Plan.

A Moderate PM<sub>2.5</sub> nonattainment area's ambient air quality status is determined in accordance with Appendix N of 40 CFR part 50. To show attainment of the current 24-hour and annual standards for PM<sub>2.5</sub>, data from the most recent three consecutive years prior to the area's attainment date must show that PM<sub>2.5</sub> concentrations over the prior three year period are at or below the levels of the standards. A complete year of air quality data, as described in part 50, Appendix N, is comprised of all four calendar quarters with each quarter containing data from at least 75 percent of the scheduled sampling days.

The EPA begins processing and analyzing data related to the attainment of the PM<sub>2.5</sub> NAAQS after the applicable attainment date for the affected areas. Current EPA regulations, under 40 CFR part 58, set the deadline for the state to certify its air quality data in the Air Quality System (AQS) database by May 1 of the following year. Under section 179(c), the EPA is required to determine as expeditiously as practicable, but not later than 6 months after the applicable attainment date, whether a nonattainment area has attained the relevant NAAQS. In the case of a state with an area that qualifies for an extension of the attainment date under section 188(d), however, the EPA has discretion instead to extend the attainment date for an area if the state requests the extension and meets the statutory criteria for such an extension.

## II. Criteria for an Extension of the Attainment Date

CAA section 188(d) allows states to apply for, and the EPA the discretion to grant, a 1-year extension to the statutory attainment date for Moderate PM<sub>10</sub> (particulate matter with an aerodynamic diameter of a nominal 10 micrometers) nonattainment areas. Section 188(d) establishes two criteria that the EPA must consider to grant a requested attainment date extension: (1) The state has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and (2) no more than one exceedance of the 24-hour NAAQS level for PM<sub>10</sub> has occurred in the area in the year preceding the extension year and the annual mean concentration of PM<sub>10</sub> in the area for such year is less than or equal to the level of the annual standard. Section 188(d) also provides for the possibility that the EPA may grant a second 1-year extension if the Moderate area meets the specified criteria. No more than two 1-year

attainment date extensions may be granted for a single nonattainment area.

The provisions of section 188(d) thus allow a state an opportunity to demonstrate that a Moderate area should continue to be classified as Moderate and not reclassified to Serious, even if the area has monitor data exceeding the level of the applicable PM<sub>2.5</sub> NAAQS in the calendar year preceding the otherwise applicable attainment date. Although section 188(d) provides the criteria for such an extension, the EPA believes that there are some ambiguities in the statutory language that warrant interpretation. Thus, in this action the EPA is proposing to interpret the requirements of section 188(d) in evaluating the extension request from the State.

The most significant issue that the EPA must address is how to interpret the air quality requirement of section 188(d)(2) in light of the fact that the statutory language refers to PM<sub>10</sub> rather than to PM<sub>2.5</sub>, and the fact that the air quality requirement is phrased as "no more than one exceedance" of the 24-hour PM<sub>10</sub> NAAQS in the year prior to the otherwise applicable attainment date. Based upon the *NRDC* decision, there can be no doubt that the EPA must interpret the references to PM<sub>10</sub> in section 188(d)(2) to encompass PM<sub>2.5</sub>. Given that fact, however, the EPA cannot read the "no more than one exceedance" requirement to apply literally to the PM<sub>2.5</sub> NAAQS because of the distinct differences in the form of the PM<sub>10</sub> NAAQS and the PM<sub>2.5</sub> NAAQS.

The statutory language addressing PM<sub>10</sub> in CAA section 188 explicitly sets ambient air quality conditions for an attainment date extension in terms that relate factually to the 24-hour PM<sub>10</sub> NAAQS that was in effect at the time of the 1990 Amendments of the CAA, which has a statistical form that is substantially different from the 24-hour PM<sub>2.5</sub> NAAQS. The requirement in 188(d)(2) states that an extension may be granted if "no more than one exceedance of the 24-hour national ambient air quality standard level for PM<sub>10</sub> has occurred in the area in the year preceding the Extension Year, and the annual mean concentration of PM<sub>10</sub> in the area for such year is less than or equal to the standard level." Given the form of the 24-hour PM<sub>10</sub> NAAQS, the requirement that an area have no more than one "exceedance" meant that there could be no more than one monitored value over the numerical level of the NAAQS. Such an approach is logical when the form of the 24-hour NAAQS allows one exceedance per year, on

