

the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2). Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 9, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which 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)).

List of Subjects in 40 CFR Part 52

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

Dated: October 19, 2005.

Wayne Nastri,

Regional Administrator, Region IX.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[OAR-2005-0150a; FRL-7995-3]

Designation of Areas for Air Quality Planning Purposes; Arizona; Correction of Boundary of Phoenix Metropolitan 1-Hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to correct the boundary of the Phoenix metropolitan 1-hour ozone nonattainment area to exclude the Gila River Indian Reservation. EPA is taking this action under the authority of section 110(k)(6) of the Clean Air Act and in light of the Federal trust responsibility to the Tribes. This action is intended to facilitate and support the Gila River Indian Community's efforts to develop, adopt and implement a comprehensive Tribal Implementation Plan by removing unnecessary obligations that flow from the erroneous inclusion of a portion of the Reservation in the Phoenix metropolitan 1-hour ozone nonattainment area.

DATES: This action will be effective on January 9, 2006, without further notice, unless EPA receives adverse comments by December 12, 2005.

If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect and that we will respond to submitted comments and take subsequent final action.

ADDRESSES: Submit comments, identified by docket number OAR-2005-0150, by one of the following methods:

1. Agency Web site: <http://docket.epa.gov/rmepub/>. EPA prefers receiving comments through this electronic public docket and comment system. Follow the on-line instructions to submit comments.

2. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions.

3. E-mail: tax.wienke@epa.gov.

4. Mail or deliver: Wienke Tax, Office of Air Planning (AIR-2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the agency Web site, eRulemaking portal, or e-mail. The agency Web site and eRulemaking portal are "anonymous access" systems, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at <http://docket.epa.gov/rmepub/> and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either

location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT:

Wienke Tax, Office of Air Planning, U.S. Environmental Protection Agency, Region 9, (520) 622-1622, e-mail: tax.wienke@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, the terms "we," "us," and "our" refer to EPA.

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I. Regulatory Context

On April 30, 1971 (36 FR 8186), pursuant to section 109 of the Clean Air Act (CAA or Act), as amended in 1970, EPA promulgated national ambient air quality standards (NAAQS) for six criteria pollutants, including photochemical oxidants ("oxidants"). EPA set the NAAQS for oxidants (measured as ozone) at 0.08 parts per million (ppm), 1-hour average. Under section 110 of the Clean Air Act Amendments of 1970, States were required to adopt and submit plans that provide for implementation, maintenance, and enforcement of the NAAQS. These original plans, generally submitted and approved in the early 1970's, are known as State Implementation Plans (SIPs).

Under EPA regulations promulgated under the 1970 amended Act, States were required to identify areas (referred to as "air quality maintenance areas" (AQMA)) that were violating or that had the potential to violate the NAAQS by 1985, to submit detailed analyses of the impacts on air quality of projected growth in these areas, and, where the analysis indicates that the NAAQS will not be maintained, to submit SIP revisions containing measures to ensure maintenance during the ensuing period. In 1975, EPA approved Arizona's identification of the Phoenix Standard Metropolitan Statistical Area (SMSA) as an AQMA for oxidants. See 40 FR 41942 (September 9, 1975). The Phoenix SMSA includes all of Maricopa County, which encompasses an area of approximately 9,200 square miles in south-central Arizona, and includes the northern quarter of the Gila River Indian Reservation.¹

A task force consisting of representatives of Federal, State, and local government agencies as well as community groups (but no Tribal representatives) was created to guide the preparation of the detailed air quality maintenance analysis for the Phoenix AQMA as required under EPA regulations. The air quality maintenance analysis focused on a study area of approximately 1,700 square miles covering the urbanized portions of the Phoenix metropolitan area. The study area was based on the Maricopa Association of Governments² (MAG) primary planning area, which included only a small portion of the Maricopa County portion of the Reservation.³ The final air quality maintenance analysis report was published in July 1977.⁴ This maintenance analysis report identified and evaluated 11 specific control

strategies for attaining and maintaining the oxidants standard within the study area, but was not submitted to EPA as a SIP revision in anticipation of different planning requirements and deadlines under amendments to the Clean Air Act then under active consideration by Congress.

Congress did amend the Act in 1977, and the Clean Air Act Amendments of 1977 replaced the AQMA approach with a new approach, under which all areas of the country were designated as attainment, nonattainment, or unclassifiable for each of the NAAQS. Under the 1977 amended Act, "nonattainment area" meant an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by EPA to be reliable) to exceed any NAAQS. On March 3, 1978 (43 FR 8962), under section 107(d)(2) of the 1977 Amended Act, EPA promulgated area designations for each State with respect to each of the NAAQS. The area designations are found in 40 CFR part 81. The Clean Air Act Amendments of 1977 required specific types of SIP revisions for designated nonattainment areas and other types of SIP revisions for unclassifiable/attainment areas.

Within the State of Arizona, EPA designated Maricopa County as a nonattainment area for the oxidants NAAQS. See 43 FR 8962, at 8968 (March 3, 1978). EPA designated the rest of the State, which included the Pinal County portion of the Gila River Indian Reservation, as unclassifiable/attainment for the oxidants NAAQS. As such, the northern quarter of the Reservation was located in the Maricopa County nonattainment area and the southern three-quarters was located within the unclassifiable/attainment area. The following year, EPA approved a request by the State of Arizona to reduce the size of this county-wide nonattainment area to include only the MAG urban planning area (see 44 FR 16388, March 19, 1979). The MAG urban planning area is approximately 1,950 square miles and is 14 percent larger than the MAG primary planning area, which had been the study area for the purposes of the AQMA analysis. The MAG urban planning area also includes the Maricopa County portion (i.e., northern quarter) of the Gila River Indian Reservation.

