OSTP, the disclosure of the requested information is in the public interest. Disclosure is in the public interest if it is likely to contribute significantly to public understanding of government operations and is not primarily for commercial purposes. Requests for a waiver or reduction of fees shall be considered on a case by case basis. To determine whether a fee waiver requirement is met, OSTP shall consider the following factors:

(1) Disclosure of the requested information would shed light on the operations or activities of the government. The subject of the request must concern identifiable operations or activities of the Federal Government with a connection that is direct and clear, not remote or attenuated.

(2) Disclosure of the requested information is likely to contribute significantly to public understanding of those operations or activities. This factor is satisfied when the following criteria are met:

(i) Disclosure of the requested records must be meaningfully informative about government operations or activities. The disclosure of information that already is in the public domain, in either the same or a substantially identical form, would not be meaningfully informative if nothing new would be added to the public's understanding.

(ii) The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area as well as the requester's ability and intention to effectively convey information to the public must be considered. OSTP will presume that a representative of the news media will satisfy this consideration.

(3) The disclosure must not be primarily in the commercial interest of the requester. To determine whether disclosure of the requested information is primarily in the commercial interest of the requester, OSTP will consider the following criteria:

(i) OSTP will identify whether the requester has any commercial interest that would be furthered by the requested disclosure. A commercial interest includes any commercial, trade, or profit interest. Requesters are encouraged to provide explanatory information regarding this consideration.

(ii) If there is an identified commercial interest, OSTP will determine whether that is the primary interest furthered by the request. OSTP will ordinarily presume that when a news media requester has satisfied factors in paragraphs (a)(1) and (2) of this section, the request is not primarily in the commercial interest of the requester. Data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(b) *Timing of fee waivers.* Requests for a waiver or reduction of fees should be made when the request is first submitted to the agency and should address the criteria referenced in paragraph (a) of this section. A requester may submit a fee waiver request at a later time so long as the underlying record request is pending or on administrative appeal. When a requester who has committed to pay fees subsequently asks for a waiver of those fees and that waiver is denied, the requester must pay any costs incurred up to the date of the fee waiver request was received.

(b) *Clarification.* Where OSTP has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, OSTP may seek clarification from the requester before assigning the request to a specific category for fee assessment purposes.

(c) *Restrictions on charging fees.* Except as described in paragraphs (c)(1) through (3) of this section, if OSTP fails to comply with the FOIA's time limits for responding to a request, it may not charge search fees. In addition, subject to the exceptions set forth in (c)(1) through (3) of this section, if OSTP does not comply with the FOIA's time limits for responding to a request, it may not charge duplication fees when records are not sought for a commercial use and the request is made by an educational institution, non-commercial scientific institution, or representative of the news media.

(1) If OSTP determines that unusual circumstances, as defined by the FOIA, apply and provides timely written notice to the requester in accordance with the FOIA, then a failure to comply with the statutory time limit shall be excused for an additional 10 days.

(2) If OSTP determines that unusual circumstances, as defined by the FOIA, apply and more than 5,000 pages are necessary to respond to the request, then OSTP may charge search fees and duplication fees, where applicable, if the following steps are taken. OSTP must (1) provide timely written notice of unusual circumstances to the requester in accordance with the FOIA; and (2) discuss with the requester via written mail, email, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5 U.S.C. 552(a)(6)(B)(ii).

(3) If a court determines that exceptional circumstances exist, as defined by the FOIA, then a failure to comply with the time limits shall be excused for the length of time provided by the court order.

§ 2402.11 Maintenance of statistics.

(a) OSTP shall maintain records that are sufficient to allow accurate reporting of FOIA processing statistics, as required under 5 U.S.C. 552(e) and all guidelines for the preparation of annual FOIA reports issued by the Department of Justice.

(b) OSTP shall annually, on or before February 1 of each year, prepare and submit to the Attorney General an annual report compiling the statistics maintained in accordance with paragraph (a) of this section for the previous fiscal year. A copy of the report will be available for public inspection at the OSTP website.

§ 2402.12 Disclaimer.

Nothing in this part shall be construed to entitle any person, as a right, to any service or to the disclosure of any record to which such person is not entitled under FOIA.

Ted Wackler,

Deputy Chief of Staff and Assistant Director.

[FR Doc. 2018–23606 Filed 10–30–18; 8:45 am]

BILLING CODE 3270–F9–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 49 and 52

[EPA–R10–OAR–2017–0347; FRL–9985–78–Region 10]

Indian Country: Air Quality Planning and Management; Federal Implementation Plan for the Kalispel Indian Community of the Kalispel Reservation, Washington; Redesignation to a PSD Class I Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve and seek public comment on the May 11, 2017, proposal by the Kalispel Indian Community of the Kalispel Reservation (herein referred to as the Kalispel Tribe of Indians or Kalispel Tribe) to redesignate lands within the exterior boundaries of the Kalispel Indian Reservation located in the State of Washington to Class I under the

Clean Air Act (Act or CAA) program for the prevention of significant deterioration (PSD) of air quality. Redesignation to Class I will result in lowering the allowable increases in ambient concentrations of particulate matter (PM), sulfur dioxide (SO_2), and nitrogen oxides (NO_X) on the Kalispel Indian Reservation. The EPA is proposing to codify the redesignation through a revision to the Federal Implementation Plan (FIP) currently in place for the Kalispel Indian Reservation. This FIP will be implemented by the EPA unless or until it is replaced by a Tribal Implementation Plan (TIP).

DATES: *Comments:* Written comments must be received on or before December 14, 2018.

Public hearing: A public hearing is offered to provide interested parties the opportunity to present information and opinions to the EPA concerning our proposal. Interested parties may also submit written comments, as discussed below. A public hearing on this matter will be held on December 6, 2018, between 6:00 p.m. and 9:00 p.m. Pacific Standard Time in the Newport Conference Room located in the Pend Oreille Public Utility District Building, 130 North Washington Street, Newport, Washington 83822. At the hearing, the hearing officer may limit oral testimony to 5 minutes per person. The hearing will be limited to the subject matter of this proposal, the scope of which is discussed below. Written comments may also be submitted at the hearing or by following the process described below. The EPA will not respond to comments during the public hearing. When we publish our final action, we will provide a written response to all relevant written or oral comments received on the proposal. The EPA will not be providing equipment for commenters to show overhead slides or make computerized slide presentations. A transcript of the hearing and written comments will be made available for copying during normal working hours at the address listed for inspection of documents, and also included in the docket for this proposed action. Any member of the public may provide written or oral comments and data pertaining to our proposal at the hearing. Note that any written comments and supporting information submitted during the comment period will be considered with the same weight as any oral comments presented at the public hearing.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2017–0347 at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information, the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Sandra Brozusky at (206) 553–5317, or *brozusky.sandra@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA.

Table of Contents

I. Background

Part C of the CAA contains the PSD program. The intent of this part is to prevent deterioration of existing air quality in areas having relatively clean air, *i.e.* areas meeting the National Ambient Air Quality Standards (NAAQS). The Act provides for three basic classifications applicable to all lands of the United States. Associated with each classification are increments which represent the increase in air pollutant concentrations that would be considered significant. PSD Class I allows the least amount of deterioration of existing air quality. PSD Class II allows a moderate amount of deterioration, while PSD Class III allows the greatest amount of deterioration. Under the 1977 Amendments to the Clean Air Act, all areas of the country that met the NAAQS were initially designated as Class II, except for certain international parks, wilderness areas, national memorial parks and national parks, and any other areas previously designated Class I. The Act allows states and Indian governing bodies to redesignate areas under their jurisdiction to PSD Class I or PSD Class III to accommodate the social, economic, and environmental needs and desires of the local population.

On May 11, 2017, the Kalispel Tribe submitted to the EPA an official proposal to redesignate the original Kalispel Reservation from Class II to Class I. The original Kalispel Reservation was established by Executive Order No. 1904, signed by President Woodrow Wilson on March 23, 1914. A copy of this Executive Order is included in the docket for this proposed action. The Kalispel Tribe submitted a supplement to the official proposal on July 13, 2017. The Kalispel Reservation is located in the State of Washington. With their proposal and supplement, the Kalispel Tribe submitted an analysis of the impacts of the redesignation within and outside of the proposed Class I area, documentation of the delivery and publication of appropriate notices, a record of the public hearing held on April 10, 2017, and comments received by the Kalispel Tribe on the proposed redesignation. The following discusses the requirements for a redesignation and how the Kalispel Tribe complied with those requirements.

A. Statutory and Regulatory Requirements for Redesignation

Section 164 of the CAA and 40 CFR 52.21(g) outline the requirements for redesignation of areas under the PSD program. Section 164(c) of the CAA provides that the lands within the exterior boundaries of the reservations of Federally-recognized Indian tribes may be redesignated only by the appropriate Indian governing body. Under section 164(b)(2) of the CAA, Congress generally established a narrow role for the EPA in reviewing state and tribal PSD redesignations. Congress explained that the EPA may disapprove a redesignation only if it finds, after notice and opportunity for hearing, that the redesignation does not meet the procedural requirements of section 164 of the Act or it is inconsistent with section 162(a) or 164(a) of the CAA. *See* 42 U.S.C. 7474(b)(2). Section 162(a) of the Act establishes mandatory Class I areas and section 164(a) of the CAA identifies areas that may not be redesignated to Class III. *See* 42 U.S.C. 7472(a) & 7474(a). Because of the nature of the area proposed for redesignation to Class I, neither of these sections prohibit the proposed redesignation.

The EPA is proposing this action in accordance with the requirements of section 164 of the CAA. In section 164

of the Act, Congress provides states and tribes the ultimate authority to reclassify any lands within their borders as Class I based on the following statutory and regulatory requirements:

(1) At least one public hearing must be held in accordance with procedures established in 40 CFR 51.102. *See* 40 CFR 52.21(g)(2)(i).

(2) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation must be notified at least 30 days prior to the public hearing. *See* 40 CFR 52.21(g)(2)(ii).

(3) At least 30 days prior to the Tribe's public hearing, a discussion of the reasons for the proposed redesignation including a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation must be prepared and made available for public inspection. *See* 40 CFR 52.21(g)(2)(iii).

(4) Prior to the issuance of the public notice for a proposed redesignation of an area that includes Federal lands, the Tribe must provide written notice to the appropriate Federal Land Manager and afford an adequate opportunity for the Federal Land Manager to confer with the Tribe and submit written comments and recommendations. *See* 40 CFR 52.21(g)(2)(iv).

(5) The proposal to redesignate has been made after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation. *See* 40 CFR 52.21(g)(2)(v).

(6) Prior to proposing the redesignation, the Indian Governing Body must consult with the State(s) in which the Indian Reservation is located and that border the Indian Reservation. *See* 40 CFR 52.21(g)(4)(ii).

(7) Following completion of the procedural steps and consultation, the Tribe must submit to the Administrator a proposal to redesignate the area. *See* 40 CFR 52.21(g)(4).

B. Kalispel Tribe of Indians' Submittal

The May 11, 2017, proposal for redesignation and the July 13, 2017, supplement, submitted by Mr. Glen Nenema, Chairman of the Kalispel Business Council, include evidence that all statutory and regulatory requirements for redesignation of an Indian Reservation from Class II to Class I have been met by the Kalispel Tribe of Indians. The Kalispel Tribe of Indians is a Federally-recognized Indian Tribe.[1] The Kalispel Business Council is the Indian governing body for the Kalispel Indian Reservation and only lands within the exterior boundaries of the Reservation are proposed for redesignation. The EPA proposes to find that the Tribe's submittal demonstrates that the Tribe met the requirements for redesignation discussed above, as follows:

(1) At least one public hearing must be held in accordance with procedures established in 40 CFR 51.102. See 40 CFR 52.21(g)(2)(i).

