

APPENDIX A.—COMPARISON OF EXISTING AND REVISED FEE AMOUNTS—Continued

37 CFR Section	Description	October 1993	October 1994
1.492(a)(3)	PTO Not ISA nor IPEA (Small Entity)	475	490
1.492(a)(4)	Claims—IPEA	90	92
1.492(a)(4)	Claims—IPEA (Small Entity)	45	46
1.492(a)(5)	Filing with EPO/JPO Search Report	830	850
1.492(a)(5)	Filing with EPO/JPO Search Report (Small Entity)	415	425
1.492(b)	Claims—Extra Individual (Over 3)	74	78
1.492(b)	Claims—Extra Individual (Over 3) (Small Entity)	37	38
1.492(c)	Claims—Extra Total (Over 20)	22	(1)
1.492(c)	Claims—Extra Total (Over 20) (Small Entity)	11	(1)
1.492(d)	Claims—Multiple Dependents	230	240
1.492(d)	Claims—Multiple Dependents (Small Entity)	115	120
1.492(e)	Surcharge	130	(1)
1.492(e)	Surcharge (Small Entity)	65	(1)
1.492(f)	English Translation—After 20 Months	130	(1)
2.6(a)(1)	Application for Registration, Per Class	245	(1)
2.6(a)(2)	Amendment to Allege Use, Per Class	100	(1)
2.6(a)(3)	Statement of Use, Per Class	100	(1)
2.6(a)(4)	Extension for Filing Statement of Use, Per Class	100	(1)
2.6(a)(5)	Application for Renewal, Per Class	300	(1)
2.6(a)(6)	Surcharge for Late Renewal, Per Class	100	(1)
2.6(a)(7)	Publication of Mark Under § 12(c), Per Class	100	(1)
2.6(a)(8)	Issuing New Certificate of Registration	100	(1)
2.6(a)(9)	Certificate of Correction of Registrant's Error	100	(1)
2.6(a)(10)	Filing Disclaimer to Registration	100	(1)
2.6(a)(11)	Filing Amendment to Registration	100	(1)
2.6(a)(12)	Filing Affidavit Under Section 6, Per Class	100	(1)
2.6(a)(13)	Filing Affidavit Under Section 15, Per Class	100	(1)
2.6(a)(14)	Filing Affidavit Under Sections 8 & 15, Per Class	200	(1)
2.6(a)(15)	Petitions to the Commissioner	100	(1)
2.6(a)(16)	Petition to Cancel, Per Class	200	(1)
2.6(a)(17)	Notice of Opposition, Per Class	200	(1)
2.6(a)(18)	Ex Parte Appeal to the TTAB, Per Class	100	(1)
2.6(a)(19)	Dividing an Application, Per New Application Created	100	(1)
2.6(b)(1)(i)	Copy of Registered Mark	3	(1)
2.6(b)(1)(ii)	Copy of Registered Mark, Expedited	6	(1)
2.6(b)(1)(iii)	Copy of Registered Mark Ordered, Via EOS, Expedited, Svc	25	(1)
2.6(b)(2)(i)	Certified Copy of TM Application as Filed	12	(1)
2.6(b)(2)(ii)	Certified Copy of TM Application as Filed, Expedited	24	(1)
2.6(b)(3)	Cert. or Uncert. Copy of TM-Related File Wrapper/Contents	50	(1)
2.6(b)(4)(i)	Cert. Copy of Registered Mark, Title or Status	10	(1)
2.6(b)(4)(ii)	Cert. Copy of Registered Mark, Title or Status—Expedited	20	(1)
2.6(b)(5)	Certified or Uncertified Copy of TM Records	25	(1)
2.6(b)(6)	Recording Trademark Property, Per Mark, Per Document	40	(1)
2.6(b)(6)	For Second and Subsequent Marks in Same Document	25	(1)
2.6(b)(7)	For Assignment Records, Abstracts of Title and Cert	25	(1)
2.6(b)(8)	Terminal Use X-SEARCH	40	(1)
2.6(b)(9)	Self-Service Copy Change	0.25	(1)
2.6(b)(10)	Labor Charges for Services	30	(1)
2.6(b)(11)	Unspecified Other Services	(2)	(1)

(1) These fees are not affected by this rulemaking.  
 (2) Actual cost.  
 (3) Subscription.

