

reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: February 18, 2005.

**Robert W. Varney,**

*Regional Administrator, EPA New England.*

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### **PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

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

#### **Subpart U—Maine**

■ 2. Section 52.1020 is amended by adding paragraph (c)(56) to read as follows:

##### **§ 52.1020 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*  
(56) Revisions to the State Implementation Plan submitted by the Maine Department of Environmental Protection on February 12, 2004.

(i) Incorporation by reference.  
(A) Chapter 145 of the Maine Department of Environmental Protection

Regulations, “NO<sub>x</sub> Control Program,” effective in the State of Maine on July 22, 2001.

(ii) Additional materials.

(A) Nonregulatory portions of the submittal.

■ 3. In § 52.1031, Table 52.1031 is amended by adding a new state citation, 145, in numerical order to read as follows:

##### **§ 52.1031 EPA-approved Maine regulations.**

\* \* \* \* \*

**TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS**

State citation	Title/subject	Date adopted by State	Date approved by EPA	Federal Register citation	52.1020
145	NO <sub>x</sub> Control Program	6/21/01	4/10/05	[Insert <i>FR</i> citation from published date] ...	(c)(56).

**Note.**—1. The regulations are effective statewide unless stated otherwise in comments section.

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**BILLING CODE 6560–50–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

##### **40 CFR Parts 52 and 81**

[AZ 135–0085; FRL–7879–3]

#### **Approval and Promulgation of State Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of Arizona; Maricopa County Area; Technical Correction**

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

**ACTION:** Final rule; technical correction.

**SUMMARY:** In this action, EPA is amending the regulations that identify area designations within Arizona. The purpose of this action is to correct this section to clarify the boundary description of the Phoenix Planning Area designated as nonattainment for the National Ambient Air Quality Standards (NAAQS) for particulate matter 10 microns or smaller in diameter (PM–10).

**DATES:** *Effective Date:* This action is effective on April 11, 2005.

**ADDRESSES:** Copies of documents relevant to this action are available for public inspection during normal business hours at the Air Planning Office of the Air Division, Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. Due

to increased security, we suggest that you call at least 24 hours prior to visiting the Regional Office so that we can make arrangements to have someone meet you.

#### **FOR FURTHER INFORMATION CONTACT:**

Wienke Tax, Air Planning Office (Air-2), U.S. Environmental Protection Agency, Region IX, (520) 622–1622 or e-mail to [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov).

**SUPPLEMENTARY INFORMATION:** On July 1, 1987, EPA revised the NAAQS for particulate matter, replacing the standard applicable to Total Suspended Particulates (TSP) with a standard that would apply to PM–10, and establishing new annual and 24-hour standards for PM–10 (52 FR 24634). To assure attainment of the new NAAQS, EPA required that states identify areas as nonattainment/attainment/unclassifiable for PM–10, and submit their designations to EPA, in accordance with the requirements of the Clean Air Act (CAA) section 107(d)(1)(A).

On May 15, 1991, Arizona Governor Fife Symington submitted PM–10 nonattainment area designations for Arizona. Included in these initial designations was the following boundary definition recommendation for the Maricopa County area, also referred to as the Phoenix Planning Area:

“Within the Boundaries of Maricopa County:

T6N, R1–3W, R1–7E  
T5N, R1–3W, R1–7E  
T4N, R1–3W, R1–7E  
T3N, R1–3W, R1–7E  
T2N, R1–3W, R1–7E

T1N, R1–3W, R1–7E  
T1S, R1–3W, R1–7E  
T2S, R1–3W, R1–7E and T1N, R7–8E in Pinal County”

We codified Arizona’s initial PM–10 designations on March 3, 1978 (43 FR 8694). The description of the Phoenix Planning Area in the CFR is listed under “Maricopa and Pinal Counties” as:

“The rectangle determined by, and including—

T6N, R3W  
T6N, R7E  
T2S, R3W  
T2S, R7E,  
T1N, R8E”

40 CFR 81.303. Thus, while the area described in our federal regulations is identical to the area described by the State’s initial designation, we did not identify which of the townships and ranges are part of Maricopa County and which are part of Pinal County.

On September 13, 2004, ADEQ sent EPA Region 9 a letter requesting that we revise the Phoenix Planning Area boundary description in 40 CFR 81.303 to conform to the State’s initial 1991 designation with one additional change. Where the State’s 1991 designation identified “T1N, R7–8E in Pinal County”, the State’s 2004 letter requests that the Pinal County portion of this designation be corrected to read “T1N, R8E in Pinal County”, because Township 1 North, Range 7 East is in Maricopa County and not in Pinal County.

The State’s September 13, 2004 request is reasonable and will correct errors made by EPA in codifying the

boundaries of the Phoenix Planning Area designated nonattainment for PM-10. Therefore, EPA is taking action today to amend the Arizona PM-10 table in 40 CFR 81.303 to match the description in the State's September 13, 2004 letter.