The Kalispel Tribe conducted a public hearing on April 10, 2017, at the Kalispel Tribe's Camas Center for Community Wellness in Cusik, Washington. Notice of the hearing appeared in the area newspaper on March 8, 2017, at least 30 days prior to the hearing. The notice appeared again in the same area newspaper on March 15, 2017. The newspaper notices contained the date, time, and place of the hearing. The notices also included instructions for submitting comments on the proposal. In addition, the newspaper notices informed the public of the availability of a report entitled ''Kalispel Indian Reservation Prevention of Significant Deterioration Program Class I Redesignation Technical Report, Usk, Washington'' (Technical Report). The contents of the Technical Report are discussed further in section I.B(3). The Kalispel Tribe provided notice of the hearing to the State of Washington Department of Ecology on March 6, 2017, and EPA Region 10 on March 8, 2017. The Kalispel Tribe's submittal includes a certification that the hearing was held in compliance with 40 CFR 51.102, as well as a transcript of the hearing, notices, invitations to consult, and copies of comments received. These documents are included in the docket for this proposed action. Accordingly, the EPA proposes to determine that the hearing held by the Kalispel Tribe satisfied the public hearing requirement in 40 CFR 52.21(g)(2)(i).

(2) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation must be notified at least 30 days prior to the public hearing. See 40 CFR 52.21(g)(2)(ii).

The Kalispel Tribe's submittal includes copies of letters sent to several entities potentially affected by the proposed redesignation. Specifically, on March 4, 2017, the Tribe sent letters to Jay Inslee, the Governor of Washington, Clement ''Butch'' Otter, the Governor of Idaho, Mike Marchand, Chair of the Confederated Tribes of the Colville Reservation Tribal Government, and Carol Evans, Chair of the Spokane Tribe of Indians Tribal Government. These letters invited the entities to consult with the Kalispel Tribe on the proposed redesignation. In addition, on March 6, 2017, the Kalispel Tribe sent similar letters to the Federal Land Managers for the Little Pend Oreille National Forest, Idaho Panhandle National Forest, Colville National Forest, as well as the Spokane Office of the Bureau of Land Management. None of the letter recipients requested consultation with the Kalispel Tribe regarding the proposal. As discussed in section I.B(1), the Kalispel Tribe also ran public service notices in the area newspaper on March 8, 2017 and March 15, 2017, announcing the public hearing. Based on the outreach to states, Indian governing bodies, and the Federal Land Managers whose lands may be affected by the proposed redesignation, the EPA proposes to determine that the Kalispel Tribe complied with the notice requirements of 40 CFR 52.21(g)(2)(ii).

(3) At least 30 days prior to the Tribe's public hearing, a discussion of the reasons for the proposed redesignation including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation must be prepared and made available for public inspection. See 40 CFR 52.21(g)(2)(iii).

In accordance with the requirement above, the Kalispel Tribe completed the Technical Report in February 2017. The Technical Report includes a description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation. At least 30 days prior to the public hearing, the Kalispel Tribe made the Technical Report available on its website, as well as in hard copy form at the Kalispel Tribal Headquarters in Cusick, Washington.[2] In addition, the Kalispel Tribe's May 11, 2017, proposal included documentation that availability of the Technical Report was sent to appropriate state, local, and Federal officials at least 30 days prior to the hearing.

The Technical Report includes analyses of the health, environmental, economic, social, and energy effects of the proposed redesignation. The Technical Report contains a detailed comparison of baseline conditions, including climate, air quality, fish and wildlife, human health, and socioeconomics, to anticipated conditions following the redesignation. Information sources used to derive baseline conditions in the Technical

[1] 82 FR 4915, 4917 (Jan. 17, 2017).

[2] *https://www.kalispeltribe.com/kalispel-natural-resources-department/air-quality/airshed-redesignation.* The Tribe's website also contains an Airshed FAQ and Class I Fact Sheet, which explain the basics of the PSD program, the reasons for the Tribe's proposal, as well as the potential effects if the Reservation is redesignated to Class I.

Report include ambient air quality monitoring data, potential emissions from sources located in or near the Reservation, wildlife surveys, census data, and commuting patterns.

The Technical Report analyzes how the proposed redesignation will impact the baseline conditions by addressing the anticipated health, environmental, economic, social, and energy effects. Specifically, the Technical Report discusses the health and environmental benefits of preserving the existing air quality in and around the Kalispel Reservation by assessing the adverse health effects of increased concentrations of criteria pollutants such as oxides of nitrogen and oxides of sulfur. The Technical Report also includes a discussion of the impact of redesignation on the current and anticipated future economic trends in the area. The Technical Report additionally describes the importance of maintaining good air quality to the social and cultural values and health of the Kalispel people.