Also in 1979, we established a new ozone NAAQS to replace the oxidants NAAQS (see 44 FR 8202, February 8, 1979). The new NAAQS was set at 0.12 ppm, 1-hour average. In September 1979, we replaced the Arizona table in 40 CFR part 81 that listed areas and designations for the oxidants NAAQS

with a table that listed areas and designations for the then-new 1-hour ozone NAAQS. See 44 FR 54294 (September 19, 1979). In that final rule, we designated the Tucson area, which had been designated as nonattainment for the oxidants NAAQS, as unclassifiable/attainment for the ozone NAAQS, but we reaffirmed the previous status (nonattainment) and boundary (MAG urban planning area) designation for the Phoenix metropolitan area for the new 1-hour ozone NAAQS as had been established for the oxidants NAAQS. We also reaffirmed the unclassifiable/attainment designation for "rest of state."

Under the Clean Air Act Amendments of 1990, the concept of "nonattainment area" was expanded to include areas that contribute to ambient air quality in a nearby area that does not meet a NAAQS as well as the area that actually experiences NAAQS violations. See section 107(d)(1)(A) of the Act. Under the 1990 amended Act, the designation of "nonattainment" and boundary (i.e., the MAG urban planning area) for the Phoenix metropolitan 1-hour ozone nonattainment area was carried forward by operation of law. Further, under the 1990 Act Amendments, the Phoenix metropolitan nonattainment area was classified as "moderate" ozone nonattainment. See 56 FR 56694, 56717 (November 6, 1991). On November 6, 1997, the Phoenix metropolitan 1-hour ozone nonattainment area was reclassified to "serious" due to a failure to attain the 1-hour ozone NAAQS by November 15, 1996. See 62 FR 60001 (November 6, 1997).

In 1997, we established a new 8-hour ozone NAAQS to replace the 1-hour ozone NAAQS that we had established in 1979 (see 62 FR 38856, July 18, 1997). The new NAAQS was set at 0.08 ppm, 8-hour average. In 2004, we published final rules that designated all areas of the country with respect to the 8-hour ozone NAAQS, effective June 15, 2004, and that established June 15, 2005 as the date on which the 1-hour ozone NAAQS would be revoked. See 69 FR 23858 and 69 FR 23951 (April 30, 2004). In consultation with the State of Arizona and the Gila River Indian Community, we designated the Phoenix-Mesa area as a nonattainment area for the 8-hour ozone NAAQS, but this 8-hour ozone nonattainment area does not include any portion of the Gila River Indian Reservation. See 69 FR 23858, at 23878–23879 (April 30, 2004). All of the Gila River Indian Reservation, i.e., both Maricopa and Pinal County portions, lies within the "rest of state" unclassifiable/attainment area for the 8-hour ozone NAAQS. Under the first

¹ The Gila River Indian Reservation lies south of the urbanized portion of the Phoenix metropolitan area and straddles the boundary between Maricopa County and Pinal County. The Reservation encompasses approximately 580 square miles, of which approximately 140 square miles lie within Maricopa County and 440 square miles lie within Pinal County.

² MAG is a Council of Governments that serves as the regional agency for the Phoenix metropolitan area. MAG was formed in 1967. In 1978, the Governor of Arizona designated MAG as the lead air quality planning agency for Maricopa County. The Gila River Indian Community joined MAG in 1989.

³ The portion of the Reservation that was included in the Phoenix AQMA study area consists of a rectangular area traversed by Interstate 10 and defined by the Reservation boundaries to the north and east and by a southward extension of Priest Drive to the west and a westward extension of Hunt Highway to the south. This area is about 24 square miles, which represents approximately 17% of the Maricopa County portion of the Reservation.

⁴ Aerovironment Inc., *Air Quality Maintenance Analysis in Phoenix, Arizona, Final Report*, July 1977.

phase of the final rule implementing the 8-hour ozone NAAQS, certain requirements apply to former 1-hour ozone nonattainment areas that are designated as attainment/unclassifiable for the 8-hour ozone NAAQS (such as the Maricopa County portion of the Gila River Indian Reservation), such as the preparation and submittal of a SIP revision consisting of a plan that provides for continued maintenance of the 8-hour ozone NAAQS for 10 years following designation and that includes contingency measures. See 40 CFR 51.905(a)(3); 69 FR 23951, at 23999 (April 30, 2004).

On March 21, 2005 (70 FR 13425), we published a notice in the **Federal Register** proposing this same boundary change as part of a notice that also proposed approval of various submittals of revisions to the Arizona State Implementation Plan (SIP) and a request by the State of Arizona for redesignation of the Phoenix metropolitan 1-hour ozone nonattainment area to attainment. We received no comments related to the proposed boundary change, but we decided to withdraw the boundary change portion of the March 21, 2005 proposal. See 70 FR 34362 (June 14, 2005). We withdrew the proposed boundary change because we decided to review the action as a correction under section 110(k)(6) rather than as a redesignation under section 107(d)(3)(A) as had been proposed, based on our preliminary conclusion that we had incorrectly included the northern portion of the Gila River Indian Reservation in the nonattainment area boundary back in the late 1970's. In our final rule approving the redesignation request for the Phoenix metropolitan 1-hour ozone nonattainment area (70 FR 34362, June 14, 2005), we indicated that we intended to address the boundary change issue in a separate rulemaking. This notice constitutes that separate rulemaking.