Specifically, the Phoenix Planning Area will be defined as:

“Maricopa County:

Phoenix Planning Area \* \* \*  
T6N, R1-3W, R1-7E  
T5N, R1-3W, R1-7E  
T4N, R1-3W, R1-7E  
T3N, R1-3W, R1-7E  
T2N, R1-3W, R1-7E  
T1N, R1-3W, R1-7E  
T1S, R1-3W, R1-7E  
T2S, R1-3W, R1-7E

Pinal County:

Phoenix Planning Area \* \* \*  
T1N, R8E”

This change will not alter the actual boundaries of the Phoenix Planning Area; the change merely clarifies their description.

We are taking this action under our authority in CAA section 110(k)(6). Section 110(k)(6) provides, “Whenever the Administrator determines that the Administrator’s action approving, disapproving, or promulgating any plan or plan revisions (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\* \* \*.”

Today’s action corrects errors in the description of the Phoenix Planning Area designated nonattainment for PM-10. This action is not a redesignation under CAA section 107(d)(3) and does not change the actual boundaries of the nonattainment area. We are finalizing this action without notice and comment because this action is a correction to a designation promulgated under section 107(d)(1) and, under CAA section 107(d)(2)(B), such designations are not subject to the notice and comment requirements of the Administrative Procedures Act. Pursuant to section 110(k)(6), we are to make the correction today in the same manner as our original designation under section 107(d)(1).

### Summary of Final Action

In this action, EPA is amending 40 CFR part 81, subpart C, to correct errors in the Arizona PM-10 table for the Phoenix Planning Area. Specifically, this action amends 40 CFR 81.303, describing the boundary of the Phoenix Planning Area for PM-10. This action aligns the applicable sections of 40 CFR

part 81 with the State’s request submitted on September 13, 2004 to correct the boundary.

### Statutory and Executive Order Reviews

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). The Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). 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 does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission

that otherwise satisfies the provisions of the Clean Air Act. 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. 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.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

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 May 9, 2005. 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

#### 40 CFR Part 52

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

#### 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: February 16, 2005.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

- 1. The authority citation for part 52 continues to read as follows:

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

**Subpart D—Arizona**

- 2. Section 52.120 is amended by adding paragraph (c)(120) to read as follows:

**§ 52.120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(120) The following plan was submitted on September 13, 2004, by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(1) 40 CFR 81.303, Attainment Status Designations—Arizona, Request for Technical Correction of Phoenix Planning Area (Maricopa County) PM-10 Serious Nonattainment Area Boundaries, dated September 13, 2004.

**PART 81—[AMENDED]**

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

**ARIZONA—PM-10**

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

**Subpart C—[AMENDED]**

- 2. In § 81.303, the table entitled “Arizona—PM-10” is amended by removing the entry for “Maricopa and Pinal Counties” and adding an entry for “Maricopa County” and an entry for “Pinal County” to read as follows:

**§ 81.303 Arizona.**

\* \* \* \* \*

Designated area	Designation		Classification	
	Date	Type	Date	Type
Maricopa County:				
Phoenix planning area .....	11/15/90 .....	Nonattainment	6/10/96	Serious.
T6N, R1-3W, R1-7E; T5N, R1-3W, R1-7E; T4N, R1-3W, R1-7E; T3N, R1-3W, R1-7E; T2N, R1-3W, R1-7E; T1N, R1-3W, R1-7E; T1S, R1-3W, R1-7E; T2S, R1-3W, R1-7E.				
Pinal County:				
Phoenix planning area.				
T1N, R8E .....	11/15/90 .....	Nonattainment	6/10/96	Serious.
* * * * *				

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 041126332-5039-02; I.D. 030405A]

**Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish by Vessels Using Non-Pelagic Trawl Gear in the Red King Crab Savings Subarea**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure.

**SUMMARY:** NMFS is closing directed fishing for groundfish with non-pelagic

trawl gear in the red king crab savings subarea (RKCSS) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2005 red king crab prohibited species catch (PSC) limit that is specified for the RKCSS of the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), March 8, 2005, through 2400 hrs, A.l.t., December 31, 2005.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP

appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2005 red king crab PSC limit specified for the RKCSS is 42,495 animals as established by the 2005 and 2006 final harvest specifications for groundfish in the BSAI (70 FR 8979, February 24, 2005).

In accordance with § 679.21(e)(7)(ii)(B), the Administrator, Alaska Region, NMFS, has determined that the amount of the 2005 red king crab PSC limit specified for the RKCSS has been caught. Consequently, NMFS is closing the RKCSS to directed fishing for groundfish with non-pelagic trawl gear.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

**Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA