

Dated: August 10, 2001.
William W. Rice,
Acting Regional Administrator, Region 7.
 Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:
Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA—Missouri

2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for rule “10–6.065” to read as follows:

§ 52.1320 Identification of plan.
 * * * * *
 (c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * *				
10–6.065 ...	Operating Permits	5/30/00	3/23/01, 66 FR 16139	The state rule has sections (4)(A), (4)(B), and (4)(H)-Basic State Operating Permits. EPA has not approved those sections. Section (6), Part 70 Operating Permits, has been approved as an integral part of the operating permit program and has not been approved as part of the SIP.
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[FR Doc. 01–21196 Filed 8–22–01; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Docket ID–01–003; FRL–7042–5]

Finding of Attainment for PM–10; Shoshone County (City of Pinehurst and Pinehurst Expansion Area)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA has determined that two areas in Shoshone County, Idaho, have attained the National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter of less than, or equal to a nominal ten micrometers (PM–10) by the respective attainment dates for the areas. One area is the City of Pinehurst, which has an attainment date of December 31, 1994. The other area is an area immediately adjacent to the City of Pinehurst, known as the “Pinehurst expansion area,” which has an attainment date of December 31, 2000.

DATES: This direct final rule will be effective October 22, 2001, unless EPA receives adverse comment by September 24, 2001. If adverse comments are

received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to Steven K. Body, Office of Air Quality, Mailcode OAQ–107, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Copies of documents relevant to this action are available for public review during normal business hours (8 a.m. to 4:30 p.m.) at this same address.

FOR FURTHER INFORMATION CONTACT: Steven K. Body, Office of Air Quality, EPA Region 10, 1200 Sixth Avenue, Seattle Washington, 98101 (206) 553–0782.

SUPPLEMENTARY INFORMATION: Throughout this notice, the words “we,” “us,” or “our” means the Environmental Protection Agency (EPA). The words “Pinehurst PM–10 nonattainment area” means the City of Pinehurst in Shoshone County, Idaho, that is designated nonattainment for PM–10 in 40 CFR 81.313. The words “Pinehurst expansion area” or “Pinehurst expansion PM–10 nonattainment area” mean that portion of Shoshone County, Idaho, immediately adjacent to the City of Pinehurst, that is designated nonattainment for PM–10 in 40 CFR 81.313.

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I. Background

A. Designation and Classification of PM–10 Nonattainment Areas

Areas meeting the requirements of section 107(d)(4)(B) of the Clean Air Act (CAA) were designated nonattainment for PM–10 by operation of law and classified “moderate” upon enactment of the 1990 Clean Air Act Amendments. *See generally* 42 U.S.C. 7407(d)(4)(B). These areas included all former Group I PM–10 planning areas identified in 52 FR 29383 (August 7, 1987), as further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the NAAQS for PM–10 prior to January 1, 1989. A **Federal Register** document announcing the areas designated

nonattainment for PM-10 upon enactment of the 1990 Amendments, known as "initial" PM-10 nonattainment areas, was published on March 15, 1991 (56 FR 11101) and a subsequent **Federal Register** document correcting the description of some of these areas was published on August 8, 1991 (56 FR 37654). *See also* 56 FR 56694 (November 6, 1991). The Pinehurst PM-10 nonattainment area was one of these initial PM-10 nonattainment areas. All initial PM-10 nonattainment areas, such as the Pinehurst PM-10 nonattainment area, had the same applicable attainment date of December 31, 1994 and were classified as moderate nonattainment areas by operation of law. *See* CAA sections 188(a) and (c).

In 1991, Idaho requested that EPA expand the Pinehurst PM-10 nonattainment area to include an area adjacent to the City of Pinehurst because Idaho believed other areas of the Silver Valley contributed to violations of the PM-10 NAAQS in the Pinehurst PM-10 nonattainment area. EPA declined to expand the boundaries of the original nonattainment area because there was no evidence that the original description of the nonattainment problem was in error. Instead, EPA considered the information submitted by Idaho as an unsolicited request by the State to create a new nonattainment area under section 107(d)(3)(D) of the Act. Accordingly, after notice and an opportunity for public comment, EPA designated the area identified by the State, which lies in Shoshone County, Idaho, and adjacent to the City of Pinehurst as nonattainment for PM-10, effective January 20, 1994. *See* 58 FR 67334, 67339 (December 21, 1993). As discussed above, this area is generally known as the "Pinehurst expansion area." EPA published a correction to the boundary description for the Pinehurst area on May 11, 1995. *See* 60 FR 25146.