average, over a three year period. By having no more than one exceedance, the state was meeting the NAAQS in that last year, even if it did not yet meet the requirements for attainment over the requisite three year period. In other words, the state would be close to attaining the NAAQS, thus making one year extension a potentially appropriate way provide additional time for a state to come into attainment without the need for a reclassification to Serious and additional SIP planning efforts. By contrast, the form of the 2006 24-hour PM<sub>2.5</sub> NAAQS is a 98th percentile-based form and not a "one expected exceedance" form as is the PM<sub>10</sub> NAAQS. Under the form of the 2006 24-hour PM<sub>2.5</sub> NAAQS, there can be a number of exceedances of the numerical level of the NAAQS that are permitted and are not considered a violation of the NAAQS. Thus, under the form of the 2006 24-hour PM<sub>2.5</sub> NAAQS an area could be close to attaining the NAAQS in the year prior to the attainment date, even if there were one or more dates with monitored "exceedances." Therefore the statutory language requires some interpretation with regard to how it applies to the PM<sub>2.5</sub> NAAQS.

For this action, the EPA is proposing to interpret section 188(d) for purposes of the 2006 PM<sub>2.5</sub> NAAQS in a way that is equivalent to the "no more than one exceedance" condition that Congress imposed for purposes of the PM<sub>10</sub> NAAQS. Accordingly, the EPA interprets the requirement to demonstrate that the area had "no more than one exceedance" of the level of the 24-hour PM<sub>2.5</sub> NAAQS to mean that the state must demonstrate that the area had "clean data" in the year preceding the extension year. Thus, a state seeking an attainment date extension for a Moderate nonattainment area for a 24-hour PM<sub>2.5</sub> NAAQS would be required to demonstrate that the area had monitor data showing no monitored violations of the NAAQS in light of the statistical form of that particular standard (*i.e.*, for the 2006 24-hour PM<sub>2.5</sub> NAAQS, the 98th percentile value did not exceed 35 µg/m<sup>3</sup>) in the calendar year prior to the applicable attainment date for the area.

An additional issue that the EPA must address concerning the air quality requirement of section 188(d)(2) is whether a state seeking an extension for purposes of a 24-hour PM<sub>2.5</sub> NAAQS only, must nevertheless meet the portion of section 188(d)(2) that refers to the annual ambient air quality of such an area. The EPA notes that statutory language of section 188(d) does provide that a state seeking an extension of a Moderate area attainment date must

have not more than one exceedance of the 24-hour NAAQS “and” meet an annual ambient level requirement as well. The EPA believes that reading this provision to require a state to meet both tests, even when the state has an area that is designated nonattainment only for the 24-hour PM<sub>2.5</sub> NAAQS and is seeking an extension of only the attainment date for such NAAQS, is not a logical interpretation of the provision. Such a reading would be logical were the area at issue designated nonattainment for both the 24-hour NAAQS and the annual NAAQS, but not if designated nonattainment only for one of those standards.

The EPA is proposing to interpret section 188(d) for the 2006 24-hour PM<sub>2.5</sub> NAAQS to require a state only to establish that it meets the air quality requirement with respect to the 24-hour NAAQS when seeking an extension of the attainment date only for the 24-hour PM<sub>2.5</sub> NAAQS. The EPA believes this interpretation of section 188(d)(2) is appropriate for two main reasons. First, while most PM<sub>10</sub> nonattainment areas were designated nonattainment for either just the 24-hour PM<sub>10</sub> NAAQS or for both the 24-hour and annual PM<sub>10</sub> NAAQS, the majority of current PM<sub>2.5</sub> nonattainment areas are, in contrast, designated for either the 24-hour or the annual PM<sub>2.5</sub> NAAQS, and should arguably only need to demonstrate clean data for the NAAQS for which the area is designated nonattainment. For those few PM<sub>2.5</sub> nonattainment areas designated for both 24-hour and annual PM<sub>2.5</sub> NAAQS, the EPA believes it also is appropriate that a state must only demonstrate clean data for the specific NAAQS for which the state is seeking an attainment date extension because such an approach is consistent with the statute’s overall approach to designating nonattainment areas and implementing control strategies for each separate PM<sub>2.5</sub> NAAQS. Second, if an area is designated as nonattainment for both the 24-hour and annual PM<sub>2.5</sub> standards and receives an extension for one standard while still working toward a later attainment date for the other standard, the EPA maintains that public health protection would not be delayed because the state would still be subject to the ongoing mandate to adopt and implement measures to ensure expeditious attainment of the other standard.

