UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

MEMORANDUM DEC 20 2011

SUBJECT: Policy for Establishing Separate Air Quality Designations for Areas of Indian Country

FROM: Stephen D. Page, Director
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TO: Regional Air Directors, Regions I-X

Purpose

This memorandum provides EPA's policy regarding designating areas of Indian country separately from adjacent areas for the National Ambient Air Quality Standards (NAAQS), when requested by the relevant tribe for a particular area of Indian country.[1] The purpose of this memorandum is to ensure a nationally consistent approach for evaluating requests to designate separate areas of Indian country and for recognizing Indian country in the 40 CFR Part 81 Tables.[2] We may receive a request for a separate designation of Indian country in either of two ways: 1) submittal of an initial recommendation by the relevant tribe during the Clean Air Act (CAA) section 107(d) process following promulgation of a new NAAQS, or 2) submittal of a request for a boundary change to a previous designation/redesignation (this may arise where Indian country boundaries have been changed due to the acquisition of additional lands; EPA deferred a decision on the designation, redesignation, or reclassification; an error was made in the previous designation/redesignation; or for other reasons).

The impetus for this policy is fourfold: 1) the desire to recognize tribal sovereignty in air quality management matters affecting their Indian country; 2) the need to ensure protection of air quality in Indian country; 3) the desire to increase transparency in the designations process; and 4) the receipt of recent requests from several tribes to have a separate attainment or nonattainment area from adjacent state or local government areas.

This memorandum has two main sections. The first section provides background information on EPA's process for designating all areas of the country under the CAA. It also describes EPA's new policy for evaluating recommendations/requests for separate designations of Indian country, and the potential associated implications for tribes. The second section provides background information regarding the way in which Indian country areas have typically been displayed in tables located in 40 CFR Part 81 in

[1] Indian country, as defined at 18 U.S.C. § 1151, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.
[2] When areas are designated through CAA section 107(d) and these designations are published in the Federal Register, the area boundaries are displayed in tables located in 40 CFR Part 81.

the past. It then discusses EPA's new policy for explicitly addressing Indian country in the 40 CFR Part 81 Tables.

Please share this policy with tribal leaders and state agencies in your Region. When corresponding with tribal leaders, please provide courtesy copies to tribal environmental directors or tribal air quality staff, as appropriate.

Approach for Evaluating Tribal Requests for Separate Designations of Indian Country for the NAAQS

Background

CAA section 107(d) establishes, among other things, the requirement for EPA to promulgate air quality designations for all areas following promulgation of a new or revised NAAQS. Per section 107(d)(a)(A)(i) of the CAA, a nonattainment area is an area that "does not meet (or that contributes to ambient air quality in a nearby area that does not meet) ...[a] national primary or secondary ambient air quality standard." EPA is required to designate areas as nonattainment, attainment, or unclassifiable relative to the promulgated NAAQS. Under section 107(d)(1)(B)(ii) of the CAA, EPA must finalize area designations no later than two years from the date a new or revised NAAQS is promulgated, unless the Administrator has insufficient information to promulgate designations. In such case, the Administrator may extend this period for up to one year beyond the original deadline.

Although section 107(d) does not explicitly reference Indian tribes or Indian country, tribes are able to participate in the designations process. For instance, under section 301(d) and the Tribal Authority Rule (TAR) (63 FR 7254, February 12, 1998), tribes may seek treatment in a similar manner as a state (TAS) for purposes of section 107(d) designations. Even absent TAS for section 107(d) purposes, EPA may solicit air quality information and designations recommendations from tribes for their areas of Indian country. In addition, Executive Order (EO) 13175, the Agency's 1984 Indian Policy, and the EPA Policy On Consultation and Coordination With Indian Tribes (May 4, 2011) call for EPA to consult with tribes on actions and decisions, such as designation of their Indian country, that affect their interests.

The ultimate statutory authority to promulgate designations rests with EPA, and EPA is required under the CAA to designate all areas of the country for the NAAQS in a timely manner. If a tribe does not submit recommendations, EPA, under its CAA authorities, will promulgate an appropriate designation for the relevant area of Indian country.