IFR Doc. 94-20900 Filed 8-24-94; 8:45 am  
 BILLING CODE 3510-16-M

**ENVIRONMENTAL PROTECTION AGENCY**

40 CFR Part 52  
 [RD2-1-5552a; FRL-5012-6]

Approval and Promulgation of State Implementation Plans: Idaho

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** Environmental Protection Agency (EPA) approves the State Implementation Plan (SIP) submitted by the State of Idaho for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10). The implementation plan was submitted by the State and satisfied certain Federal requirements for an acceptable moderate

nonattainment area PM-10 SIP for Pinehurst, Idaho.

**DATES:** This final rule will be effective on October 24, 1994 unless adverse or critical comments are received by September 26, 1994. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments should be addressed to: Montel Livingston, Environmental Protection Agency, 1200 Sixth Avenue, AT-082, Seattle, Washington 98101.

Documents which are incorporated by reference are available for inspection during normal business hours at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, and the State of Idaho Division of Environmental Quality, 1410 N. Hilton, Boise, ID 83720.

FOR FURTHER INFORMATION CONTACT: Stephen Fry, Environmental Protection Agency, 1200 Sixth Avenue, AT-062, Seattle, Washington 98101, (206) 553-2575.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Shoshone County, Pinehurst, Idaho area was designated nonattainment for PM-10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990<sup>1</sup> (see 56 FR 56694 (November 5, 1991) and 40 CFR 81.313 (codified air quality designation for the Pinehurst area)). The air quality planning requirements for moderate PM-10 nonattainment areas are set out in subparts 1 and 4 of title I of the Act.<sup>2</sup> EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIP's and SIP revisions submitted under title I of the Act, including those State submittals containing moderate PM-10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of title I advanced in this proposal and the supporting rationale. In this rulemaking action on the State of Idaho's moderate PM-10 SIP for the Pinehurst nonattainment area, EPA is applying its interpretations taking into consideration the specific factual issues presented. Additional

information supporting EPA's action on this particular area is available for inspection at the address indicated above.

Those states containing initial moderate PM-10 nonattainment areas (those areas designated nonattainment under section 107(d)(4)(B)) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM-10 also apply to major stationary sources of PM-10 precursors except where the Administrator determines that such sources do not contribute significantly to PM-10 levels which exceed the NAAQS in the area (see sections 172(c), 188, and 189 of the Act).

States with initial moderate PM-10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM-10 by June 30, 1992 (see section 189(a) of the CAA). This permit program element, also known as the New Source Review (NSR) program, was submitted by the State of Idaho on May 17, 1994. EPA notified Idaho in a June 10, 1994 letter to the Administrator of the Idaho Division of Environmental Quality that the NSR program submittal was complete. EPA is currently in the process of reviewing the NSR program to determine if the program meets the requirements of the CAA. EPA intends to take action on Idaho's NSR program when EPA has completed its review.

In addition, states containing initial moderate PM-10 nonattainment areas were required to submit contingency measures by November 15, 1993, which become effective without further action by the State or EPA upon a determination by EPA that the area has

failed to achieve RFP or to attain the PM-10 NAAQS by the applicable statutory deadline (see section 172(c)(9) and 57 FR 13543-13544). Contingency measures for the Pinehurst PM-10 nonattainment area have not yet been submitted by IDEQ. A findings letter, dated January 13, 1994, was mailed to the Governor of Idaho which informed him that the State had failed to make the required PM-10 contingency measures submittal for Pinehurst. The State has until July 13, 1995 to correct this deficiency for Pinehurst, or it will face Federal highway or offset sanctions (see section 179 of the CAA and 58 FR 51270 (October 1, 1993)).

EPA intends to take action on the contingency measures for the Pinehurst PM-10 nonattainment area when this requirement is submitted or intends to impose sanctions in the event this deficiency is not corrected.

##### II. This Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittal (see 57 FR 13565-13566). In this action, EPA is granting approval of the plan revision submitted to EPA on April 14, 1992. EPA has determined that the submittal meets the applicable requirements of the Act, with respect to moderate area PM-10 submittal.

##### Analysis of State Submission

##### 1. Procedural Background

The Act requires states to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.<sup>3</sup> Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

EPA has also determined whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V. EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

<sup>3</sup> Also Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

<sup>1</sup> The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law No. 101-549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act" or "CAA"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401, et seq.

<sup>2</sup> Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM-10 nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the "General Preamble" and, as appropriate, in today's notice and supporting information.

The Idaho Division of Environmental Quality (IDEQ) held a public hearing on the Pinehurst PM-10 plan on January 22, 1992 in Pinehurst and, after IDEQ reviewed the oral testimony, the plan was adopted by the IDEQ Administrator on April 7, 1992. The submitted plan was received by EPA on April 14, 1992 as a revision to the SIP.

The SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V. A letter dated June 8, 1992 was forwarded to the Administrator of IDEQ indicating the completeness of the submittal and the next steps to be taken in the review process. In this action EPA is approving the State of Idaho's PM-10 SIP submittal for the Pinehurst PM-10 nonattainment area.

Since the Pinehurst PM-10 SIP requirements due on November 15, 1991 were not submitted by that date as required by section 189(a)(2)(A) of the CAA, EPA made a finding, pursuant to section 179 of the Act, that the State failed to submit the SIP revision and notified the Governor in a letter dated December 18, 1991 (see 57 FR 19906 (May 8, 1992)). EPA's June 8, 1992 determination that the State had made a complete submittal corrected the State's failure to submit the PM-10 SIP requirements for Pinehurst due on November 15, 1991 and, therefore, terminated the 18-month sanctions clock for that deficiency under section 179 of the CAA.

## 2. Accurate Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. The emissions inventory should also include a comprehensive, accurate, and current inventory of allowable emissions in the area (see section 110(a)(2)(K) of the CAA). Because the submission of such inventories is necessary to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventories must be received with the submission (see 57 FR 13539).

The base year emission inventory (1988) developed for the Pinehurst nonattainment area identified the major sources of PM-10 concentrations during 24-hour worst case winter days as residential wood combustion (59%), fugitive dust (38%) and other sources (3%). Annual emissions for 1988 were residential wood combustion (41%), fugitive dust (38%), building

construction (18%) and other sources (3%).

EPA is approving the emissions inventory because it generally appears to be accurate and comprehensive, and provides a sufficient basis for determining the adequacy of the attainment demonstration for this area consistent with the requirements of sections 172(c)(3) and 110(a)(2)(K) of the Clean Air Act.\* For further details see the Technical Support Document (TSD).

## 3. RACM (Including RACT)

As noted, the initial moderate PM-10 nonattainment areas must submit provisions to assure that RACM (including RACT) were implemented no later than December 10, 1993 (see sections 172(c)(1) and 189(a)(1)(C)). The General Preamble contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539-13545 and 13560-13561).

*a. Residential Wood Combustion Program.* Attainment of the 24-hour and annual standards is based on control strategies designed to reduce wood smoke. Attainment is demonstrated through the establishment of a voluntary residential wood combustion curtailment program, wood stove replacement program and home weatherization program. The specific control measures are supported and enhanced through an aggressive air pollution public awareness program. More details regarding these control measures are as follows:

(1) *Episodic Wood Burning Curtailment Program.* The IDEQ is in charge of declaring episodic voluntary wood burning curtailments in the Pinehurst nonattainment area. A voluntary burn ban is declared when 24-hour PM-10 levels in the nonattainment area, as estimated by nephelometer, are measured to exceed 100  $\mu\text{g}/\text{m}^3$ . To keep the public informed regarding particulate air quality levels, a 24-hour PM-10 prediction is made for the Pinehurst/Silver Valley area after an IDEQ meteorologist calculates lower atmospheric stability and evaluates nephelometer, upper air temperature sounding, snow cover, surface temperature, delta temperature, wind speed, cloud cover, National Weather Service and occasionally commercial weather service data.

\* The EPA issued guidance on PM-10 emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 PM-10 SIP Development Guideline. The guidance provided in this document appears to be consistent with the amended Act; therefore, EPA may continue to rely on this guidance (see section 193 of the CAA).

Wood burning advisories are made in conjunction with the air quality report and are issued weekdays and, as necessary on weekends and holidays, by 9 a.m., from November 1 through the end of February. The advisory is recorded on a telephone answering machine for both the public and media. When a voluntary wood burning curtailment is declared, the IDEQ directly contacts the media and conducts radio and television interviews to publicize the existence of a burn ban. Voluntary curtailment declarations are also carried routinely by the local radio station and newspaper.

IDEQ requests a 25 percent emission reduction credit for its voluntary curtailment program in the Pinehurst nonattainment area during 24-hour worst case periods. The 25 percent credit is greater than the ten percent generally suggested by EPA for voluntary curtailment programs. The recommended ten percent credit is viewed by EPA as a "starting point in assessing the effectiveness of residential wood combustion control programs." However, final judgement of the amount of credit to be granted is determined by EPA's regional offices based on the program features outlined in EPA's Guidance Document for Residential Wood Combustion Emission Control Measures, September 1989, (EPA-450/2-89-015). More than ten percent credit may be granted based on the program's effectiveness.