The Kalispel Tribe also commissioned two supplemental analyses to address the energy and socioeconomic impacts of reclassification. The supplemental energy impact analysis employed air dispersion modeling to simulate the impacts of redesignating the area to Class I on two hypothetical energy projects. According to the supplemental analysis, the expected emissions from either project would not interfere with maintaining the Class I PSD increments. Our analysis found that the air dispersion modeling was performed in compliance with the EPA Guideline on Air Quality Modeling codified at 40 CFR part 51, Appendix W. The EPA's analysis of the modeling conducted for the Technical Report is included the docket for this proposed action. These supplemental analyses were included as appendices to the Technical Report. The Technical Report and supplemental analyses are included in the docket for this proposed action.

Based on the analyses discussed above, the Technical Report concludes that the redesignation will result in a reduction in future health problems for those residing in and around the Kalispel Reservation, enhanced protection for the health and cultural use of natural resources, and overall improved economic well-being with minimal damage to local economic vitality. Accordingly, we propose to determine that the Kalispel Tribe satisfied the requirement to make publicly available 30 days in advance of the public hearing a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation.

(4) Prior to the issuance of the public notice for a proposed redesignation of an area that includes Federal lands, the Tribe must provide written notice to the appropriate Federal Land Manager (FLM) and afford an adequate opportunity for the FLM to confer with the Tribe and submit written comments and recommendations. See 40 CFR 52.21(g)(2)(iv).

The Kalispel Tribe proposed to redesignate from Class II to Class I only those lands within the exterior boundaries of the Kalispel Indian Reservation. Therefore, the Kalispel Tribe is the Federal Land Manager for the lands subject to redesignation. Even so, as discussed in section I.B(2), the Kalispel Tribe offered several Forest Supervisors for neighboring National Forests the opportunity to confer prior to issuing the public notice. Therefore, we propose to determine that the Tribe has satisfied this requirement.

(5) The proposal to redesignate has been made after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation. See 40 CFR 52.21(g)(2)(v).

The regulation at 40 CFR 52.21(g)(2)(v) requires consultation with the elected leadership of the local and other substate general purpose government ''in the area covered by the proposed redesignation.'' The lands covered by the proposed redesignation lie wholly within the exterior boundaries of the Kalispel Indian Reservation. The Kalispel Business Council is the exclusive governing authority in the Kalispel Indian Reservation. There is no requirement for a finding on what areas may be affected by a proposed redesignation or notice to such government in such areas. Nevertheless, on March 6, 2017, the Kalispel Tribe sent a courtesy notice of the Tribe's intent to propose redesignation, as well as the date, time, and location for the public hearing and the availability of the Technical Report to several Pend Oreille County officials. The notice solicited the County's input on the proposed redesignation. The EPA is proposing to determine that the Kalispel Tribe satisfied the requirement to consult with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation prior to submitting the proposal.

(6) Prior to proposing the redesignation, the Indian Governing Body must consult with the State(s) in which the Reservation is located and that border the Reservation. See 40 CFR 52.21(g)(4)(ii).

The Kalispel Indian Reservation is located in the State of Washington. On March 4, 2017, the Kalispel Tribe sent a letter to the Governor of Washington inviting the State to consult with the Tribe on the proposal to redesignate the Kalispel Reservation to a Class I area. On the same date, the Tribe sent a similar letter to the Governor of Idaho, despite the fact that the Reservation does not border the State of Idaho. Neither the State of Washington, nor the State of Idaho requested consultation. Therefore, we are proposing to determine that the Kalispel Tribe satisfied this requirement.

(7) Following completion of the procedural requirements, the Tribe must submit to the Administrator a proposal to redesignate the area. See 40 CFR 52.21(g)(4).