As a newly designated PM-10 nonattainment area, the Pinehurst expansion area was classified as a moderate nonattainment area by operation of law. *See* CAA section 188(a). Pursuant to section 188(c)(1) of the Act, the attainment date for the Pinehurst expansion area was to be no later than the end of the sixth calendar year after the area was designated nonattainment. Because the Pinehurst expansion area was designated nonattainment for PM-10 effective January 20, 1994, the attainment date for the Pinehurst expansion area is December 31, 2000.

B. How Does EPA Make Attainment Determinations?

All PM-10 nonattainment areas are initially classified "moderate" by operation of law when they are designated nonattainment. *See* section 188(a). Pursuant to sections 179(c) and 188(b)(2) of the Act, we have the responsibility of determining within six months of the applicable attainment date whether, based on air quality data, PM-10 nonattainment areas attained the PM-10 NAAQS by the attainment date. Determinations under section 179(c)(1) of the Act are to be based upon the area's "air quality as of the attainment date." Section 188(b)(2) is consistent with this requirement.

Generally, we determine whether an area's air quality is meeting the PM-10 NAAQS for purposes of section 179(c)(1) and 188(b)(2) based upon data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring stations (NAMS) in the nonattainment area and entered into the EPA Aerometric Information Retrieval System (AIRS). Data entered into the AIRS has been determined to meet federal monitoring requirements (*see* 40 CFR 50.6; 40 CFR part 50, appendix J; 40 CFR part 53; 40 CFR part 58, appendix A & B) and may be used to determine the attainment status of an area. We will also consider air quality data from other air monitoring stations in the nonattainment area provided that the stations meet the federal monitoring requirements for SLAMS. All data are reviewed to determine the area's air quality status in accordance with our guidance at 40 CFR part 50, appendix K.

Attainment of the annual PM-10 standard is achieved when the annual arithmetic mean PM-10 concentration over a three-year period¹ is equal to or less than 50 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). Attainment of the 24-hour standard is determined by calculating the expected number of days in a year with PM-10 concentrations greater than 150 $\mu\text{g}/\text{m}^3$. The 24-hour standard is attained when the expected number of days with levels above 150 $\mu\text{g}/\text{m}^3$ (averaged over a three-year period) is less than or equal to one. Three consecutive years of air quality data are generally required to show attainment of the annual and 24-hour standards for PM-10. *See* 40 CFR part 50 and appendix K.

¹For example 1992, 1993, and 1994 for areas with a December 31, 1994 attainment date and 1998, 1999, and 2000 for areas with a December 31, 2000 attainment date.

C. What PM-10 Planning Has Occurred for the Pinehurst PM-10 Nonattainment Area and the Pinehurst Expansion PM-10 Nonattainment Area?

The State of Idaho has addressed the PM-10 planning requirements for the Pinehurst PM-10 nonattainment area and the Pinehurst expansion PM-10 nonattainment area as part of a single planning process. After the original initial Pinehurst area was designated nonattainment for PM-10, the State of Idaho, in cooperation with local officials, developed a control strategy that consisted of a residential wood combustion emission reduction program for the City of Pinehurst and the adjacent area. The program included public education and outreach efforts on how to burn wood with reduced emissions as well as a voluntary wood stove curtailment program designed to reduce wood burning during periods of adverse meteorology. In addition, through a combination of federal, state, and local grant and loan programs, the State of Idaho worked with local residents to improve home weatherization and to convert a number of residences from reliance on wood stoves to cleaner heating devices, such as natural gas furnaces, pellet stoves, and phase II wood stoves. Idaho submitted a SIP revision for the two areas containing these control measures in April 1992. On August 25, 1994, EPA took final action approving the PM-10 SIP for the Pinehurst PM-10 nonattainment area. *See* 59 FR 43745. On May 26, 1995, EPA took final action approving the PM-10 SIP for the Pinehurst expansion area. *See* 60 FR 27891.

D. What Does the Monitoring Data Show?

As discussed above, the State of Idaho has addressed the PM-10 planning requirements for the Pinehurst PM-10 nonattainment area and the Pinehurst expansion PM-10 nonattainment area as part of a single planning process. The areas are covered by the same ambient air quality monitoring network, which consists of one monitoring site, located at the Pinehurst elementary school in the City of Pinehurst. There is no monitor located in the Pinehurst expansion area. The Pinehurst elementary school monitoring site has been determined to represent air quality for both nonattainment areas and to measure maximum PM-10 levels expected to occur in both areas. The monitoring site meets EPA SLAMS network design and siting requirements, set forth at 40 CFR part 58, appendices

D and E, and continues to monitor for PM-10.