IDEQ cites residential wood heating surveys that were conducted in the Ada County/Boise PM-10 nonattainment area, that indicate a 43 percent effectiveness rate for the voluntary curtailment program in that part of Idaho. The State points out in the Pinehurst SIP that the Pinehurst City Council adopted a resolution (on November 11, 1991) supporting the curtailment program and requesting all Pinehurst citizens, except those who must rely on wood burning as their sole source of heat, to not burn wood during a curtailment episode. Therefore, the features of the Pinehurst curtailment program, the effectiveness data obtained from Ada County/Boise coupled with the demonstrated local support for the curtailment program by the leaders of Pinehurst is the basis for IDEQ's 25 percent emission reduction claim. According to IDEQ calculations this 25 percent reduction is equivalent to a PM-10 emission reduction of 51.3 lbs/day and a 24-hour PM-10 ambient reduction of 20  $\mu\text{g}/\text{m}^3$ .

Based upon the surveys conducted in Ada County/Boise, the support by Pinehurst City officials and the recent

success during the 1992-1993 and 1993-1994 wood burning seasons in preventing PM-10 concentrations from exceeding the 24-hour NAAQS, EPA is satisfied that at least a 25 percent emission reduction is occurring when voluntary episodic wood burning curtailments are declared in Pinehurst. Therefore, EPA is accepting the 25 percent credit claimed for this control measure. Further description of this program and justification for EPA's action is set out in the TSD, contained in the public record corresponding with this action.

(2) Public Awareness Program. The wood smoke public awareness program for the Pinehurst/Silver Valley area plays a critical role in ensuring that the residential wood combustion program is successful. Public awareness of the problems associated with wood smoke has a significant effect on how well the different components of the wood smoke control program are accepted. IDEQ has utilized the following methods to promote public awareness about the wood smoke problem in Pinehurst: education brochures for each household, utility bill inserts, newspaper articles—public service announcements (PSA's), educational materials for elementary schools, surveys to determine the level of awareness and response to programs, radio interviews, radio PSA's, outreach to wood stove dealers and wood/pellet fuel outlets, and Speakers Bureau through service clubs and community meetings. IDEQ's well-established public awareness program was enhanced in 1991, when \$14,550 was awarded by the Pacific Northwest and Alaska Bioenergy Program to provide wood energy education in Idaho's Silver Valley (which includes Pinehurst). For the 1993-1994 and 1994-1995 residential heating seasons, a wood stove advocate has been hired by IDEQ to serve as an information outlet regarding wood stove issues and also track the progress of reducing wood stove emissions.

IDEQ is claiming a five percent credit for the Pinehurst wood smoke public awareness program. This credit is based upon the increased effectiveness of the public awareness program since 1991, the fact that Pinehurst is a small town (population 1,722 in 1990)—which makes it relatively easy to keep in contact with the citizens, and the fact that IDEQ has hired a Pinehurst wood stove advocate to work on increasing the public's awareness of the availability of cleaner-burning residential heating devices.

Considering IDEQ's aforementioned reasons for claiming a five percent

emission reduction credit (which equals a PM-10 emission reduction of 10.0 lbs/day, and a 24-hour PM-10 ambient reduction of  $4 \mu\text{g}/\text{m}^3$ ), EPA is accepting the five percent credit requested by the IDEQ.

(3) Uncertified Wood Stove Change-out Program. IDEQ is in the process of replacing 90 uncertified wood stoves in the Pinehurst nonattainment area with cleaner heating devices. The uncertified wood stoves are replaced as part of a combined Federal assistance grant, and State and local loan program. Ninety grants ranging from \$500-\$1,750 each will be offered to the residents of Pinehurst as financial incentive to replace their uncertified stoves with natural gas furnaces, pellet stoves or phase II wood stoves. In addition, 50 of these participants will be offered low interest loans, up to a maximum amount of \$1,500 per homeowner, using Idaho Department of Water Resources (IDWR) funds. These loans will cover the additional costs of upgrading the qualifying resident's heating system, including the cost of installation. IDWR will allow the loans to be paid back over a five-year period. The combined grant and loan program will be administered by the Northern Idaho Community Action Agency (NICAA).