In the past, EPA did not have a clearly articulated policy for considering a tribal request for designation of its Indian country as a separate area. Several tribes have well-established air programs and have engaged in the designations process. Some of these tribes are not only interested in submitting designations recommendations to EPA, but are also interested in having their Indian country boundaries designated separately from the adjacent area.

Approach to Designation Decisions for Indian Country

1) When EPA Does Not Receive a Request/Recommendation for a Separate Designation

In circumstances where EPA either does not receive an initial designation recommendation from a tribe, or receives a recommendation that does not specify designation of a separate area, EPA intends to

designate the relevant tribe's Indian country as part of the surrounding multi-jurisdictional area, and to list the tribe by name in the 40 CFR Part 81 Table (more details regarding this process are provided below in the section "Approach for Addressing Indian Country through 40 CFR Part 81 Tables"). In addition, to the extent possible, EPA will ensure that a single tribe's Indian country is not inadvertently split based on the use of other jurisdictional boundaries (*e.g.*, counties) to designate the surrounding state areas. Technical factors (*e.g.*, topography) and information obtained during consultation with the tribes should be used to establish appropriate boundaries.

The following examples generally illustrate designations that may be appropriate for areas of Indian country:

- Indian country with a regulatory air quality monitor showing a violation of the NAAQS should be designated nonattainment.

- Indian country with a regulatory air quality monitor showing that the NAAQS is being met could be designated attainment. However, it should be designated nonattainment when: 1) sources on Indian country are contributing to poor air quality in the nearby state area, and/or 2) air quality modeling shows that the NAAQS is being violated in the Indian country area.[3]

- Indian country that is lacking a regulatory monitor, and is located within a multi-jurisdictional area with a violating regulatory monitor that is not representative of the Indian country could be designated unclassifiable. However, the Indian country should be designated nonattainment when: 1) sources on Indian country are contributing to poor air quality in the nearby state area, and/or 2) air quality modeling shows that the NAAQS is being violated in the Indian country area.[4]

2) When EPA Receives a Request/Recommendation for a Separate Designation

If EPA receives an initial designations recommendation or a boundary change request from a tribe seeking to have its Indian country designated as a separate area, EPA will make decisions regarding these recommendations or requests on a case-by-case basis, and after consultation with the tribe.[5] Listed below are several potential scenarios associated with designations recommendations and/or boundary change requests from tribes for a separate area:

- Tribe recommends/requests separate attainment area from adjacent attainment area;
- Tribe recommends/requests separate attainment area from adjacent nonattainment area;
- Tribe recommends/requests separate nonattainment area or different area classification from adjacent nonattainment area; or
- Tribe recommends/requests separate nonattainment area from adjacent attainment area.

As a matter of policy, EPA believes it is important for tribes to make certain submittals associated with an initial designations recommendation or boundary change request. These submittals include:

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[3] This only applies to the NAAQS for sulfur dioxide (SO_2) where both monitoring and modeling are used to establish violations.
[4] This only applies to the NAAQS for SO_2 where both monitoring and modeling are used to establish violations.
[5] It should be noted that TAS status for purposes of 107(d) is not necessary for Indian country to be designated by EPA separately from the surrounding area.

a) Submittal of a formal request/recommendation from an official authorized to make the request on behalf of the tribe. Initial designations recommendations should be submitted on the same schedule that applies to states;
b) Documentation of the boundary of the area of Indian country to which the request for separate designation pertains, and concurrence with EPA's intent to include that area in the 40 CFR Part 81 Table should EPA separately designate the area; and
c) Submittal of a multi-factor analysis (as described below) to support the recommendation/request.

It is important for a tribe to submit a formal request/recommendation from an authorized official to ensure that EPA considers the tribe's procedural and governmental protocols when evaluating the request/recommendation. In addition, given the CAA requirement to designate all areas in a timely manner, EPA intends to designate all areas on the same schedule. It is therefore crucial that EPA receive initial designations recommendations from tribes no later than the deadline given to states. This timing will ensure that EPA has adequate time to conduct appropriate consultation and will allow EPA to make informed, timely decisions on requests for a separately designated area of Indian country.