II. Gila River Indian Community's Request for a Boundary Change

On March 2, 2005, the Gila River Indian Community, a federally-recognized tribal government,⁵ adopted and submitted a resolution requesting EPA to revise the boundary for the Phoenix metropolitan 1-hour ozone nonattainment area to exclude the Gila River Indian Reservation.⁶ The Gila River Indian Community's request includes background information

regarding the procedural history leading to the designation of the boundary of the Phoenix metropolitan 1-hour oxidants (then ozone) nonattainment area, an analysis of air quality monitoring data existing at the time of and subsequent to the original designation in 1978, and a description of population, employment, land use, and traffic associated with the Reservation.

The Gila River Indian Community concludes that inclusion of the Maricopa County portion of the Reservation in the Phoenix metropolitan 1-hour ozone nonattainment area was incorrect based on air quality considerations at the time of the original designation and that continued inclusion of the Reservation in the nonattainment area will frustrate their current efforts to regulate air quality on their own lands through preparation, adoption, and implementation of a comprehensive Tribal Implementation Plan (TIP). The Community's request and supporting documentation are included in the docket for this action.

III. EPA Review of the Gila River Indian Community's Request

A. CAA Authority To Correct Area Designations

Section 110(k)(6) of the Clean Air Act provides, "Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public." We interpret this provision to authorize the Agency to make corrections to a promulgated regulation when it is shown to our satisfaction that (1) we clearly erred in failing to consider or in inappropriately considering information made available to EPA at the time of the promulgation, or the information made available at the time of promulgation is subsequently demonstrated to have been clearly inadequate, and (2) other information persuasively supports a change in the regulation. See 57 FR 56762, at 56763 (November 30, 1992).

We have reviewed the documentation submitted by the Gila River Indian Community, and based on that review and an independent assessment of the air quality data and circumstances behind our actions designating,

redesignating or affirming air quality planning areas for the oxidants and ozone NAAQS, we agree with the Gila River Indian Community that a correction of the boundary to exclude the Gila River Indian Reservation from the Phoenix metropolitan 1-hour ozone nonattainment area is warranted. Our rationale is provided in the following subsections.

B. General Physical Description of the Phoenix Metropolitan Area and Environs⁷

The Phoenix metropolitan area is in south-central Arizona. The area occupies an almost-flat alluvial plain studded and surrounded by hills, buttes, and mountain ranges. The elevation of the valley floor is approximately 1,100 feet. The dominating mountain ranges around the area include the Sierra Estrella Mountains to the southwest, the White Tank Mountains to the west; the Hieroglyphic and New River Mountains to the north; the Superstition and Goldfield and Mazatzal Mountains to the east; and the Santan and Sacaton Mountains to the southeast. Elevations range from 3,000 feet in the southeast, to 4,000 feet in the west and southwest, and to 5,000 to 7,000 feet in the north and east. The principal natural drainages are the Salt River, the Agua Fria River, and the Gila River. The Gila River carves a route between the South Mountains and the Sierra Estrella Mountains and is joined by the Salt River near the northwest corner of the Gila River Indian Reservation. The South Mountains rise to an elevation of approximately 2,700 feet and partially separate the urbanized portions of the Phoenix metropolitan area to the north from the Gila River Indian Reservation to the south.

The climate of the area varies depending on the occurrence of the natural topographic features but is generally a warm, desert type climate with low annual rainfall and low relative humidity. Summers are usually long and hot, winters short and mild, with gradual temperature transitions in the spring and fall seasons.

The most significant terrain, in term of influence on local wind flow, is located to the north and east of the Phoenix area. During the morning and afternoon, sunlight warms this terrain causing the air immediately above it to rise and pull air from the lower

⁵ See 67 FR 46328, 46329 (July 12, 2002).

⁶ As noted previously, the Phoenix metropolitan 1-hour ozone nonattainment area includes the portion of the Reservation that lies within Maricopa County, approximately the northern 25 percent of the Reservation.

⁷ Sources of information for this section of the notice include the Army Corps of Engineers' *Phoenix Urban Study, Background Information Appendix* (February 1977) and the Arizona Department of Environmental Quality's *Final Serious Area Ozone State Implementation Plan for Maricopa County* (December 2000).

elevations in the direction of the higher terrain to replace the rising air. In Phoenix, this "valley" breeze (up-valley flow) usually begins around noon with a west wind that persists until midnight. After sunset, under clear sky conditions, the surface undergoes radiative cooling, lowering the temperatures of the air above it and reversing the flow. The "mountain" breeze (down-valley flow), which is out of the east for most of the Phoenix area, begins about midnight and lasts until noon, when the reversal to up-valley flow takes over.