It is estimated by IDEQ that the combined grant/loan program will replace 90 uncertified wood stoves with 40 natural gas furnaces, 25 pellet stoves and 25 phase II wood stoves. This change is projected to result in a PM-10 emission reduction of 43.4 lbs/day (which equals a  $17 \mu\text{g}/\text{m}^3$  24-hour PM-10 reduction) in the Pinehurst nonattainment area (based upon a 100%, 95% and 55% emission reduction credits for replacing uncertified wood stoves with natural gas furnaces, pellet stoves and phase II wood stoves, respectively; a 0.56 lbs/day PM-10 emission rate for a uncertified wood stove in Pinehurst; and the determination that a PM-10 emission rate of 393 lbs/day equals a 24-hour ambient PM-10 concentration of  $150 \mu\text{g}/\text{m}^3$  at Pinehurst).

Thus, IDEQ is estimating that the wood stove change-out program will reduce PM-10 emissions from residential wood combustion devices in Pinehurst by 16.5 percent (or 43.4 lbs of PM-10 reduced/day divided by 263.8 lbs of PM-10 emitted on the worst case day in 1994). EPA believes that the program will reduce PM-10 emissions in the Pinehurst nonattainment area because the program is receiving broad based support and has secure funding sources. Therefore, EPA is accepting the 16.5 percent PM-10 emission reduction credit that IDEQ claims will result from

implementation of the wood stove change-out program.

(4) Home Weatherization Program. Wood stove emissions can be reduced slightly through comprehensive weatherization programs that result in a reduction of the amount of fuel utilized. The Idaho Economic Opportunity Office offers free weatherization assistance to low income families. This assistance takes the form of an energy audit, which may result in insulation, weather stripping and heating system improvements.

Home weatherization improvements will be applied to all 90 households in which wood stove change-outs occur, using loans and grant money from Idaho Department of Water Resources, Farmers Home Administration, Washington Water Power and North Idaho Community Action Agency's Weatherization Division. At least 30 other homes will be targeted for weatherization improvements.

EPA's Guidance Document for Residential Wood Combustion Emission Control Measures, September 1989, generally recommends less than a five percent credit for home weatherization programs. However, IDEQ is claiming an eight percent credit for the Pinehurst home weatherization program for the following three reasons: a. Pinehurst has a higher than normal percentage of older, uninsulated homes; b. Shoshone County, which contains Pinehurst, has a high percentage of low income households, who in the past were unable to afford weatherization; and c. Pinehurst's cold winter climate results in a high number of heating degree days, which enables a home weatherization program to have more impact than it would in an area that possesses a warmer winter climate.

The eight percent reduction claimed from the program is only equivalent to a PM-10 decrease of 3.5 lbs/day (which equals a daily ambient PM-10 reduction of  $1 \mu\text{g}/\text{m}^3$ ). Therefore, this program will have only a slight impact on PM-10 levels during worst case days. Nonetheless, in light of IDEQ's reasoning that homes in Pinehurst are in need of weatherization, and that weatherizing 120 homes will result in lower fuel consumption and correspondingly less PM-10 emissions in the Pinehurst nonattainment area, EPA is accepting the eight percent credit claimed by IDEQ.

b. Other Sources. RACT (including RACT) does not require the imposition of controls on emissions from sources that are insignificant (i.e. de minimis) and does not require the implementation of all available control measures where an area demonstrates

timely attainment and the implementation of additional controls would not expedite attainment (see 57 FR 13540-44).

IDEQ has determined, through its emission inventory analysis of the nonattainment area, that road dust contributed 38 percent of the PM-10 concentration on the worst case days in base year 1988. IDEQ demonstrated timely attainment of the 24-hour PM-10 NAAQS by controlling wood smoke. Therefore, RACM does not require road dust control measures. Furthermore, RACM does not require the implementation of controls for prescribed silvicultural and agricultural burning for the Pinehurst nonattainment area, because the area is not significantly impacted by those activities on worst case days, according to the emission inventory analysis.

Similarly, RACT does not require the implementation of control technology for sources of PM-10 in the nonattainment area, because the area is primarily characterized by residential and commercial uses which are not subject to RACT requirements. There are no major stationary sources operating in the Pinehurst PM-10 nonattainment area.

A more detailed discussion of the control measures contained in the SIP and an explanation as to why certain available control measures were not implemented, can be found in IDEQ's submittal and in the TSD. EPA has reviewed IDEQ's submittal and associated documentation and concluded that they adequately justify the control measures to be implemented. The implementation of the Pinehurst, Idaho PM-10 nonattainment plan control strategy will result in the attainment of the PM-10 NAAQS as expeditiously as practicable—by December 31, 1994. By this notice, EPA is approving IDEQ's control strategy as satisfying the RACM (including RACT) requirement.