When submitting a request/recommendation for a separately designated area of Indian country, it is important for a tribe to submit documentation of the boundary of the area of Indian country to which the request for a separate designation pertains. The tribe should also express concurrence with inclusion of the area in the 40 CFR Part 81 Table should EPA separately designate the area. EPA will consult and work closely with tribes to address any issues that may be raised by including the Indian country area in the 40 CFR Part 81 Table.

EPA intends to make all decisions regarding a tribe's recommendation/request to designate an area separately after all necessary consultation with the tribe and, as appropriate, with other affected entities, and after evaluating whether there is sufficient data/information to support such a designation. Designation recommendations or boundary change requests for a separate area should include an analysis of the factors listed below ("multi-factor analysis"). Section 107(d)(1) of the CAA defines an area as nonattainment if it is violating the NAAQS or if it is contributing to a violation in a nearby area. Thus, the purpose of evaluating these factors is to determine the appropriate boundaries encompassing the area meeting the CAA's definition of a nonattainment area. In addition, an analysis of these factors supports determining whether an area of Indian country located within or next to a larger multi-jurisdictional area should be excluded from that area and potentially designated separately, or whether it should be designated according to the rest of the area. To receive proper consideration, tribes should include the following types of data/information in the multi-factor analysis:[6]

- Air Quality Data
  - Does the Indian country area have an attaining or violating air quality monitor?
  - Is the nearest monitor representative of air quality in the area? If so, does it violate the standard?
  - Is the data of sufficient quality to be used for boundary decisions and/or designations purposes?
  - If there is no monitor in the Indian country area, is there other technical information available that characterizes air quality in the Indian country area?

[6] Note: The questions below each factor are included for illustrative purposes only, and are not intended to be comprehensive.

- Emissions-Related Data

  Source emissions data
  - What are the actual and estimated emissions from sources located in and around the area of Indian country? Significant emissions levels in a nearby area indicate the potential for the area to contribute to observed violations.
  - How far is the Indian country area from emissions sources in the adjacent area?

  Traffic and commuting patterns
  - Where are the major transportation arteries? Is information on traffic volume and commuting in and around the violating area available?
  - Is the Indian country area being impacted by traffic crossing Indian country to get to another area?

  Population density and degree of urbanization
  - What are the population characteristics and trends of the area and the patterns of commercial development as indicators of the probable location and magnitude of emissions sources?

- Meteorology
  - How do meteorological conditions affect the fate and transport of emissions from sources on or nearby the area of Indian country?

- Geography/Topography
  - What are the physical features of the land that might define the airshed and, therefore, affect the formation and distribution of pollution over the Indian country area? Mountains or other physical features may affect the location of emissions sources and the distribution of emissions, and may help define the boundaries of violating areas and areas contributing to violating areas.

- Jurisdictional Boundaries
  - What are the existing jurisdictional boundaries for the purposes of providing a clearly defined legal boundary of the area pertaining to the designation request and carrying out the air quality planning and enforcement functions for nonattainment areas? For example, this might include Indian country, state, county government, or metropolitan planning organization areas.

In addition to the information above, tribes may submit any other information that they believe is important for EPA to consider. Consistent with the multi-factor analysis conducted by the states, there may be instances where not all of the above-listed factors are relevant to a specific request. For example, if a tribe were to request the designation of a separate attainment area from an adjacent attainment area, it is possible that only the air quality data factor and/or the jurisdictional boundaries factor would be applicable to the given situation. We encourage Regional Offices, when requested, to assist tribes with developing their multi-factor analyses to determine which factors are most relevant to the specific request for a separate area.

Additional information is included below regarding consideration of the information/data submitted by a tribe for the air quality data and jurisdictional boundaries factors. Given the complexity of issues associated with the use of different data sources to support the air quality data factor, we feel it is

important to clearly articulate how air quality data should be considered in the multi-factor analysis submitted by a tribe. Through this memorandum, EPA is setting a new policy for recognizing tribal jurisdiction in the designations process. Therefore, the jurisdictional boundaries factor should be considered differently for a tribe than it is considered for a state or county.