The systematic mountain-valley circulation over the Phoenix area directs the timing and geographic distribution of ozone and its precursors. Early morning commute emissions are slowly transported to the west by drainage winds. By afternoon, the flow is reversed and emissions are transported to the east, back over the urbanized area, entraining additional surface emissions. During this period of ample sunlight and precursor emissions, the conditions are conducive for ozone formation. As the day progresses into late afternoon, ozone continues to build and is further transported toward the higher terrain, resulting in the maximum ozone concentration typically monitored east or north of the urbanized area.

C. Contribution by Emission Sources on the Reservation

In general, ambient ozone concentrations are caused by on-road and nonroad mobile emissions sources, area sources, large stationary sources and biogenic sources that emit ozone precursors (i.e., volatile organic compounds, or VOC, and oxides of nitrogen oxides, or NO_x). The level of mobile source emissions, often the largest part of the inventory in a major metropolitan area, can be generally correlated to population density and land use patterns.

The Gila River Indian Community has historically been, and continues to be, primarily a rural, agricultural community with few industrial uses and no major population centers. The Gila River Indian Community has an on-Reservation population of approximately 11,300 people, of which approximately 2,700 people live in the Maricopa County portion of the Reservation. The on-Reservation population density is approximately 20 persons per square mile. By comparison, the population living within the Phoenix metropolitan 1-hour ozone area as a whole is approximately 3 million people with a population density of approximately 1,500 persons per square mile, and there are at least six major population centers in the Phoenix

nonattainment area, including Phoenix, Mesa, Scottsdale, Glendale, Tempe, and Chandler. Thus, emissions generated by uses on the Reservation can be assumed to have essentially no effect on ambient ozone concentrations in the urbanized portions of the Phoenix metropolitan area.⁸ Our assumption in this regard is supported by emissions inventory estimates prepared by the Gila River Indian Reservation from which we find that ozone precursor emissions associated with the Maricopa County portion of the Reservation represent less than 0.2% and 0.6% of VOC and NO_x emissions, respectively, of total estimated ozone precursor emissions generated within the Phoenix metropolitan 1-hour ozone nonattainment area.

D. Oxidants/Ozone Air Quality Conditions on the Reservation

The oxidants/ozone designations for the MAG urban planning area in 1978 and 1979 were based on ambient air quality data collected at a small number of monitoring stations located within the urbanized portions of Maricopa County.⁹ During the 1970's, there was no monitoring station located on the Gila River Indian Reservation. During this period, the ozone monitoring station that was closest to the Gila River Indian Reservation was the "South Phoenix" station located at 4732 South Central Avenue. The South Phoenix station is located north of the South Mountains while the Reservation lies south of that range. The distance between the South Phoenix station and the closest Reservation boundary is approximately eight miles. We believe that the South Phoenix monitor provides data that is sufficiently representative of conditions in the Maricopa County portion of the Reservation to justify its use for the purposes of this correction notice although we recognize that ozone concentrations would generally be

expected to decrease with increasing distance in a southerly direction from the Phoenix urbanized area given the prevailing mountain-valley (i.e., east-west) wind circulation characteristic of the area.

A review of EPA's Air Quality System (AQS) database and the Arizona Department of Environmental Quality's *Nonattainment Area Plan for Carbon Monoxide and Photochemical Oxidants, Maricopa County Urban Planning Area* (revised February 16, 1979) reveals that (1) violations of the oxidants NAAQS (0.08 ppm, hourly average) were recorded at the South Phoenix station during the 1975–1978 period, (2) no violations of the 1-hour ozone NAAQS (0.12 ppm) were recorded at the South Phoenix station during this same period, (3) maximum ozone levels at the South Phoenix station were generally less than those at the four other stations that were operating continuously through this same period. Thus, the available data supports the conclusion that, during the mid-to late-1970's, while the Maricopa County portion of the Reservation may well have experienced violations of the oxidants NAAQS, it did not experience violations of the less stringent 1-hour ozone NAAQS. From 1979 through 2004, exceedances of the 1-hour ozone NAAQS were measured on only 5 days at the South Phoenix station: one day in 1981, two days in 1983, one day in 1990 and one day in 1995.

Since mid-2002, the Gila River Indian Community has operated an ozone monitoring station within the Maricopa County portion of the Reservation (the St. Johns station) and another in the Pinal County portion of the Reservation (the Sacaton station). Data have been collected at these stations from mid-2002 through the end of the 2004 ozone season. No exceedances of the 1-hour ozone NAAQS have been recorded at either station.

E. Ozone Planning Issues

Ozone planning efforts for the Phoenix metropolitan area began in earnest in the mid-1970's at the direction of the Phoenix AQMA Task Force, including the identification and evaluation of control strategies focused on the AQMA study area. The Phoenix AQMA Task Force included representatives from EPA and various State and local agencies as well as representatives from certain non-governmental entities such as the Phoenix Chamber of Commerce and the League of Women Voters. The Gila River Indian Community, however, was not a member of the AQMA Task Force nor is there any evidence that suggests that the community's views or concerns were

⁸ The State of Arizona's *Nonattainment Area Plan for Carbon Monoxide and Photochemical Oxidants, Maricopa County, Urban Planning Area* (revised February 16, 1979) was based in part on traffic assignments in the MAG primary planning area, which essentially excludes the Maricopa County portion of the Reservation (see footnote #3, above), rather than the larger urban planning area (that defines the nonattainment area and that includes all of the Maricopa County portion of the Reservation) but justified the use of traffic assignments from the smaller area by concluding that the additional long-range fringe development would contribute negligibly to the highest carbon monoxide and ozone concentrations measured in central Phoenix. EPA approved this plan in 1982. See 47 FR 19326 (May 5, 1982).