#### 4. Demonstration

Moderate PM-10 nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see section 189(a)(1)(B) of the Act). The General Preamble sets out EPA's guidance on the use of modeling for moderate area attainment demonstrations (57 FR 13539). Alternatively, the State must show attainment by December 31, 1994, is impracticable. The 24-hour PM-10 NAAQS is 150 micrograms/cubic meter ( $\mu\text{g}/\text{m}^3$ ), and the standard is attained when the expected number of days per

calendar year with a 24-hour average concentration above  $150 \mu\text{g}/\text{m}^3$  is equal to or less than one (see 40 CFR 50.6). The annual PM-10 NAAQS is  $50 \mu\text{g}/\text{m}^3$ , and the standard is attained when the expected annual arithmetic mean concentration is less than or equal to  $50 \mu\text{g}/\text{m}^3$  (id.).

IDEQ utilized an attainment demonstration for Pinehurst based upon proportional rollback modeling supported by a complete emission inventory, receptor modeling and WYNDvalley, a non-guideline dispersion model.

The receptor modeling consisted of using the Chemical Mass Balance (CMB) version 7.0 air quality model to analyze for days during 1988-1990 when 24-hour PM-10 concentrations were either elevated or exceeded the NAAQS. CMB results from ten PM-10 filters showed that on the average residential wood smoke and fugitive dust were responsible for 77 and 18 percent, respectively, of the PM-10 on high concentration days. The CMB percentages for residential wood smoke and fugitive dust are greater and lower, respectively, than those that were determined from the emission inventory, but the CMB analysis still confirms that residential wood combustion is the major source of PM-10 on worst case days in the Pinehurst nonattainment area. Therefore, these results support IDEQ's reliance on wood smoke control strategies to attain the PM-10 standard.

The IDEQ used version 3.06 of the WYNDvalley dispersion model to simulate PM-10 concentrations in Pinehurst during a wintertime stagnation episode. WYNDvalley was chosen because of the model's ability to handle both the light wind conditions and complex terrain that significantly help trap PM-10 air pollution in the Pinehurst PM-10 nonattainment area. Also, the WYNDvalley dispersion model was used because Pinehurst is dominated by area sources (wood smoke and fugitive road dust) and lacks any major point source impacts. The modeled stagnation event began on January 20, 1988 and continued through January 30, 1988. Pinehurst's design value exceedance of  $183 \mu\text{g}/\text{m}^3$  was measured on January 28, during this stagnant period. The WYNDvalley model showed that the maximum PM-10 values occurred at or near the Pinehurst school, agreeing with results found in the January-March 1989 CMB/saturation study. Therefore, the model helped verify that the Pinehurst PM-10 monitor is situated in the area of maximum PM-10 impact.

The attainment demonstration indicates that Pinehurst will attain the 24-hour PM-10 NAAQS by December 31, 1994, with the maximum 24-hour concentration predicted to be  $143 \mu\text{g}/\text{m}^3$  (which is the result of the proposed control measures reducing the projected 1994 maximum PM-10 emissions from 484.8 to 375.9 lbs/day).

According to EPA's review, which identified incomplete quarterly data in 1986 and corrected for the use of non-reference PM-10 data in 1986 and 1987 (i.e. Hi-Vol SA321A gravimetric PM-10 sampler), Pinehurst has never violated the annual arithmetic mean PM-10 standard. The highest valid three-year annual average at Pinehurst is  $46 \mu\text{g}/\text{m}^3$ , during 1987-1989, while the lowest three-year average is  $36 \mu\text{g}/\text{m}^3$ , during 1990-1992. Therefore, IDEQ and EPA believe that because the annual PM-10 standard has never been violated at Pinehurst, and the 24-hour PM-10 controls have helped reduce annual concentrations (as evidenced in the downward trend in the annual average concentrations), it is reasonable to predict that the area will continue to meet the annual standard and the standard will not be violated in 1994.

EPA is finding that the modeling analysis is adequate to demonstrate timely attainment of the PM-10 NAAQS in Pinehurst. The control strategies used to achieve attainment are summarized in the section titled "RACM (including RACT)." A more detailed description of the attainment demonstration is contained in the TSD accompanying this notice.