On May 11, 2017, Glen Nenema, Chairman of the Kalispel Business Council, submitted to the EPA Region 10 Regional Administrator the Kalispel Tribe's proposal to redesignate the lands within the exterior boundaries of the Kalispel Indian Reservation to a Class I area under the CAA PSD program.[3] Chairman Nenema supplemented the initial proposal on July 13, 2017. The Kalispel Business Council is the official governing body of the Kalispel Tribe. Therefore, the EPA proposes to determine that the Kalispel Tribe complied with the requirement that the Tribe submit to the Administrator a proposal to redesignate the area.

II. Proposed Action

The EPA's review has not found any procedural deficiencies associated with the Kalispel Tribe's proposal. Accordingly, pursuant to section 164 of the CAA and 40 CFR 52.21(g), the redesignation is hereby proposed for approval. The EPA is proposing to codify the redesignation through a revision to the FIP currently in place for the Kalispel Indian Reservation. *See* 40 CFR 49.10191–49.10220. This FIP will be implemented by the EPA unless or until it is replaced by a TIP. To ensure transparency, the EPA is also proposing a clarifying revision to the Washington State Implementation Plan at 40 CFR part 52 subpart WW, which would inform any party interested in Washington's significant deterioration of air quality provisions that the Kalispel Reservation is a Class I area for purposes of prevention of significant

[3] EPA Delegation of Authority 7–164 authorizes the Regional Administrator of EPA Region 10 to propose or take final action on a FIP under Section 301(d) of the Clean Air Act that applies only in Indian Country in Region 10.

deterioration of air quality. The public is invited to comment on whether the Kalispel Tribe has met all procedural requirements of section 164 of the CAA and 40 CFR 52.21(g), as well as the EPA's proposal to codify the redesignation through a revision to the FIP currently in place for the Kalispel Indian Reservation and proposed revision to the Washington State Implementation Plan.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of the Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the E.O., and was not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. 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.* We are not proposing to promulgate any new paperwork requirements (*e.g.,* monitoring, reporting, record keeping) as part of this proposed action. The regulation at 40 CFR 49.10198 incorporates by reference the Federal PSD program promulgated at 40 CFR 52.21. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (40 CFR 52.21) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* and has assigned OMB control number 2060–0003, EPA ICR number 1230.32.

D. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the 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 the purposes of assessing the impacts of this final action 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; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This proposed action will not impose any new requirements on small entities. If finalized, this proposed action would redesignate to Class I only those lands within the exterior boundaries of the Kalispel Indian Reservation under the CAA's PSD program. The PSD permitting requirements already apply on the Reservation as well as the surrounding area. In addition, the PSD permitting requirements only apply to the construction of new major stationary sources or major modifications to existing major stationary sources. Therefore, the EPA does not anticipate this proposed action having a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 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. This proposed action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The proposed action imposes no enforceable duty on any state, local, or tribal governments or the private sector. Nor does this action create additional requirements beyond those already applicable under the existing PSD permitting requirements.

F. Executive Order 13132: Federalism

This proposed action does not have Federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. This proposed action does not change the relationship between the states and the EPA regarding implementation of the PSD permitting requirements in the area. The EPA administers the PSD permitting requirements within the Kalispel Reservation. The States of Washington and Idaho administer the permitting requirements in the nearby areas.

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

This proposed action has tribal implications. However, it will neither impose substantial direct compliance cost on Federally-recognized tribal governments, nor preempt tribal law. The EPA is proposing this action in response to the Kalispel Tribe's proposal to redesignate the Kalispel Reservation from a Class II to a Class I area. If this proposed action is finalized, then major stationary sources proposed to be constructed within the boundaries of the Kalispel Reservation will be required to demonstrate that the source does not contribute to an exceedance of the lower PSD increments for Class I areas. Nonetheless, pursuant to the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA consulted with tribal officials early in the process of developing this proposed action so that they could have meaningful and timely input into its development. The Kalispel Tribe submitted its proposal on May 11, 2017. Subsequent to receiving the submission, the EPA communicated and corresponded with the Tribe numerous times throughout the review process.

H. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. Redesignation of the Kalispel Indian Reservation to Class I from Class II will reduce the allowable increase in ambient concentrations of various types of pollutants. The reduction of allowable increases in these pollutants can only be expected to better protect the health of tribal members, members of the surrounding communities, and especially children and asthmatics. *See* 78 FR 3086 (regarding the specific human health consequences of exposure to elevated levels of coarse and fine particles); 82 FR 34,792 (regarding the specific human

health consequences of exposure to elevated levels of nitrogen dioxide); 75 FR 35,520 (regarding the specific human health consequences of exposure to elevated levels of sulfur dioxide).

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

This proposed action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act

This proposed action does not involve technical standards. This action merely proposes to redesignate the Kalispel Reservation as a Class I area for the purposes of the PSD permitting requirements.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this proposed action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). Prior to this proposal, the EPA reviewed population centers within and around the Kalispel Indian Reservation to identify areas with environmental justice concerns. The results of this review are included in the docket for this proposed action.

Redesignating the Kalispel Indian Reservation will not have an adverse human health or environmental effect on residents within the Reservation or in the surrounding community. On the contrary, by lowering the applicable PSD increments, the redesignation will be more protective of air quality. The following pollutants are subject to the increment requirement: Fine Particulate Matter ($PM_{2.5}$), Coarse Particulate Matter (PM_{10}), Sulfur Dioxide (SO_2), and Nitrogen Dioxide (NO_2). Exposure to these pollutants is known to have a causal relationship with adverse health effects, such as premature mortality ($PM_{2.5}$, PM_{10}, SO_2), exacerbation of asthma (NO_2 and SO_2), and other respiratory effects (NO_2 and SO_2). *See* 78 FR 3086, 82 FR 34,792, and 75 FR 35,520. Therefore, a reduction of the allowable emissions of these pollutants in this area lowers the risk to the surrounding communities of adverse health effects.

IV. Statutory Authority

The statutory authority for this proposed action is provided by sections 110, 301 and 164 of the CAA as amended (42 U.S.C. 7410, 7601, and 7474) and 40 CFR part 52.

List of Subjects

40 CFR Part 49

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Indians, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 17, 2018.

Chris Hladick,

Regional Administrator, Region 10.

For the reasons stated in the preamble, 40 CFR parts 49 and 52 are proposed to be amended as follows:

PART 49—INDIAN COUNTRY: AIR QUALITY PLANNING AND MANAGEMENT

■ 1. The authority citation for part 49 continues to read as follows:

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

Subpart M—Implementation Plans for Tribes—Region X

■ 2. Revise § 49.10198 to read as follows:

§ 49.10198 Permits to construct.

(a) Permits to construct are required for new major stationary sources and major modifications to existing stationary sources pursuant to 40 CFR 52.21.

(b) In accordance with section 164 of the Clean Air Act and the provisions of 40 CFR 52.21(g), the original Kalispel Reservation, as established by Executive Order No. 1904, signed by President Woodrow Wilson on March 23, 1914, is designated as a Class I area for the purposes of prevention of significant deterioration of air quality.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart WW—Washington

■ 4. In § 52.2497, add paragraph (d) to read as follows:

§ 52.2497 Significant deterioration of air quality.

* * * * *

(d) The regulations at 40 CFR 49.10191 through 49.10220 contain the Federal Implementation Plan for the Kalispel Indian Community of the Kalispel Reservation, Washington. The regulation at 40 CFR 49.10198(b) designates the original Kalispel Reservation, as established by Executive Order No. 1904, signed by President Woodrow Wilson on March 23, 1914, as a Class I area for purposes of prevention of significant deterioration of air quality.

[FR Doc. 2018–23474 Filed 10–30–18; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 206, 211, and 213

[Docket DARS–2018–0052]

RIN 0750–AJ50

Defense Federal Acquisition Regulation Supplement: Brand Name or Equal (DFARS Case 2017–D040)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2017 that requires the use of brand name or equivalent descriptions or proprietary specifications or standards in solicitations to be justified and approved.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before December 31, 2018, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2017–D040, using any of the following methods:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Search for ''DFARS Case 2017–D040.'' Select ''Comment Now'' and follow the instructions provided to submit a comment. Please include ''DFARS Case 2017–D040'' on any attached documents.