⁹ No oxidants/ozone dispersion modeling was conducted during this period; instead, the demonstrations of attainment in the various plans relied upon a linear rollback technique.

taken into account in identification of the appropriate study area, the analysis of air quality conditions and projects, or in the identification and evaluation of possible control strategies, which is documented in a final report entitled, *Air Quality Maintenance Analysis in Phoenix, Arizona* (July 1977).

Likewise, there is no evidence that suggests that the Gila River Indian Community was consulted by EPA, the State of Arizona, or MAG¹⁰ in the decision-making process leading to the nonattainment designation first on a county-wide basis for oxidants under the Clean Air Act Amendments of 1977, then on a MAG urban planning area boundary basis for the oxidants NAAQS (and later affirmed for the 1-hour ozone NAAQS). Ever since this time, the Gila River Indian Reservation has been split into two air quality planning areas for the purposes of the 1-hour ozone NAAQS: a Maricopa County portion that is part of a nonattainment area and a Pinal County portion that is part of an "unclassifiable/attainment" area.

Since the late 1970's, EPA has approved various State and local regulations and other control measures that have helped to attain the 1-hour ozone NAAQS in the Phoenix metropolitan nonattainment area and that provided the basis upon which EPA recently approved the State's redesignation request for the area to "attainment." See 70 FR 34362 (June 14, 2005). It is important to note that, under the CAA, the State and local air pollution control agencies do not have authority to administer air regulatory programs over the Reservation; consequently, the SIP rules that have been adopted and implemented within the non-Tribal portions of the Phoenix metropolitan area and that have provided for attainment of the 1-hour ozone NAAQS do not apply within the Gila River Indian Reservation. Furthermore, due to the Reservation's lack of ozone precursor sources, it was never considered necessary to apply ozone precursor limits to sources on the Reservation.

In 2004, we designated all areas of the country as nonattainment, attainment, or unclassifiable for the 8-hour ozone NAAQS. See 69 FR 23858 (April 30, 2004). In contrast to the process undertaken in connection with the area designations established in the late 1970's, we made a significant effort to consult with the Tribes on the appropriate designations for their lands for the new (8-hour) ozone NAAQS. In our final rule establishing area

designations for the 8-hour ozone NAAQS, we agreed with the Gila River Indian Community that the Reservation, including both Maricopa and Pinal County portions, should be included in the larger area designation of "unclassifiable/ attainment." Thus, in contrast to the status of the Reservation relative to the 1-hour ozone designations, the Gila River Indian Reservation is not split into different air quality planning areas for the 8-hour ozone NAAQS, and no part of the Reservation is included in the Phoenix metropolitan 8-hour ozone nonattainment area.

Under phase 1 of our 8-hour ozone implementation rule, areas designated as "unclassifiable/attainment" for the 8-hour ozone NAAQS that were designated nonattainment for the 1-hour ozone NAAQS at the time of the initial 8-hour ozone designation (i.e., mid-2004) are subject to certain requirements (such as a vehicle inspection and maintenance program, stage II vapor recovery, and a clean fuels fleet program) that applied by virtue of their 1-hour ozone nonattainment status and that continue to apply even after revocation of the 1-hour ozone standard (which occurred on June 15, 2005). These areas are also subject to a requirement to prepare and submit a plan that provides for continued maintenance of the 8-hour ozone NAAQS for 10 years following designation and that includes contingency measures. See 40 CFR 51.900(f), 40 CFR 51.905(a)(3), 69 FR 23951, at 23979 (April 30, 2004) and 70 FR 30592 (May 26, 2005). The Maricopa County portion of the Gila River Indian Reservation is one of the areas that was designated as unclassifiable/attainment for the 8-hour ozone NAAQS but, at the time of that designation, was designated "nonattainment" for the 1-hour ozone NAAQS.

On June 14, 2005, we redesignated the Phoenix "serious" 1-hour ozone nonattainment area (including the Maricopa County portion of the Gila River Indian Reservation) to attainment, and our redesignation was predicated on our finding that all applicable requirements for that nonattainment area had been met. See 70 FR 34362 (June 14, 2005). However, because none of the State and local adopted control measures that were relied upon for redesignation apply within the Gila River Indian Reservation, the obligation to adopt (at least as contingency measures) the requirements listed in 40 CFR 51.900(f) that apply within former "serious" 1-hour ozone nonattainment areas (such as an enhanced inspection and maintenance program, stage II vapor

recovery, and a clean fuels fleet program) remains in effect for the Maricopa County portion of the Reservation, notwithstanding the redesignation of the Phoenix metropolitan 1-hour nonattainment area to attainment, and notwithstanding the revocation of the 1-hour ozone NAAQS on June 15, 2005. In addition, the Maricopa County portion of the Reservation is subject to the requirement under 40 CFR 51.905(a)(3) to prepare and submit a plan that provides for continued maintenance of the 8-hour ozone NAAQS for 10 years following designation and that includes contingency measures. See EPA Memorandum dated May 20, 2005: "Maintenance Plan Guidance for Certain 8-Hour Ozone Areas Under Section 110(a)(1) of the Clean Air Act."