Air Quality Data Factor Analysis

Data from both non-regulatory monitors and regulatory monitors can be included as part of the air quality data factor analysis submitted by a tribe. However, while qualified data from regulatory monitors can be used to determine the designation status (attainment, nonattainment, or unclassifiable) for an area of Indian country, data from non-regulatory monitors may only be used to support a geographic boundary determination for that designation category. Regulatory and non-regulatory monitors are defined as follows: "Regulatory" monitors are those that: (1) have a monitoring objective that is intended for comparing design values against the level of the NAAQS (NAAQS Comparison), and (2) have adequately achieved the quality assurance and data requirements for regulatory decision making. "Non-regulatory" monitors are those that: (1) have been designated as a "non-regulatory" monitor type in EPA's Air Quality System, meaning that they have monitoring objectives other than NAAQS Comparison, and therefore are not required to meet all of the quality assurance and data requirements necessary for regulatory decision-making, or (2) may have the objective of "NAAQS Comparison" and have not adequately achieved the quality assurance and data requirements necessary for regulatory decision-making.

EPA recognizes that when considering tribal recommendations for separate area designations, appropriate air quality data may not be available for the relevant areas of Indian country—either due to the absence of a monitor in Indian country, or due to concerns regarding data accuracy. It is also possible that despite the absence of air quality data for the Indian country area, other technical information is available that characterizes air quality in the Indian country area. For example, a proximate state regulatory monitor could be determined to be representative of air quality in the Indian country area. Or, for some pollutants, modeling or emissions inventory data may be useful. In these circumstances, it may be appropriate for other technical information to be used in the air quality data factor analysis. However, in cases where a tribe submits a recommendation for a separate attainment area from an adjacent nonattainment area, or a separate nonattainment area from an adjacent attainment area, such recommendations would be best supported by air quality data from a regulatory monitor in the relevant area of Indian country.

Jurisdictional Boundaries Factor Analysis

When evaluating the multi-factor analysis submitted by a tribe, it is important to recognize tribal sovereignty and the jurisdictional status of Indian country in the decision-making process. Therefore, the jurisdictional boundaries factor analysis should recognize that tribes retain important sovereign authorities over their members and territories, and that jurisdiction in Indian country generally rests with the relevant tribe and the federal government, not with states. In general, when deciding whether to grant a tribal request for designation of a separate area, the jurisdictional boundaries factor analysis may bear the most weight in the following circumstances:

- A recommendation/request for a separate attainment area where all of the adjacent areas are designated attainment;

- A recommendation/request for a separate attainment area where there is an adjacent nonattainment area, when a regulatory monitor in Indian country demonstrates that the NAAQS is being met, and there are no sources in Indian country contributing to nonattainment in the adjacent area based on an analysis of the factors described above;
- A recommendation/request for a separate nonattainment area where all adjacent areas are designated attainment, when a regulatory monitor in Indian country demonstrates a NAAQS violation and an analysis of the factors described above does not support inclusion of areas outside the Indian country boundary based on their contribution to air quality at that monitor; and
- A recommendation/request for a separate nonattainment area where there is an adjacent nonattainment area, when an analysis of the factors above indicates that there are no sources in Indian country contributing to nonattainment in the adjacent area.

Example Decision-Making Scenarios

Several example decision-making scenarios for considering tribal recommendations/requests are included below. These scenarios are meant to provide general examples, and do not suggest a definitive decision. Ultimately, EPA's decision regarding whether to designate an area of Indian country separately will depend upon a consideration of all factors and other relevant data/information submitted by a tribe with their recommendation/request.

- Tribe submits a recommendation/request for a separate nonattainment area with the same or a different area classification (*e.g.*, Moderate, Serious, etc.) than an adjacent nonattainment area.
  - Tribe either has its own regulatory monitor demonstrating violation of the NAAQS or has shown that a proximate regulatory monitor violating the NAAQS outside of Indian country is sufficiently representative of air quality in the Indian country area.
  - There are no significant emissions sources in Indian country that are contributing to nonattainment in the adjacent area.
  - Indian country area is impacted only by sources within the Indian country.
  - → Indian country area could be designated as a separate nonattainment area or with a different area classification.