It should be noted that the 1997 maintenance demonstration, supplied by IDEQ, shows that Pinehurst will remain in attainment for both the 24-hour and annual PM-10 NAAQS through 1997. According to IDEQ's calculations, which were partially based on a 1994 Washington Water Power residential heating survey for the Pinehurst area, the maximum 24-hour PM-10 concentration in 1997 will be  $127 \mu\text{g}/\text{m}^3$ . This 1997 24-hour value is equivalent to a PM-10 emission rate of 332 lbs/day. Furthermore, the annual arithmetic standard will be maintained from 1994-2000, with the maximum annual average value of  $47.2 \mu\text{g}/\text{m}^3$  (occurring in the year 2000). This aforementioned concentration is equivalent to a PM-10 emission rate of 47.0 tons/year. This 1997 maintenance demonstration satisfies part of the quantitative milestones/reasonable further progress requirement (see CAA section 189(c)).

### 5. Quantitative Milestones and Reasonable Further Progress (RFP)

The PM-10 nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every three years until the area is redesignated attainment and which demonstrate RFP, as defined in section 171(1), toward attainment by December 31, 1994 (see section 189(c) of the CAA).

While section 189(c) plainly provides that quantitative milestones are to be achieved until an area is redesignated attainment, it is silent in indicating the starting point for counting the first three-year period or how many milestones must be initially addressed. In the General Preamble, EPA addressed the statutory gap in the starting point for counting the three-year milestones, indicating that it would begin from the due date for the applicable implementation plan revision containing the control measures for the area (i.e., November 15, 1991 for initial moderate PM-10 nonattainment areas) [see 57 FR 13539].

As to the number of milestones, EPA believes that at least two milestones must be initially addressed. Thus, submittal to address the SIP revisions due on November 15, 1991 for the initial moderate PM-10 nonattainment areas must demonstrate that two milestones will be achieved (First milestone: November 15, 1991 through November 15, 1994; Second milestone: November 15, 1994 through November 15, 1997).

For the initial PM-10 nonattainment areas that demonstrate attainment, the emissions reduction progress made between the SIP submittal (due date of November 15, 1991) and the attainment date of December 31, 1994 (46 days beyond the November 15, 1994 milestone date) will satisfy the first quantitative milestone. The de minimis timing differential makes it administratively impracticable to require separate milestones and attainment demonstrations [see 57 FR 13539]. For such areas that demonstrate timely attainment of the PM-10 NAAQS, the second milestone should, at a minimum, provide for continued maintenance of the standards.<sup>2</sup>

<sup>2</sup> Section 189(c) of the Act provides that quantitative milestones are to be achieved "until the area is redesignated attainment." However, the endpoint for quantitative milestones in applicable areas redesignation of an area of attainment is contingent upon several factors and future events. Therefore, EPA believes it is reasonable for States to initially address at least the first two milestones. Addressing two milestones will ensure that the State continues to maintain the NAAQS beyond the attainment date for at least some period during which an area could be redesignated attainment. However, in all instances, additional milestones

This SIP demonstrates attainment by December 31, 1994 and maintenance through December 31, 1997, satisfying two milestones. Therefore, the submittal satisfies the quantitative milestones currently due. Accordingly, EPA is approving the SIP for Pinehurst relative to the quantitative milestone requirement.

Finally, once a milestone has passed, the State will have to demonstrate that the milestone was, in fact, achieved for the Pinehurst area as provided in section 189(c)(2) of the Act.

### 6. PM-10 Precursors

The control requirements which are applicable to major stationary sources of PM-10, also apply to major stationary sources of PM-10 precursors unless EPA determines such sources do not contribute significantly to PM-10 levels in excess of the NAAQS in that area (see section 189(e) of the Act). The General Preamble contains guidance addressing how EPA intends to implement section 189(e) (see 57 FR 13539-13540 and 13541-13542).

The filter analyses (chemical mass balance) indicated that, on average, less than 4 percent of the PM-10 mass was comprised of secondary particulate on high concentration days. EPA believes that this is an insignificant portion and, therefore, is proposing to grant the exclusion from control requirements authorized under section 189(e) for major stationary sources of PM-10 precursors.

Note that while EPA is making a general finding for this area about precursor contribution to PM-10 NAAQS exceedances, this finding is based on the current character of the area including, for example, the existing mix of sources in the area. It is possible, therefore, that future growth could change the significance of precursors in the area.