Meanwhile, the Gila River Indian Community is in the final stages of preparing, adopting and submitting a Tribal Implementation Plan (TIP) to EPA for approval. The TIP contains several ordinances including permit requirements and fees; administrative appeals procedures; enforcement provisions (civil and criminal); and controls on non-metallic mineral mining; secondary aluminum processing operations; solvent metal cleaning; VOC usage, storage and handling; aerospace manufacturing and rework processes; and open burning and visible emissions. As such, the Gila River Indian Community is developing a comprehensive air quality regulatory program, but the Community is doing so with the view that their historic inclusion in the Phoenix metropolitan 1-hour ozone nonattainment area was erroneous. EPA supports the Community's efforts to manage its own air quality regulatory program through development, adoption and implementation of the TIP and recognizes that the control measure and planning antibacksliding obligations that apply to the Maricopa County portion of the Reservation under our phase 1 implementation rule for the 8-hour ozone NAAQS (by virtue of its inclusion within the Phoenix metropolitan 1-hour ozone nonattainment area) represent an obstacle to the Community's objectives in this regard.

F. Evaluation and Conclusion

Based on the historic ambient monitoring data and prevailing wind patterns in the area, we conclude that we clearly erred in failing to consider data made available at the time of our September 1979 affirmation of the preexisting oxidants nonattainment area boundary (i.e., the MAG urban planning

¹⁰ The Gila River Indian Community became a member of MAG in November of 1989.

area) as the geographic basis for the Phoenix metropolitan 1-hour ozone nonattainment area.¹¹ Our September 1979 action affirming the oxidants nonattainment area boundary for the purposes of the 1-hour ozone NAAQS had the effect of including a portion of the Gila River Indian Reservation (the Maricopa County portion) that was not experiencing violations of the 1-hour ozone NAAQS into the larger urbanized nonattainment area where violations of the 1-hour ozone NAAQS were relatively frequent and widespread and thereby unnecessarily splitting the Reservation into two different air quality planning areas.

In support of this conclusion, we find that, had we considered the available data for the purpose of determining whether the Reservation should be included in the ozone nonattainment area (as opposed to the oxidants nonattainment area), we would have concluded based on data from the South Phoenix station and the prevailing mountain-valley (east-west) wind circulation in the area that no part of the Reservation was experiencing violations of the 1-hour ozone NAAQS, and that affirming the pre-existing oxidants nonattainment boundary for the purposes of the 1-hour ozone NAAQS and thereby continuing the split of the Reservation into two air quality planning areas with different designations would be inappropriate.

We also find that other information persuasively supports a correction in the boundary to exclude the Gila River Indian Reservation at this time: Namely, (1) The Reservation is not a significant source area for ozone precursor emissions and thus has essentially no effect on ambient ozone concentrations in the urbanized portions of the Phoenix metropolitan area; (2) data from the South Phoenix station indicates that ambient ozone levels on the Reservation, with the possible exception of a period in the early 1980's, have never violated the 1-hour ozone NAAQS; (3) available ambient ozone data collected at the two monitoring stations located on the Reservation indicate that the area currently is not experiencing violations of the 1-hour ozone NAAQS; and (4) the former nonattainment status of the Maricopa

County portion of the Reservation for the 1-hour ozone NAAQS will unnecessarily complicate and frustrate the Gila River Indian Community's development and implementation of a Tribal Implementation Plan.

IV. Final Action

Therefore, as authorized in section 110(k)(6) of the CAA and at the request of the Gila River Indian Community, EPA is correcting the boundary of the Phoenix metropolitan 1-hour ozone nonattainment area to exclude the Gila River Indian Reservation.¹² This action revises the description of the Phoenix metropolitan 1-hour ozone nonattainment area in the table entitled "Arizona—Ozone (1-Hour Standard)" in 40 CFR 81.303.

We do not anticipate any objections to this action, so we are finalizing the correction action without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing this same action to correct the boundary. If we receive adverse comments by December 12, 2005, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final action will be effective without further notice on January 9, 2006.

The effect of this action is to attach the Maricopa County portion of the Gila River Indian Reservation to the pre-existing "unclassifiable/attainment" area for the 1-hour ozone NAAQS that consists of all of those portions of the State of Arizona (including the rest of the Reservation that lies in Pinal County) that are not designated as a "nonattainment" area or as an "attainment" area subject to a maintenance plan. Also, this action relieves the Agency and the Gila River Indian Community from any specific obligations that flow from the former nonattainment status of the Maricopa County portion of the Gila River Indian Reservation under our phase 1 implementation rule for the 8-hour ozone NAAQS, including the applicable requirements listed in 40 CFR 51.900(f)

and the preparation and submittal of a plan under 40 CFR 51.905(a)(3) that provides for continued maintenance of the 8-hour ozone NAAQS for 10 years following designation and that includes contingency measures for that portion of the Reservation.¹³

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, [58 FR 51735 (October 4, 1993)] the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order."

Under Executive Order 12866 (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). This action merely reduces the size of a nonattainment area for air quality planning purposes.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or

¹¹ With respect to our promulgation of a County-wide designation for the oxidants NAAQS (in the March 1978) and our approval of a reduction in the size of the oxidants nonattainment area to conform to the MAG urban planning area boundary (in March 1979), we find that our inclusion of the Maricopa County portion of the Gila River Indian Reservation in those areas, while questionable, was not clearly in error because of the violations of the oxidants NAAQS measured at the South Phoenix station.