- Tribe submits a recommendation/request for a separate nonattainment area from an adjacent nonattainment area.
  - Tribe either has its own regulatory monitor demonstrating violation of the NAAQS or has shown that a proximate regulatory monitor outside of Indian country violating the NAAQS is sufficiently representative of air quality in the Indian country area.
  - Indian country area has emissions sources that are contributing to nonattainment in the adjacent state area.
  - Indian country area is impacted by sources outside of Indian country.
  - Indian country area is meteorologically and topographically integrated with the surrounding area.
  - → Indian country area could be designated as part of a multi-jurisdictional nonattainment area, such that the tribe is one of the governing bodies within the area.

- Tribe submits a recommendation/request for a separate attainment area adjacent to a nonattainment area.
  - Tribe has its own regulatory monitor demonstrating the NAAQS is being met.

- There are no significant emissions sources in the Indian country area that are contributing to nonattainment in the adjacent area.
- Indian country area is separated from adjacent nonattainment area by topography or other geographic features.
- → Indian country area could be designated as a separate attainment area.

- Tribe submits a recommendation/request for a separate nonattainment area adjacent to or within a surrounding attainment area.
  - Tribe has its own regulatory monitor demonstrating the NAAQS is being violated.
  - → Indian country area could be designated as a separate nonattainment area.

- Tribe submits a recommendation/request for a separate attainment area adjacent to or within a surrounding attainment area.
  - Tribe either has its own regulatory monitor demonstrating attainment of the NAAQS or has shown that a proximate regulatory monitor outside of Indian country that is attaining the NAAQS is sufficiently representative of air quality in the Indian country area.
  - → Indian country area could be designated as a separate attainment area.

Potential Implications of Separately Designated Areas of Indian Country

Pursuant to the TAR, tribes are not treated as states with respect to the plan submittal and implementation deadlines for NAAQS-related requirements (See 40 CFR § 49.4(a)). Therefore, even if a tribal request for a separate area is granted, that tribe is not required to submit a tribal implementation plan (TIP). Although we encourage tribes to develop plans to address NAAQS-related requirements, where tribes do not develop TIPs, EPA is authorized to promulgate federal implementation plan (FIP) provisions as are necessary or appropriate to protect air quality. (See 49 CFR § 49.11(a)). In a nonattainment area, the goal is to implement a strategy that will allow the area to meet the standards by reducing specific pollutants below the levels of the NAAQS. A FIP or TIP may include, as necessary or appropriate: (a) an emissions inventory to identify the sources of air pollution, their location, and the types of pollutants emitted; (b) enforceable emission limits that will require application of all Reasonably Available Control Measures (RACM), including adoption of Reasonably Available Control Technology (RACT) for existing pollution sources; (c) evidence that the emission limits will reduce emissions enough to prevent NAAQS violations in Indian country and in other areas (*i.e.*, an attainment demonstration) and demonstrate reasonable further progress towards attainment; (d) a new source review preconstruction permit program to ensure that new and modified sources of pollution do not impede progress toward cleaner air;[7] and (e) contingency measures to apply in the event the area fails to meet any attainment or progress goals.

During consultation, EPA Regional Offices should ensure that tribes interested in submitting a recommendation/request for a separate area designation are aware of the implications for their tribe should such a recommendation/request be granted. For example, in order for a separately designated nonattainment area in Indian country to be redesignated to attainment, the tribe or EPA would need to demonstrate that the area attains the standard and that it meets necessary or appropriate redesignation criteria, including a TIP or FIP that provides for ongoing maintenance of the NAAQS. Also, small

[7] On July 1, 2011, EPA promulgated a FIP, entitled "Review of New Sources and Modifications in Indian Country," to ensure that Clean Air Act permitting requirements are applied consistently to facilities in Indian country. (76 FR 38748). Interested tribes can assist EPA with implementation of the federal rules set forth in the FIP through a delegation agreement with EPA. Tribes can also develop and seek approval of a TIP to administer these permitting programs under their own laws.

separate nonattainment areas with few sources of emissions may experience difficulties demonstrating reasonable further progress and attainment from sources within the area, should they elect to develop such demonstrations.