### 7. Enforceability Issues

All measures and other elements in the SIP must be enforceable by IDEQ and EPA [see sections 172(c)(6), 110(a)(2)(A) of the CAA and 57 FR 13556]. EPA criteria addressing the enforceability of SIP's and SIP revisions are set forth in a September 23, 1987 memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et. al. (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in

must be addressed if an area is not redesignated attainment.

the SIP (see section 110(a)(2)(C) of the CAA).

The particular control measures contained in the SIP are addressed above under the section-headed "RACT" (including RACT). These control measures apply to residential wood combustion activities. The SIP provides that the control measures for the affected activities apply throughout the entire nonattainment area.

The SIP provided that all affected activities would be in full compliance with the implementation of applicable control measures by December 10, 1993. However, funding problems has delayed implementation of the wood stove change-out and home weatherization programs until the summer of 1994.

IDEQ is responsible for running the voluntary episodic wood burning curtailment and public awareness programs. The curtailment program for Pinehurst is part of a statewide program that evaluates air quality and meteorological parameters in the PM-10 nonattainment areas on a daily basis, during November 1 through the end of February, and declares burning bans as necessary. The public awareness program is a broad-based strategy designed for the entire Silver Valley (which includes the Pinehurst NAA). IDEQ, through the Pinehurst Particulate (PM-10) Air Quality Improvement Plan and supporting documentation, commits to carrying out the curtailment and public awareness programs in Pinehurst. If either of these two measures are discontinued without EPA and public approval, then the State of Idaho would be subject to a findings letter for non-implementation of an approved part of the plan (see section 179(e)(4) of the CAA). This in turn could result in Federal sanctions imposed against the State and the loss of State base grant funds.

IDEQ's submittal and the TSD contain further information on enforceable requirements. The TSD also contains a discussion of the personnel and funding intended to support effective implementation of the control measures.

### 8. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIP's that demonstrate attainment must include contingency measures (see generally 57 FR 13543-13544). These measures were required to be submitted by November 15, 1993 for the initial moderate nonattainment areas. Contingency measures should consist of other available measures that are not part of the area's control strategy. These measures must take effect without further action by the State or EPA, upon

a determination by EPA that the area has failed to make RFP or attain the PM-10 NAAQS by the applicable statutory deadline.

Contingency measures for the Pinehurst PM-10 nonattainment area have not yet been submitted by IDEQ. A findings letter, dated January 13, 1994, was mailed to the Governor of Idaho which informed him that the State had failed to make the required PM-10 contingency measures submittal for Pinehurst. The State has until July 13, 1995 to correct this deficiency for Pinehurst, or it will face federal highway or offset sanctions (see section 179 of the CAA).

EPA intends to take action on the contingency measures for the Pinehurst PM-10 nonattainment area when the requirement is submitted, or intends to impose sanctions in the event this deficiency is not corrected.

### III. Implications of This Action

EPA is approving the plan revision submitted to EPA on April 14, 1992 for the Pinehurst nonattainment area. Among other things, IDEQ has demonstrated that the Pinehurst moderate PM-10 nonattainment area will attain the PM-10 NAAQS by December 31, 1994.

### IV. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 24, 1994 unless, by September 26, 1994 adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective October 24, 1994.

The EPA has reviewed this request for revision of the federally approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

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 24, 1994. 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 section 307(b)(2), 42 U.S.C. 7607(b)(2)).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Dated: July 5, 1994.

Gerald A. Emison,  
Acting Regional Administrator.

Part 52, 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. 7401-7671q.

### Subpart N—Idaho

2. Section 52.670 is amended by adding paragraph (c)(28) to read as follows:

#### § 52.670 Identification of plan.

(c) \* \* \*  
(28) On April 14, 1992, the State of Idaho submitted a revision to the SIP for Pinehurst, ID, for the purpose of bringing about the attainment of the national ambient air quality standards for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers.

(i) Incorporation by reference.

(A) April 7, 1992 letter from Idaho Department of Health and Welfare to EPA Region 10 submitting the Pinehurst Particulate Air Quality Improvement Plan as a revision to the Implementation Plan for the Control of Air Pollution in the State of Idaho. The plan has been adopted in accordance with the authorities and requirements of the Federal Clean Air Act and the Idaho Environmental Protection and Health Act (Idaho Code section 39-10*et seq.*)

(B) SIP revision for Pinehurst Particulate Air Quality Improvement Plan, February 5, 1992 (adopted on April 7, 1992).

[FR Doc. 94-20810 Filed 8-24-94; 8:45 am]  
BILLING CODE 6560-60-P

### 40 CFR Part 52

[CA 83-2-6581a FRL-6030-2]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