¹² In so doing, we note the similarities between our action here and previous EPA actions in which we corrected 1-hour ozone nonattainment designations that had originally been established for the oxidants NAAQS and that were erroneously affirmed for the purposes of the 1-hour ozone NAAQS. See 62 FR 14641 (March 27, 1997) (direct final rule correcting ozone nonattainment designations in New Hampshire and Maine); and 61 FR 5707 (February 14, 1996) (final rule correcting ozone nonattainment designations in Michigan).

¹³ While no longer subject to the specific maintenance plan requirements under 40 CFR 51.905(a)(3), the Gila River Indian Reservation, like other areas designated as unclassifiable/attainment for the 8-hour ozone NAAQS, remains subject to the general requirement to provide for implementation, maintenance, and enforcement of the 8-hour ozone NAAQS under section 110(a)(1) of the Act.

provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that this rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This rule will not impose any direct requirements on small entities. EPA is taking direct final action to correct the boundary of the Phoenix metropolitan 1-hour ozone nonattainment area to exclude the Gila River Indian Reservation. This action is intended to

facilitate and support the Gila River Indian Community's efforts to develop, adopt and implement a comprehensive Tribal Implementation Plan by removing unnecessary obligations that flow from the erroneous inclusion of a portion of the Reservation in the Phoenix metropolitan 1-hour ozone nonattainment area.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The rule imposes no enforceable duty on any State, local or tribal governments or the private sector. In any event, EPA has determined that this rule does not contain a Federal

mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action merely reduces the size of a nonattainment area for air quality planning purposes and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" are defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

Under section 5(b) of Executive Order 13175, EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides

the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation. Under section 5(c) of Executive Order 13175, EPA may not issue a regulation that has tribal implications and that preempts tribal law, unless the Agency consults with tribal officials early in the process of developing the proposed regulation.

EPA has concluded that this action may have tribal implications. Representatives of the Gila River Indian Community approached EPA two years ago and requested that EPA make this boundary correction. Consistent with EPA policy, EPA consulted with representatives of the community early in the process of developing this action to permit them to have meaningful and timely input into its development. We agree with the technical and policy rationale that the community provided for this boundary correction, and believe that all tribal concerns have been met. EPA's action corrects the boundary of the Phoenix metropolitan 1-hour ozone area to exclude the Gila River Indian Reservation. As such, it will neither impose substantial direct compliance costs on tribal governments, nor preempt tribal law. Thus, the requirements of sections 5(b) and 5(c) of the Executive Order do not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: "Protection of Children from Environmental health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule 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 economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks

addressed by this rule present a disproportionate risk to children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)), requires EPA to prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for certain actions identified as "significant energy actions." Section 4(b) of Executive Order 13211 defines "significant energy actions" as "any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) that is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action."

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rule does not involve establishment of technical standards, and 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 to this action.

J. Congressional Review Act

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. section 804(2).

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 January 9, 2006. 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, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 3, 2005.

Stephen L. Johnson,
Administrator.

■ Part 81, chapter I, title 40 of the Code of Federal Regulations are amended as follows:

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C—[Amended]

■ 2. In § 81.303, the table entitled "Arizona—Ozone (1-Hour Standard)" is amended by revising the entry for the Phoenix Area to read as follows:

§ 81.303 Arizona.

* * * * *

ARIZONA—OZONE
[1-Hour Standard]

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Phoenix Area: Maricopa County (part)	6/14/05	Attainment.		
Phoenix nonattainment Forest area boundary:				
1. Commencing at a point which is the intersection of the eastern line of Range 7 East, Gila and Salt River Baseline and Meridian, and the southern line of Township 2 South, said point is the southeastern corner of the Maricopa Association of Governments Urban Planning Area, which is the point of beginning;				
2. Thence, proceed northerly along the eastern line of Range 7 East which is the common boundary between Maricopa and Pinal Counties, as described in Arizona Revised Statutes Section 11–109, to a point where the eastern line of Range 7 East intersects the northern line of Township 1 North, said point is also the intersection of the Maricopa County Line and the Tonto National Forest Boundary, as established by Executive Order 869 dated July 1, 1908, as amended and shown on the U.S. Forest Service 1969 Planimetric Maps;				
3. Thence, westerly along the northern line of Township 1 North to approximately the southwest corner of the southeast quarter of Section 35, Township 2 North, Range 7 East, said point being the boundary of the Tonto National Forest and Utery Mountain Semi-Regional Park;				
4. Thence, northerly along the Tonto National Forest Boundary, which is generally the western line of the east half of Sections 26 and 35 of Township 2 North, Range 7 East, to a point which is where the quarter section line intersects with the northern line of Section 26, Township 2 North, Range 7 East, said point also being the northeast corner of the Utery Mountain Semi-Regional Park;				
5. Thence, westerly along the Tonto National Forest Boundary, which is generally the south line of Sections 19, 20, 21 and 22 and the southern line of the west half of Section 23, Township 2 North, Range 7 East, to a point which is the southwest corner of Section 19, Township 2 North, Range 7 East;				
6. Thence, northerly along the Tonto National Forest Boundary to a point where the Tonto National Forest Boundary intersects with the eastern boundary of the Salt River Indian Reservation, generally described as the center line of the Salt River Channel;				
7. Thence, northeasterly and northerly along the common boundary of the Tonto National Forest and the Salt River Indian Reservation to a point which is the northeast corner of the Salt River Indian Reservation and the southeast corner of the Fort McDowell Indian Reservation, as shown on the plat dated July 22, 1902, and recorded with the U.S. Government on June 15, 1902;				
8. Thence, northeasterly along the common boundary between the Tonto National Forest and the Fort McDowell Indian Reservation to a point which is the northeast corner of the Fort McDowell Indian Reservation;				
9. Thence, southwesterly along the northern boundary of the Fort McDowell Indian Reservation, which line is a common boundary with the Tonto National Forest, to a point where the boundary intersects with the eastern line of Section 12, Township 4 North, Range 6 East;				

ARIZONA—OZONE—Continued
[1-Hour Standard]

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
10. Thence, northerly along the eastern line of Range 6 East to a point where the eastern line of Range 6 East intersects with the southern line of Township 5 North, said line is the boundary between the Tonto National Forest and the east boundary of McDowell Mountain Regional Park; 11. Thence, westerly along the southern line of Township 5 North to a point where the southern line intersects with the eastern line of Range 5 East which line is the boundary of Tonto National Forest and the north boundary of McDowell Mountain Regional Park; 12. Thence, northerly along the eastern line of Range 5 East to a point where the eastern line of Range 5 East intersects with the northern line of Township 5 North, which line is the boundary of the Tonto National Forest; 13. Thence, westerly along the northern line of Township 5 North to a point where the northern line of Township 5 North intersects with the easterly line of Range 4 East, said line is the boundary of Tonto National Forest; 14. Thence, northerly along the eastern line of Range 4 East to a point where the eastern line of Range 4 East intersects with the northern line of Township 6 North, which line is the boundary of the Tonto National Forest; 15. Thence, westerly along the northern line of Township 6 North to a point of intersection with the Maricopa-Yavapai County line, which is generally described in Arizona Revised Statutes Section 11–109 as the center line of the Aqua Fria River (Also the north end of Lake Pleasant); 16. Thence, southwesterly and southerly along the Maricopa-Yavapai County line to a point which is described by Arizona Revised Statutes Section 11–109 as being on the center line of the Aqua Fria River, two miles southerly and below the mouth of Humbug Creek; 17. Thence, southerly along the center line of Aqua Fria River to the intersection of the center line of the Aqua Fria River and the center line of Beardsley Canal, said point is generally in the northeast quarter of Section 17, Township 5 North, Range 1 East, as shown on the U.S. Geological Survey's Baldy Mountain, Arizona Quadrangle Map, 7.5 Minute series (Topographic), dated 1964; 18. Thence, southwesterly and southerly along the center line of Beardsley Canal to a point which is the center line of Beardsley Canal where it intersects with the center line of Indian School Road; 19. Thence, westerly along the center line of West Indian School Road to a point where the center line of West Indian School Road intersects with the center line of North Jackrabbit Trail; 20. Thence, southerly along the center line of Jackrabbit Trail approximately nine and three-quarter miles to a point where the center line of Jackrabbit Trail intersects with the Gila River, said point is generally on the north-south quarter section line of Section 8, Township 1 South, Range 2 West; 21. Thence, northeasterly and easterly up the Gila River to a point where the Gila River intersects with the northern extension of the western boundary of Estrella Mountain Regional Park, which point is generally the quarter corner of the northern line of Section 31, Township 1 North, Range 1 West;				

ARIZONA—OZONE—Continued
[1-Hour Standard]

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
22. Thence, southerly along the extension of the western boundary and along the western boundary of Estrella Mountain Regional Park to a point where the southern extension of the western boundary of Estrella Mountain Regional Park intersects with the southern line of Township 1 South;				
23. Thence, easterly along the southern line of Township 1 South to a point where the south line of Township 1 South intersects with the western line of Range 1 East, which line is generally the southern boundary of Estrella Mountain Regional Park;				
24. Thence, southerly along the western line of Range 1 East to the southwest corner of Section 18, Township 2 South, Range 1 East, said line is the western boundary of the Gila River Indian Reservation;				
25. Thence, easterly along the southern boundary of the Gila River Indian Reservation which is the southern line of Sections 13, 14, 15, 16, 17, and 18, Township 2 South, Range 1 East, to the boundary between Maricopa and Pinal Counties as described in Arizona Revised Statutes Sections 11–109 and 11–113, which is the eastern line of Range 1 East;				
26. Thence, northerly along the eastern boundary of Range 1 East, which is the common boundary between Maricopa and Pinal Counties, to a point where the eastern line of Range 1 East intersects the Gila River;				
27. Thence, southerly up the Gila River to a point where the Gila River intersects with the southern line of Township 2 South;				
28. Thence, easterly along the southern line of Township 2 South to the point of beginning which is a point where the southern line of Township 2 South intersects with the eastern line Range 7 East;				
29. Except that portion of the area defined by paragraphs 1 through 28 above that lies within the Gila River Indian Reservation.				
*	*	*	*	*

¹ This date is October 18, 2000 unless otherwise noted.

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[FR Doc. 05–22371 Filed 11–9–05; 8:45 am]

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