Another area that Regions should discuss with tribes during consultation is how general and transportation conformity would apply in a separately designated tribal nonattainment area. Activities in areas that are designated nonattainment that are conducted or supported by Federal agencies must "conform" to the purpose of an applicable implementation plan, as required by section 176(c) of the CAA. The EPA's general conformity rules apply to Federal activities within nonattainment areas and areas that have moved from nonattainment to maintaining the standards, *i.e.*, areas that are redesignated as attainment. A Federal agency must demonstrate, prior to approving, permitting, licensing, providing financial support for, or otherwise supporting a project, that its action conforms to applicable requirements in the area's approved implementation plan and will not cause or contribute to NAAQS violations or delay timely attainment. Transportation conformity rules apply to highway and transit-related activities, and all other types of Federal activities are governed by general conformity rules.[8] The transportation conformity rule requires transportation agencies to estimate the total motor vehicle emissions that would result from the area's transportation system if the proposed transportation projects are built. These emissions must be within levels that the applicable implementation plan predicts are consistent with attainment.

If general conformity obligations are determined to apply to emissions from a Federal agency action, the general conformity rules provide Federal agencies with the following options for demonstrating conformity in nonattainment or maintenance areas: (1) obtaining emission offsets (generated in the same area or certain nearby areas) for the total emissions from the new project, (2) showing that the project's emissions are already included in, or accommodated by, the applicable SIP for the area (or in the absence of an applicable SIP, showing that the project's emissions will not increase the baseline emissions used in the most current emissions inventory), or (3) obtaining a written commitment from the Governor for the area, or the Governor's designee for SIP actions, to include the project's emissions in a forthcoming revision of the applicable implementation plan. Tribes that choose to engage in the implementation planning process through submittal of a TIP may find it easier to address any general conformity issues associated with their separately designated areas of Indian country. EPA plans to provide tribes with training and/or guidance on transportation and general conformity.

In an attainment or unclassifiable area the goal is to maintain air quality that is cleaner than the NAAQS. A tribal or Federal air quality program in such areas will generally contain enforceable emission limits for existing emission sources, a program to limit the impacts of emissions from new and modified stationary sources, and provisions to prevent significant contribution by sources located in Indian country to NAAQS violations in other areas. Major sources located in areas of Indian country that are designated attainment or unclassifiable for any pollutant would be subject to the Federal program for the Prevention of Significant Deterioration (PSD) upon the date that designations under the standard become effective.[9]

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[8] It should be noted that under the Federal Lands Highways Program, 23 US.C §§202(d), 204, as amended by the Safe, Accountable, Flexible, Efficient Transportation, Equity Act: A Legacy for users (SAFETEA-Lu) authorization to promulgate and implement regulations regarding planning and construction of Title 23 highway activities, as well as Title 49 transit-related activities on Indian reservations are entrusted to the Secretary of the Interior through the assistance of the Bureau of Indian Affairs.

[9] Major sources are those emitting either 100 tons per year or 250 tons per year, depending upon the source category. For more information on PSD, visit: http://www.epa.gov/NSR/psd.html.

Carrying out this Policy: Guidance to Tribes

Due to the implementation considerations associated with this policy, as described above, EPA believes that it is important not only to provide additional assistance to tribes interested in submitting recommendations/requests for separately designated areas, but also to provide them with additional guidance regarding any requirements associated with designating these areas. Therefore, EPA intends to provide tribes with additional technical support through conference calls, webinars, and/or guidance document(s) to assist them with carrying out this policy. Such technical support will include, but is not limited to, the following subjects:

- How to evaluate the factors in a multi-factor analysis;
- Examples of supplemental data that could be used to support the air quality data factor;
- How to submit a request for a boundary change;
- Requirements for a separately designated area of Indian country to be redesignated from nonattainment to attainment;
- How to address exceptional events; and
- Addressing transportation and general conformity.