Section 188(d)(1) of the Act also provides that the state must have “. . . complied with all requirements and commitments pertaining to the area in the applicable implementation plan.” As with section 188(d)(2), the EPA believes that there are some ambiguities

in the statutory language that warrant interpretation in order to evaluate the State’s extension request. The EPA proposes to interpret this provision to mean that the state has submitted a SIP submission to address the attainment plan requirements for the applicable PM<sub>2.5</sub> NAAQS and that the state has implemented the control measures in the SIP submission. This proposed interpretation is based on the plain language of section 188(d) that does not explicitly require that the state comply with all requirements applicable to the area in the CAA, but merely requires that the state comply with all requirements in the applicable SIP. In other words, the EPA believes that section 188(d)(1) should be interpreted to mean that so long as the state has submitted the necessary attainment plan for the area for the applicable PM<sub>2.5</sub> NAAQS and is implementing the control measures in the submission, the fact that the EPA has not yet acted on such submission to make it an approved part of the applicable SIP should not be a barrier to the state obtaining an extension of the attainment date under section 188(d)(1).

Under this proposed interpretation, therefore, the state has to demonstrate that it has submitted an attainment plan to the EPA for the relevant PM<sub>2.5</sub> NAAQS and that the state is implementing control measures in that SIP submission. Because the extension at issue under section 188(d) is an extension of a Moderate area attainment date, it follows that the control measures in the attainment plan submission would be those measures that the State intended to meet the RACM and RACT requirements. The EPA interprets the requirement of section 188(d)(1) that the state have complied with the “requirements and commitments” of the applicable implementation plan to mean that the state must be implementing the control measures in the submitted attainment plan. The state must have adopted and submitted the attainment plan SIP revision to the EPA, but the state can qualify for the extension even if the EPA has not yet taken action on the SIP submission.

In sum, in order for the EPA to make a decision on whether to grant a 1-year attainment date extension, the state is required to submit sufficient information to demonstrate that it has both complied with all requirements and commitments in the applicable implementation plan, and that it had “clean” air quality data in the attainment year, as explained above. Any decision made by the EPA to extend the attainment date for an area

would be based on facts specific to the nonattainment area at issue.

Section 188(d) does not specify the process by which the EPA should evaluate and act upon requests from states for an extension of the Moderate PM<sub>2.5</sub> area attainment date. However, the EPA believes that an attainment date extension should only be granted after the EPA provides notice in the **Federal Register** and an opportunity for the public to comment. Requiring notice-and-comment rulemaking allows for appropriate evaluation of the relevant criteria and facts in order to assure that the extension is granted or denied after full evaluation. This process also is consistent with past practice by the EPA in granting attainment date extensions for PM<sub>2.5</sub> areas. If this proposal is finalized, then the nonattainment area would remain classified as Moderate for the 2006 PM<sub>2.5</sub> NAAQS throughout the 2016 calendar year. After the December 31, 2016 attainment date, the EPA will evaluate air quality data and other relevant information to determine whether the area has attained the 2006 PM<sub>2.5</sub> NAAQS by the December 31, 2016 attainment date.

### III. Meeting the Criteria for the 1-Year Extension

On December 14, 2015, the State of Oregon submitted a request to extend the Moderate area attainment date for the Oakridge NAA for the 2006 24-hour PM<sub>2.5</sub> NAAQS from December 31, 2015 to December 31, 2016. This request contained documentation intended to demonstrate that the State meets the criteria for a 1-year attainment date extension for this area pursuant to CAA section 188(d). On February 11, 2016, the Lane Regional Air Protection Agency (LRAPA) submitted an Oakridge Extension Request Follow-up, that provides the final quality-assured air quality data for 2015 and documentation of efforts to implement the 2012 Oakridge plan during the 2015–16 winter. The EPA is evaluating this request in light of its statutory interpretations of section 188(d) with respect to the 2006 24-hour PM<sub>2.5</sub> NAAQS.

#### A. Oakridge Air Quality Data for 2015

The LRAPA implements the CAA on behalf of the State in the Oakridge NAA. The LRAPA monitors ambient PM<sub>2.5</sub> at one monitoring site in the Oakridge NAA at the Willamette Activity Center, the area of expected highest concentrations. The air monitor began operation in 1989 and has monitored continuously to the present. The monitor is a Federal Reference Method sampler, sampling every third day. The

EPA has previously approved the State's monitoring network including the PM<sub>2.5</sub> network for Oakridge. The EPA verified in 2010 and 2013 that the PM<sub>2.5</sub> sample collection and filter handling procedures met Federal requirements for quality assurance and control. The LRAPA reviews and certifies all data from this monitor for compliance with these procedures and submits the data to the ODEQ. The ODEQ then submits the certified data to the EPA AQS data system.

The ODEQ submitted complete certified PM<sub>2.5</sub> monitor data for calendar year 2015 into the EPA AQS data system before February 28, 2016. Likewise, the state has submitted certified data for calendar years 2013 and 2014 to the EPA AQS data system. Thus, the EPA AQS data system contains sufficient data for the EPA to evaluate whether the Oakridge NAA attained the 2006 24-hour PM<sub>2.5</sub> NAAQS by the statutory attainment date of December 31, 2015, but also the requisite data to determine whether the Oakridge NAA was meeting the NAAQS in calendar year 2015 in order to qualify for a one year extension under section 188(d).

As explained above, the EPA is interpreting the air quality criterion of section 188(d)(2) in order to reflect the different form of the NAAQS for the PM<sub>10</sub> NAAQS in effect at the time of the 1990 Amendments to the CAA versus the form of the 2006 PM<sub>2.5</sub> NAAQS. Under this proposed interpretation, a state could qualify for a one year extension of the Moderate area attainment date if the monitor data reflects that the area has ambient air quality that is at or below the level of the relevant PM<sub>2.5</sub> NAAQS for the calendar year preceding the otherwise applicable attainment date, *i.e.*, for the calendar year prior to the requested extension year. The three year average of the annual 98th percentile 24-hour PM<sub>2.5</sub> values for 2013–2015 in the Oakridge NAA is 37 µg/m<sup>3</sup> and thus the EPA cannot find that the area has attained the 24-hour standards for this 3-year period. However, the 98th percentile value for the single year of 2015 in this area is 28.9 µg/m<sup>3</sup>, which is below the level of the 24-hour PM<sub>2.5</sub> NAAQS of 35 µg/m<sup>3</sup>.

Because the Oakridge NAA is designated nonattainment only for the 2006 24-hour PM<sub>2.5</sub> NAAQS, the State only seeks a one year extension of the attainment date with respect to this NAAQS. As explained above, the EPA is interpreting the air quality criterion of section 188(d) to apply only with respect to the specific NAAQS for which a state seeks an extension. Thus, for a state seeking an extension of an

attainment date for an area designated nonattainment only for the 24-hour NAAQS, section 188(d) does not require the EPA to evaluate the ambient air quality in the area with respect to the annual PM<sub>2.5</sub> NAAQS as well. Under this proposed approach, the monitored annual ambient level of PM<sub>2.5</sub> in the Oakridge NAA is not germane to the EPA's evaluation of the extension request. However, the EPA notes that the annual design value for the Oakridge monitor is 9.2 µg/m<sup>3</sup> for the 2012–2014 period and the preliminary design value is 9.6 µg/m<sup>3</sup> for the 2013–2015 period. Thus, even if the annual ambient monitored PM<sub>2.5</sub> level were relevant to this extension request, the monitored PM<sub>2.5</sub> level in the Oakridge NAA is well below the 15 µg/m<sup>3</sup> level of the 2006 annual PM<sub>2.5</sub> NAAQS, as well as the 12 µg/m<sup>3</sup> level of the 2012 PM<sub>2.5</sub> NAAQS.

For these reasons, the EPA is proposing to find that the State meets the ambient air quality criterion for a 1-year attainment date extension for the Oakridge NAA pursuant to CAA section 188(d)(2).

#### *B. Oakridge Requirements and Commitments in the Applicable SIP*

On December 12, 2012, the Oregon Department of Environmental Quality (ODEQ) submitted a SIP revision to address attainment plan requirements for the 2006 PM<sub>2.5</sub> NAAQS for the Oakridge NAA (2012 Oakridge Plan). The State intended this SIP submission to meet the statutory requirements for an attainment plan for purposes of the PM<sub>2.5</sub> NAAQS based upon the statutory requirements and the EPA guidance for those requirements available at that time. Although the EPA anticipates that the state may elect to make an additional SIP submission to revise and update the 2012 Oakridge Plan, to date the State has not done so.

The State developed the 2012 Oakridge Plan in order to address the ambient PM<sub>2.5</sub> problem in this area through a control strategy designed to focus on the dominant sources of emissions in the area. The State has concluded that the violations of the 2006 24-hour PM<sub>2.5</sub> NAAQS in the Oakridge NAA are primarily due to emissions of direct PM<sub>2.5</sub> from residential wood combustion (RWC) from winter time home heating. Oakridge is a small rural community located in a valley of the western slope of the Cascade mountain range. Therefore, the State has ascertained that reducing emissions of PM<sub>2.5</sub> to prevent violations of the PM<sub>2.5</sub> NAAQS rests primarily on RWC curtailment.

