



ENVIRONMENTAL PROTECTION AGENCY

[EPA-R10-OAR-2020-0563; FRL-10016-50-Region 10]

Final Eligibility Determination for the Kalispel Tribe to be Treated in the Same Manner as a State under Provisions of the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that on December 1, 2020, the Environmental Protection Agency (EPA) Region 10 Regional Administrator determined that the Kalispel Tribe meets the eligibility requirements of the Clean Air Act (CAA) to be treated in the same manner as a state (TAS) for non-regulatory purposes under certain CAA provisions. None of the provisions for which the Kalispel Tribe requested eligibility entails the exercise of Tribal regulatory authority under the CAA.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2020-0563. The eligibility determination and other docket materials are available electronically at the EPA's electronic public docket system, found at <https://www.regulations.gov>. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section if you need assistance.

FOR FURTHER INFORMATION CONTACT: India Young, Air and Radiation Division, EPA Region 10, 1200 Sixth Avenue - Suite 155, Seattle, Washington, 98101, 206-553-1219, young.india@epa.gov.

SUPPLEMENTARY INFORMATION: The Kalispel Indian Community of the Kalispel Reservation (Kalispel Tribe) is a Federally recognized tribe located in northeastern Washington. On April 21, 2020, the EPA received an application from the Kalispel Tribe pursuant to section 301(d), 42 U.S.C. 7601(d), of the Clean Air Act (CAA) and the EPA's regulations at 40 CFR part 49. In their application, the Kalispel Tribe requested TAS eligibility for the non-

regulatory provisions of six CAA provisions generally relating to grant funding (section 105 of the CAA, 42 U.S.C. 7405), interstate transport of air pollutants (sections 110(a)(2)(D) and 126 of the CAA, 42 U.S.C. 7410(a)(2)(D) and 7426), participation in certain interstate and regional air quality bodies (sections 169B and 176A of the CAA, 42 U.S.C. 7492 and 7506a), and receiving notices of, reviewing, and/or commenting on certain nearby permitting and sources (section 505(a)(2) of the CAA, 42 U.S.C. 7661d(a)(2)). None of the provisions for which the Kalispel Tribe requested eligibility entails the exercise of Tribal regulatory authority under the CAA. The Kalispel Tribe's TAS application thus does not request, and the EPA's decision to approve the application does not approve, Tribal authority to implement any CAA regulatory program or to otherwise implement Tribal regulatory authority under the CAA.

In accordance with the EPA's regulations, as part of its review process, the EPA notified all appropriate governmental entities and the public of the Kalispel Tribe's TAS application. In these notices, the EPA specified the geographic boundaries of the Kalispel Reservation as identified in the Kalispel Tribe's application. The EPA afforded the appropriate governmental entities and the public over 37 days to provide written comments regarding any dispute concerning the boundary of the Kalispel Reservation. No one provided comments disputing the boundaries of the Kalispel Reservation.

On December 1, 2020, the EPA determined that the Kalispel Tribe has met the requirements of section 301(d)(2) and 40 CFR 49.6 and are therefore approved to be treated in the same manner as a state as follows:

- *Section 105 of the CAA, 42 U.S.C. 7405*: status as a "State" such that the Kalispel Tribe is eligible for the maximum funding available to an "air pollution control agency."
- *Section 110(a)(2)(D) of the CAA, 42 U.S.C. 7410(a)(2)(D)*: status as an affected "other State" in the context of other states' implementation plans.
- *Section 126 of the CAA, 42 U.S.C. 7426*: status as a "nearby State" in the context of interstate pollution from major stationary sources.

- *Section 169B of the CAA, 42 U.S.C. 7492*: status as a “State” in the context of interstate visibility commissions.
- *Section 176A of the CAA, 42 U.S.C. 7506a*: status as a “State” in the context of interstate transport commissions.
- *Section 505(a)(2) of the CAA, 42 U.S.C. 7661d(a)(2)*: status as an “affected State” in the context of Title V permits issued by other states.

The EPA’s decision also concludes that, for the purposes of this eligibility determination, the Kalispel Tribe’s jurisdiction extends to the exterior boundaries of the original, formal Kalispel Reservation established and described by Executive Order 1904, signed by President Woodrow Wilson on March 23, 1914, as well as the United States Surveyor General’s Map of the Kalispel Indian Reservation dated May 26, 1919, included in the docket for this notice.

A detailed explanation of the EPA’s approval of the Kalispel Tribe’s TAS application may be found in the docket for this notice.

Judicial Review: Pursuant to section 307(b)(1) of the Clean Air Act (42 U.S.C. 7607(b)(1)), Petitioners may seek judicial review of this approval in the United States Court of Appeals for the Ninth Circuit. Any petition for judicial review shall be filed within 60 days from the date this notice appears in the *Federal Register*, i.e., not later than **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

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

Dated: February 8, 2021.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.