Approach for Addressing Indian Country through 40 CFR Part 81 Tables

Background

When areas are designated through CAA section 107(d) and these designations are published in the Federal Register, the area boundaries are displayed in tables located in 40 CFR Part 81. In general, Indian country has historically been addressed in the 40 CFR Part 81 Tables either through a footnote or through "exclusion" of Indian country from a particular county's designation.

Tables 1 and 2 below represent examples.

In Table 1, the San Carlos Apache Indian Reservation is both explicitly excluded from the Hayden PM_{10} nonattainment area as well as implicitly included as part of the "Rest of State" unclassifiable area.

Table 1. Indian Country Excluded from Surrounding Area

Environmental Protection Agency **§ 81.303**

Arizona—PM–10

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Townships: T7S-R21W, R22W; T8S-R21W, R22W, R23W, R24W T9S-R21W, R22W, R23W, R24W, R25W; T10S-R21W, R22W, R23W, R24W, R25W				
Pinal and Gila Counties:				
Hayden planning area	11/15/90	Nonattainment	11/15/90	Moderate.
T1S, R13E (sections 7–36); T1S, R14E (sections 25–36);T2S, R13E; T2S, R14E; T2S, R15E; T3S, R13E; T3S, R14E; T3S, R15E; T3S, R16E (except that portion in the San Carlos Apache Indian Reservation); T4S, R13E; T4S, R14E; T4S, R15E; T4S, R16E; T5S, R13E; T5S, R14E; T5S, R15E; T5S, R16E; T6S, R13E; T6S, R14E; T6S, R15E; and T6S, R16E.				
Miami planning area	11/15/90	Nonattainment	11/15/90	Moderate.
T1N, R13E; T1N, R14E; T1N, R15E; T1S, R13E (sections 1–6); T1S, R14E (sections 124); T1S, R14½E; and T1S, R15E.				
Gila County (part):				
Payson: T10N, sections 1–3, ...	08/26/02	Attainment		
10–15, 22–27, and 34–36 of R9E; T11N, sections 1–3, 10–15, 22–27, and 34–36 of R9E; T10–11N, R10E; T10N, sections 4–9, 16–21, and 28–33 of R11E; T11N, sections 4–9, 16–21, and 28–33 of R11E.				
Mohave County (part):	August 26, 2002	Attainment		
Bullhead City: T21N, R21W, excluding Lake Mead National Recreation Area: T20N, R21–22W; T19N, R22W excluding Fort Mohave Indian Reservation.				
Rest of State	11/15/90	Unclassifiable		

In Table 2, no affected area of Indian country in Arizona is listed by name. Instead, the footnote in Table 2 indicates that each designated area "Includes Indian Country located in each county or area, except as otherwise specified." In this example, there is no such explicit separate specification in the table, so affected areas of Indian country are not identified.

Table 2. Indian Country Included in Footnote

Arizona—PM2.5

Designated area	Designation [a]	
	Date [1]	Type
Statewide:		
Apache County	.....	Unclassifiable/Attainment.
Cochise County	.....	Unclassifiable/Attainment.
Coconino County	.....	Unclassifiable/Attainment.
Gila County	.....	Unclassifiable/Attainment.
Graham County	.....	Unclassifiable/Attainment.
Greenlee County	.....	Unclassifiable/Attainment.
La Paz County	.....	Unclassifiable/Attainment.
Maricopa County	.....	Unclassifiable/Attainment.
Mohave County	.....	Unclassifiable/Attainment.
Navajo County	.....	Unclassifiable/Attainment.
Pima County	.....	Unclassifiable/Attainment.
Pinal County	.....	Unclassifiable/Attainment.
Santa Cruz County	.....	Unclassifiable/Attainment.
Yavapai County	.....	Unclassifiable/Attainment.
Yuma County	.....	Unclassifiable/Attainment.

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is 90 days after January 5, 2005, unless otherwise noted.

Approach

EPA believes it is appropriate to explicitly identify Indian country in the 40 CFR Part 81 Tables. Therefore, EPA intends to use the following approach:

- For instances where an area of Indian country is designated as part of an adjacent area, the area of Indian country will be listed by name in the 40 CFR Part 81 Table.
- For instances where an area of Indian country is designated separately from the adjacent area, the separately designated area of Indian country will be specified in the 40 CFR Part 81 Table along with its associated designation status. Separately designated areas of Indian country will be identified using appropriate information included in an EPA decision on a tribe's TAS application, if one exists, for designations or other purposes, or from other appropriate sources.[10]

Tables 3 and 4 provide mock-ups for explicitly identifying areas of Indian country in the 40 CFR Part 81 Tables.

[10] As noted earlier in this document, TAS is not required for a tribe to submit designations recommendations.

Table 3. Arizona (2008 8-Hour Ozone Standard)
[MOCK-UP to Show Separately LISTED Areas of Indian Country]

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Phoenix-Mesa, AZ:[2]		Nonattainment		Moderate
Maricopa County (part)				
T1N, R1E; T1N, R2E; T1N, R3E; T1N, R4E; etc…				
Pinal County (part)				
Apache Junction: T1N, R8E; T1S, R8E (Sections 1 through 12)				
Fort McDowell Indian Reservation (Fort McDowell Yavapai Nation)[3]				
Gila River Indian Reservation (Gila River Indian Community)[3]				
Salt River Reservation (Salt River Pima-Maricopa Indian Community)[3]				
Rest of State[2]		Unclassifiable/ Attainment		
Apache County Cochise County, etc… *(or omit county-by-county listing)*				
Rest of Indian country[3]		Unclassifiable/ Attainment		
Chemehuevi Reservation (Chemehuevi Indian Tribe) Colorado River Indian Reservation (Colorado River Indian Tribes), etc… *(or omit tribe-by-tribe listing)*				

[1] This date is (INSERT DATE), unless otherwise noted
[2] Excludes Indian country located in each county or area, unless otherwise noted.
[3] Includes all Indian country located within the exterior boundaries of the State of Arizona, except for Indian country separately designated in this Table.

Table 4. Arizona (2008 8-Hour Ozone Standard)
[MOCK-UP to Show Separately DESIGNATED Areas of Indian Country]

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Phoenix-Mesa, AZ:[2]		Nonattainment		Moderate
Maricopa County (part)				
T1N, R1E; T1N, R2E; T1N, R3E; T1N, R4E; T1N, R5E; T1N, R6E; T1N, R7E; T1N, R1W; etc…				
Pinal County (part)				
Apache Junction: T1N, R8E; T1S, R8E (Sections 1 through 12)				
Fort McDowell Indian Reservation (Fort McDowell Yavapai Nation)[3]		Nonattainment		Moderate
Gila River Indian Reservation (Gila River Indian Community)[3]		Nonattainment		Marginal
Salt River Reservation (Salt River Pima-Maricopa Indian Community)[3]		Nonattainment		Moderate
Rest of State[2]		Unclassifiable/Attainment		
Apache County Cochise County, etc… *(or omit county-by-county listing)*				
Rest of Indian country[3]		Unclassifiable/Attainment		
Chemehuevi Reservation (Chemehuevi Indian Tribe) Colorado River Indian Reservation (Colorado River Indian Tribes), etc… *(or omit tribe-by-tribe listing)*				

[1] This date is (INSERT DATE), unless otherwise noted
[2] Excludes Indian country located in each county or area, unless otherwise noted.
[3] Includes all Indian country located within the exterior boundaries of the State of Arizona, except for Indian country separately designated in this Table.

Questions Regarding This Policy

Staff in EPA's Office of Air Quality Planning and Standards are available for assistance throughout the designations process. Questions on this policy may be directed to Kristin Riha at (919) 541-2031 or riha.kristin@epa.gov; or Angel McCormack at (919) 541-3588 or mccormack.angel@epa.gov.

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