The 2012 Oakridge Plan included new control measures to address RWC

emissions by requiring the curtailment of RWC during times when elevated levels of PM<sub>2.5</sub> are predicted or occur. The RWC curtailment control measure was adopted, and is enforceable as a City of Oakridge ordinance. This ordinance, in addition to Oregon's state-wide Heat Smart program, also requires the replacement of old uncertified wood stoves with EPA certified stoves when houses containing uncertified wood stoves are sold, and requires the installation of EPA certified wood stoves in new construction. The State provided documentation in the attainment date extension request to demonstrate the implementation of the Oakridge RWC curtailment ordinance.

Subsequent to the submission of the 2012 Oakridge Plan submission, the City of Oakridge enacted revisions on November 15, 2012 and again on October 15, 2015 to strengthen the RWC ordinance which included lowering the threshold for triggering a curtailment or "burn ban," imposing a more stringent opacity limit, and requiring that only dry, seasoned wood be burned for RWC. The State plans to submit a SIP revision to the EPA in December 2016 that will include the most recent RWC ordinance revisions. The State and LRAPA provided evidence of the adoption and implementation of the new revised ordinance in support of the extension request. Although the State has not yet submitted the ordinance revisions to the EPA for evaluation, and thus the revisions are not yet part of the applicable implementation plan, the Agency nevertheless considers these revisions an important part of the State's strategy for attainment of the 2006 PM<sub>2.5</sub> NAAQS in the Oakridge NAA.

As explained above, the EPA is proposing to interpret the compliance with applicable implementation plan criterion of section 188(d)(1) to require that a state have made a submission intended to meet the attainment plan requirements for the 2006 PM<sub>2.5</sub> NAAQS and that the state be implementing the control measures in that attainment plan submission. Under this proposed interpretation, a state could qualify for a 1-year extension of the Moderate area attainment date if the state has submitted an attainment plan for the relevant PM<sub>2.5</sub> NAAQS and demonstrates that it is actively implementing the commitments and requirements of the attainment plan at the time of attainment date extension request.

The State developed and submitted the 2012 Oakridge Plan to the EPA for evaluation. The State also submitted information to establish that the control measures in the 2012 Oakridge Plan are

in effect and are being implemented by the LRAPA at this time as part of the attainment date extension request. The EPA has reviewed the control measures of the submitted 2012 Oakridge Plan and the documentation of implementation submitted as part of the extension request. The docket provides documentation of this including the official extension request that describes supplemental strategies currently underway, an expanded city ordinance that enhances controls designed to reduce emissions from residential home heating, and local strategies and efforts to reduce emissions. Based upon this information, the EPA believes that the State and the LRAPA are complying with the requirements and commitments of the applicable implementation plan, as contemplated by section 188(d)(1).

For these reasons, the EPA is proposing to find that the State meets the compliance with the applicable implementation plan criterion for a 1-year attainment date extension for the Oakridge NAA pursuant to CAA section 188(d)(1).

#### IV. Summary of Proposed Action

The EPA is proposing to find that the State has met the criteria for receiving a 1-year extension to the Moderate area attainment date for the 2006 PM<sub>2.5</sub> NAAQS for the Oakridge NAA as provided in section 188(d) of the Act. The State is implementing the requirements and commitments in the applicable attainment plan for the PM<sub>2.5</sub> NAAQS in the area, and the 98th percentile 24-hour PM<sub>2.5</sub> air quality value for 2015 is below 35 µg/m<sup>3</sup>. Accordingly, the State has established that it meets the criteria of section 188(d) as the EPA is proposing to interpret those requirements for purposes of the 2006 PM<sub>2.5</sub> NAAQS. The EPA is therefore proposing to exercise the discretion granted to the Administrator by section 188(d) of the CAA to extend the Moderate area attainment date for the Oakridge NAA from December 31, 2015 to December 31, 2016.

#### V. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this proposed 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:

- 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 Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
  - does not provide 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 9, 2016.

**Dennis J. McLerran,**

*Regional Administrator, Region 10.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2016-0164; FRL-9946-358-Region 9]

### Determination of Attainment of the 1-Hour Ozone National Ambient Air Quality Standard in the San Joaquin Valley Nonattainment Area in California

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to determine that the San Joaquin Valley nonattainment area has attained the 1-hour ozone National Ambient Air Quality Standard. This proposed determination is based on the most recent three-year period (2012-2014) of sufficient, quality-assured, and certified data. Preliminary data for 2015 are consistent with continued attainment of the standard in the San Joaquin Valley.

**DATES:** Any comments must arrive by June 17, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2016-0164 at <http://www.regulations.gov>, or via email to [lee.anita@epa.gov](mailto:lee.anita@epa.gov). For comments submitted at [Regulations.gov](http://www.Regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.Regulations.gov). For either manner of submission, 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the EPA's full public comment