The State of Idaho has operated two different types of PM-10 samplers at the Pinehurst elementary school site. Since 1988, the State has operated a sampler (called the Hi-Vol SSI) that collects particulate matter on a filter over a 24-hour period. The filter is then analyzed in a laboratory to determine the mass concentration. The Hi-Vol SSI sampler in Pinehurst does not sample every day. Instead, the sampling frequency varies depending on the season.

Since July 1, 1998, the State has also operated a continuous sampler (called a TEOM) that collects PM-10 and provides hourly PM-10 concentrations which are then averaged for a 24-hour PM-10 concentration. The TEOM provides continuous, "real time" data and is often used for residential wood smoke curtailment programs. Both samplers are Federal Reference or Equivalent samplers and provide data that can be used in determining compliance with the NAAQS for PM-10. A listing of samplers designated as federal reference method or equivalent can be found at the EPA website, "www.epa.gov/ttn/amtic/pm.html".

1. Hi-Vol SSI Sampler

Between January 1, 1992 through December 31, 2000, there has been only one exceedance of the level of the 24-hour standard measured by the Hi-Vol SSI sampler: a level of 177 $\mu\text{g}/\text{m}^3$ on February 19, 1998. During the time the exceedance was measured in February 1998, the sampler was operating every third day. Therefore, each exceedance is counted as three expected exceedances.

2. TEOM Sampler

A review of the PM-10 data in AIRS from the TEOM sampler at the Pinehurst elementary school site shows no exceedances of the 24-hour standard from July 1, 1998 for the remainder of the year and no exceedances of the 24-hour standard during 2000. During 1999, a 24-hour exceedance of 290 $\mu\text{g}/\text{m}^3$ was recorded at the TEOM sampler on September 25, 1999. The Hi-Vol SSI sampler did not operate on September 25, 1999.

Under section 107(d)(4)(B)(ii) of the CAA and 40 CFR part 50, appendix K, section 2.4, specific exceedances due to uncontrollable natural events, such as unusually high winds, may be discounted or excluded entirely from decisions regarding an area's air quality status in appropriate circumstances. See Memorandum from EPA's Assistant Administrator for Air and Radiation to EPA Regional Air Directors entitled "Areas Affected by Natural Events,"

dated May 30, 1996 (EPA's Natural Events Policy). Under the policy, where a state believes natural events have caused a violation of the NAAQS, the state enters the exceedance in the AIRS data base, flags the exceedance as being attributable to a natural event, documents a clear causal relationship between the measured exceedance and the natural event, and develops a natural events action plan (NEAP) to address future natural events. In the case of high-wind events where the sources of dust are anthropogenic, the state should also document that Best Available Control Measures (BACM) were required for those sources and that sources were in compliance with BACM at the time-of the high-wind event. EPA's Natural Events Policy also contains guidance for notifying the public of the occurrence of natural events and the health effects of such events, as well as minimizing public exposure to high concentrations of PM-10 due to natural events.

The State of Idaho submitted a letter to EPA dated October 29, 1999, requesting that EPA concur in Idaho's determination that the September 25, 1999 exceedance was attributable to high winds under EPA's Natural Events Policy.² EPA concurred with the State's determination in a letter dated September 20, 2000.³ Therefore, EPA has excluded this exceedance from consideration in making attainment determinations for the Pinehurst PM-10 nonattainment area and the Pinehurst expansion area.

II. EPA's Action

As discussed above, whether an area has attained the PM-10 NAAQS is based exclusively upon measured air quality levels over the most recent and complete three calendar year period. See 40 CFR part 50 and 40 CFR part 50, appendix K.

A. Pinehurst PM-10 Nonattainment Area

The attainment date for the Pinehurst PM-10 nonattainment area is December 31, 1994. Therefore, EPA considers the data reported for calendar years 1992, 1993, and 1994 in making the attainment determination. A review of the PM-10 data in AIRS for the Hi-Vol SSI sampler at the Pinehurst elementary

school site for this period shows the three-year arithmetic average of the annual PM-10 average for 1992, 1993, and 1994 is 42.7 $\mu\text{g}/\text{m}^3$, which is below the level of the annual standard of 50 $\mu\text{g}/\text{m}^3$. The TEOM sampler was not in place during this time. Therefore, EPA finds that the Pinehurst PM-10 nonattainment area attained the annual PM-10 standard as of the December 31, 1994 attainment date for the area.

There were also no exceedances of the 24-hour standard in AIRS for the Hi-Vol SSI sampler during 1992, 1993, and 1994. As discussed above, the TEOM sampler was not in place during this time. EPA therefore also has determined that the Pinehurst PM-10 nonattainment area attained the 24-hour PM-10 standard as of the December 31, 1994 attainment date for the area.

B. Pinehurst Expansion PM-10 Nonattainment Area

The attainment date for the Pinehurst expansion area is December 31, 2000. Therefore, EPA considers the data reported for calendar years 1998, 1999, and 2000 in making the attainment determination. The three-year average of the annual average for 1998 through 2000 from the Hi-Vol SSI is 22.7 $\mu\text{g}/\text{m}^3$, which is below the level of the annual standard of 50 $\mu\text{g}/\text{m}^3$. There is currently insufficient data from the TEOM to make an attainment determination for the annual standard because the sampler was not operating during the first two quarters of 1998. Therefore, based on the available data from the Hi-Vol SSI sampler, EPA believes that the Pinehurst expansion area attained the annual PM-10 standard as of December 31, 2000.

As discussed above, there was one exceedance of the 24-hour PM-10 standard recorded at the Hi-Vol SSI sampler at the Pinehurst elementary school site in February 1998. At that time, the Hi-Vol SSI sampler was monitoring once every three days. Therefore, this measured exceedance is counted as three expected exceedances, resulting in an expected exceedance rate for the 1998 calendar year of 3.0. No measured values above the level of the 24-hour NAAQS were recorded in the remainder of 1998, 1999, or 2000, which results in a three-year average (1998, 1999, 2000) expected exceedance rate at the Hi-Vol SSI sampler of 1.0. Because the expected exceedance rate at the Hi-Vol SSI sampler does not exceed 1.0, the data from this sampler show that the Pinehurst extension PM-10 nonattainment area attained the 24-hour PM-10 standard by the attainment date of December 31, 2000.

² Idaho only recently entered the data from the TEOM sampler, including the September 25, 1999 exceedance, into the AIRS data base. In doing so, Idaho flagged the September 25, 1999 exceedance as attributable to a natural event.

³ Now that the Idaho has entered the September 25, 1999 exceedance into the AIRS data base, EPA intends to attach a concurrence flag for the exceedance in AIRS.

As discussed above, the TEOM sampler recorded an exceedance on September 25, 1999, which has been claimed by Idaho and determined by EPA to be attributable to a natural event. No other exceedances of the 24-hour standard were recorded at the TEOM sampler from 1998 through 2000. Therefore, the data from the TEOM sampler does not indicate a violation of the 24-hour PM-10 standard. Even if the September 25, 1999 exceedance was not excluded from consideration as a natural event, however, there is insufficient data from the TEOM to make an unambiguous determination that the Pinehurst expansion area did not attain the standard because the TEOM did not begin operating until July 1998. There are therefore not three full years of data from the TEOM for the period from 1998 through 2000.

C. Effect of Finding

In summary, EPA finds that the Pinehurst PM-10 nonattainment area was in attainment of the PM-10 standards as of its attainment date of December 31, 1994. EPA also finds that the Pinehurst expansion PM-10 nonattainment area attained the PM-10 standards as of its attainment date of December 31, 2000. Consistent with CAA section 188, the areas will remain moderate PM-10 nonattainment areas and will avoid the additional planning requirements that apply to serious PM-10 nonattainment areas.

These findings of attainment should not be confused, however, with a redesignation to attainment under CAA section 107(d) because Idaho has not, for either the Pinehurst PM-10 nonattainment area or the Pinehurst expansion PM-10 nonattainment area, submitted a maintenance plan as required under section 175(A) of the CAA or met the other CAA requirements for redesignations to attainment. The designation status in 40 CFR part 81 will remain moderate nonattainment for both areas in Shoshone County until such time as Idaho meets the CAA requirements for redesignations to attainment.

III. Administrative Requirements

Under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use" (66 FR 28355, May 22, 2001). Under the Regulatory

Flexibility Act (5 U.S.C. 601 *et seq.*), the Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities because it merely makes a determination based on air quality data and does not impose any requirements. This action does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) because it does not impose any enforceable duties.

This action also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999). The action merely makes a determination based on air quality data and does not impose any requirements and therefore does not alter the relationship or the distribution of power and responsibilities between the state and the Federal government established in the Clean Air Act.

This action also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) because it is not a significant regulatory action under Executive Order 12866.

This action does not involve technical standards. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. In addition, this action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective October 22, 2001 unless EPA receives adverse written comments by September 24, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 22, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See CAA section 307(b)(2).

List of Subjects in 40 CFR Part 81

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

Dated: August 3, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

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BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-7040-5]

Florida: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Florida has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior