SIP revision will automatically convert to a final disapproval.

Public comments are solicited on the requested SIP revision and on USEPA's proposed conditional approval. Public comments received by February 10, 1995 will be considered in the development of USEPA's final rulemaking action.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 29, 1994.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 95–690 Filed 1–10–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 81

[ID–A–94–64; FRL–5137–6]

Designation of Areas for Air Quality Planning Purposes; State of Idaho

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to the Clean Air Act as amended in 1990, EPA is authorized to promulgate redesignation of areas as nonattainment for the PM–10 (particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers) National Ambient Air Quality Standards (NAAQS). In a prior action, EPA proposed to redesignate as nonattainment for PM–10 a portion of Kootenai County consisting of the City of Coeur d'Alene. In today's action, EPA is requesting public comment on a proposal to expand the proposed nonattainment boundary and redesignate a larger portion of Kootenai County, Idaho, from unclassifiable to nonattainment for PM–10. EPA is proposing that the portion of Kootenai County outside the exterior boundary of the Coeur d'Alene Indian Reservation be designated nonattainment and classified moderate for PM–10. Monitored violations of the PM–10 NAAQS have been recorded at monitoring sites in Coeur d'Alene and Post Falls, Idaho.

DATES: All written comments on this proposal should be submitted by March 13, 1995.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, U.S. EPA, Air Programs Development Section (AT–082), 1200 Sixth Avenue, Seattle, Washington 98101.

Information supporting this rulemaking action can be found in Public Docket ID–A–94–64 at U.S. EPA, Air Programs Development Section, 1200 Sixth Avenue, Seattle, Washington 98101. The docket may be inspected from 8 A.M. to 4:30 P.M. on weekdays, except for legal holidays.

FOR FURTHER INFORMATION CONTACT: Steven Body, Environmental Protection Agency (ATD–082), Air and Radiation Branch, 1200 6th Avenue, Seattle, Washington 98101, 206/553–0782.

SUPPLEMENTARY INFORMATION:

I. General

EPA is authorized to initiate redesignation of areas as nonattainment for PM–10 pursuant to section 107(d)(3) of the Act [1] on the basis of air quality data, planning and control considerations or any other air quality related considerations the Administrator deems appropriate. A nonattainment area is defined as any area that does not meet, or any area with sources that significantly contribute to ambient air quality in a nearby area that does not meet, the National Ambient Air Quality Standards (NAAQS) (see section 107(d)(1)(A)(i) of the Act).[2] Thus, in determining the appropriate boundary for a nonattainment area, EPA considers not only the areas where the violations occurred but also nearby areas which contain sources that could significantly contribute to such violations.

In the absence of technical information identifying particular sources contributing to violations of the NAAQS, EPA policy for PM–10 is to use political boundaries associated with the area where the monitored violations occurred and in which it is reasonably expected that sources contributing to the violations are located (see, for example, 57 FR 43846 at 43848 (Sept. 22, 1992)). PM–10 nonattainment boundaries are generally presumed to be, as appropriate, the county, township or other municipal subdivision in which the ambient particulate matter monitors recording the PM–10 violations are located. EPA has presumed that this would include both the areas in violation of the PM–10 NAAQS and areas containing sources that significantly contribute to the violations. Moreover, EPA tends to consider and propose more expansive nonattainment area political boundaries to ensure that sources contributing to the nonattainment problem are considered in the State's technical evaluation and analysis of the area's air quality problem. However, a boundary other than a county perimeter or other municipal boundary may be more appropriate. Affected States and Tribes may submit information demonstrating that, consistent with section 107(d)(1)(A)(i) of the Act, a boundary

[1] References herein are to the Clean Air Act, as amended by the Clean Air Act Amendments of 1990, Pub. L. 101–549, 104 Stat. 2399 (''the Act''). The Act is codified, as amended, at the U.S. Code in 42 U.S.C. 7401, *et seq.*

[2] EPA has construed the definition of nonattainment area to require some material or significant contribution in a nearby area. The Agency believes it is reasonable to conclude that something greater than a molecular impact is required.

other than a county perimeter or other municipal boundary is more appropriate. Additional guidance on this issue is provided in the PM–10 State Implementation Plan (SIP) Development Guideline (EPA–450/2–86–001).

On September 22, 1992, after notice to the State of Idaho, EPA proposed that the City of Coeur d'Alene be redesignated nonattainment for PM–10 based on monitored violations of the PM–10 NAAQS, at the Lakes Middle School monitoring site, located within the Coeur d'Alene city limits (see 57 FR 43846). Before EPA took final action on that proposal, the State notified EPA that additional violations of the PM–10 NAAQS had been recorded in the neighboring City of Post Falls and requested that the boundary of the nonattainment area be expanded. In today's action, EPA is proposing to redesignate the entire County of Kootenai, except for that portion located within the exterior boundary of the Coeur d'Alene Indian Reservation, as nonattainment for PM–10.

II. Background for PM–10

On July 1, 1987, EPA revised the NAAQS for particulate matter (52 FR 24643), by replacing total suspended particulate as the indicator for particulate matter with a new indicator called PM–10 that includes only those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. At the same time, EPA set forth regulations for implementing the revised particulate matter standards and announced EPA's SIP development policy elaborating PM–10 control strategies necessary to assure attainment and maintenance of the PM–10 NAAQS (see generally 52 FR 24672). EPA adopted a PM–10 SIP development policy dividing all areas of the country into three categories based upon their likelihood of violating the revised NAAQS: (1) Areas with a strong likelihood of violating the PM–10 NAAQS and requiring substantial SIP adjustment were placed in Group I; (2) areas that might well have been attaining the PM–10 NAAQS and whose existing SIP's most likely needed less adjustment were placed in Group II; (3) areas with a strong likelihood of attaining the PM–10 NAAQS and, therefore, needing adjustments only to the preconstruction review program and monitoring network were placed in Group III (52 FR at 24679–24682).

Pursuant to sections 107(d)(4)(B) and 188(a) of the Clean Air Act, as amended in 1990, areas previously identified as Group I (55 FR 45799 (Oct. 31, 1990)) and other areas which had monitored violations of the PM–10 NAAQS prior to January 1, 1989 were designated nonattainment and classified as moderate for PM–10 by operation of law on November 15, 1990. Formal codification in 40 CFR Part 81 (1992) of these areas was announced in a **Federal Register** notice dated November 6, 1991 (56 FR 56694) and supplemented on November, 30, 1992 (57 FR 56762). All other areas of the country, including Kootenai County, were designated unclassifiable for PM–10 by operation of law on November 15, 1990 (see section 107(d)(4)(B)(iii) of the Act).

III. Today's Action

As stated above, EPA is authorized to initiate redesignation of areas from unclassifiable to nonattainment for PM–10 pursuant to section 107(d)(3) of the Act on the basis of air quality data, planning and control considerations or any other air quality related considerations the Administrator deems appropriate. Pursuant to section 107(d)(3), EPA is today proposing to redesignate the entire County of Kootenai, except for that portion located within the exterior boundaries of the Coeur d'Alene Indian Reservation, as nonattainment for PM–10.

On January 31, 1991, EPA notified the State of Idaho pursuant to Section 107(d)(3) of the Act that Kootenai County (City of Coeur d'Alene) appeared to be violating the PM–10 NAAQS and requested the State to submit a proposed designation and boundary description for this area. On March 6, 1991, the State notified EPA that the City of Coeur d'Alene had measured violations of the PM–10 NAAQS and requested that the area within the city limits of Coeur d'Alene be redesignated nonattainment. EPA notified the public on April 22, 1991 of the reported violations and the letter from the state (see 56 FR 16274) and proposed to redesignate the City of Coeur d'Alene as nonattainment for PM–10 on September 22, 1992 (see 57 FR 43846). EPA requested public comment on all aspects of that proposal ''including the appropriateness of the proposed designations and the scope of the proposed boundaries'' (see 57 FR at 43853).

In September and October of 1992, additional violations of the PM–10 NAAQS were recorded at a second air quality monitoring site in the City of Post Falls, approximately six miles west of the Coeur d'Alene monitoring site. During the public comment period on EPA's proposal to redesignate the City of Coeur d'Alene as nonattainment, the State of Idaho commented that the September and October 1992 violations had occurred and requested that the boundary of the proposed nonattainment area be expanded to include the entire County of Kootenai. The State also requested that, in light of this new information, EPA provide further opportunity for public comment on the boundary of the proposed nonattainment area.

Based on the information provided by the State of Idaho and available air monitoring data, EPA is proposing that the entire County of Kootenai, except for that portion located within the exterior boundaries of the Coeur d'Alene Indian Reservation, be redesignated nonattainment for PM–10. Two monitored 24-hour PM–10 concentrations above the level of the NAAQS were recorded in 1989 and 1990 at the Lakes Middle School monitoring site, located within the city limits of Coeur d'Alene, resulting in expected exceedences of 7.5 and 2.04, respectively (refer to 40 CFR Part 50, Appendix K on procedures to calculate expected exceedences). There have been no reported 24-hour PM–10 concentrations above the level of the NAAQS within the City of Coeur d'Alene since 1990. Three monitored 24-hour PM–10 concentrations above the NAAQS were recorded at the Post Falls monitoring site during 1992, resulting in expected exceedences of 20 (see 40 CFR Part 50, Appendix K). There have been no reported 24-hour PM–10 concentrations above the level of the NAAQS since 1992. There have been no reported violations of the annual PM–10 standard in Kootenai County.

EPA is requesting public comment on its proposal to expand the nonattainment area to ensure that the views of all those interested in the proposed redesignation be considered.[3] The table below indicates how EPA is proposing to revise the PM–10

[3] Several comments in addition to the comment from the State of Idaho were received in response to EPA's September 22, 1992 proposal to redesignate the City of Coeur d'Alene nonattainment. The thrust of these comments is that there was no air quality problem in the City of Coeur d'Alene and that the area should not be redesignated. EPA's preliminary response to these comments is that available monitoring data, summarized in this notice and contained in the public docket, reveals PM–10 NAAQS violations in the area and supports the redesignation of the City of Coeur d'Alene and an expansion of the nonattainment area to include the rest of Kootenai County, excluding the Coeur d'Alene Indian Reservation. However, EPA will give full consideration to the comments submitted on EPA's September 22, 1992, proposal, as well as any additional comments submitted by these or other commenters, before taking final action on this proposal.

designation for a portion of Kootenai County, Idaho, in 40 CFR 81.313 from unclassifiable to nonattainment.

Designated area	Designation date	Designation type	Classification date	Classification type
Kootenai County (part)—The County of Kootenai excluding that portion located within the exterior boundary of the Coeur d'Alene Indian Reservation.	Proposing	Nonattainment	Proposing	Moderate.

EPA proposes that the Coeur d'Alene Indian Reservation be excluded from the nonattainment area because EPA currently has no evidence suggesting that air quality on the Reservation is in violation of the PM–10 NAAQS or that sources on the Reservation significantly contribute to PM–10 violations in nearby areas. Further, EPA's policy, which generally presumes PM–10 nonattainment boundaries to be concurrent with political boundaries, would weigh against including the Reservation as part of the Kootenai County nonattainment area or establishing the Reservation as its own nonattainment area in the absence of evidence that there is an air quality problem on the Reservation or that sources on the Reservation contribute significantly to violations on nearby State lands. Thus, EPA proposes, for purposes of this action, that the area of Kootenai County over which the State has regulatory authority govern the determination of political boundaries for the nonattainment area.[4] EPA specifically requests the State of Idaho, the Coeur d'Alene Tribe and the public to comment on the exclusion of the area within the exterior boundaries of the Coeur d'Alene Indian Reservation from the nonattainment area.

EPA notes that the State of Idaho and local governments in Kootenai County have made a joint commitment to develop and implement control measures for area sources of PM–10 in Kootenai County, such as agricultural field burning, open burning, residential woodburning and winter road sanding, beginning in September 1994 and no later than June 1995, regardless of EPA's final action on this proposed redesignation. EPA encourages the State to adopt any such control measures and submit them to EPA as part of the State Implementation Plan so that if they are federally approved, they will be federally enforceable. EPA will closely monitor the State's progress in curtailing PM–10 emissions and will consider such progress, any relevant submittals from the State and any federally-enforceable controls on PM–10 emissions in taking final action on this proposed redesignation.

The technical information supporting the redesignation request and the boundary selection are available for public review at the address indicated at the beginning of this notice.

IV. Implications of Today's Action

EPA is proposing to redesignate the County of Kootenai, excluding the area within the boundaries of the Coeur d'Alene Indian Reservation, from unclassifiable to nonattainment for PM–10. If Kootenai County, or a portion thereof, is redesignated nonattainment for PM–10 when EPA takes final action on today's proposal, then the area will be classified as ''moderate'' by operation of law (see section 188(a) of the Act). Areas designated nonattainment are subject to the applicable requirements of Part D, Title I of the Act. Within 18 months of the redesignation, the State would therefore be required to submit to EPA an implementation plan for the nonattainment area containing, among other things, the following provisions: (1) Provisions to assure that reasonably available control measures (including reasonably available control technology) will be implemented within four years of re-designation, (2) a permit program meeting the requirements of section 173 of the Act governing the construction and operation of new and modified major stationary sources, (3) either a demonstration (including air quality modeling) that the plan will provide for attainment of the PM–10 NAAQS as expeditiously as practicable, but no later than the end of the sixth calendar year after the area's designation as nonattainment, or a demonstration that attainment by such date is impracticable, (4) quantitative milestones which are to be achieved every three years until the area is redesignated attainment and which demonstrate reasonable further progress, as defined in section 171(1) of the Act, toward timely attainment, and (5) provisions to assure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors, unless EPA determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area (see, e.g., sections 188(c), 189(a), 189(c), 189(e) & 172(c) of the Act). EPA has issued detailed guidance on the statutory requirements applicable to moderate PM–10 nonattainment areas (see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)).

If EPA ultimately redesignates any area as nonattainment in taking final action on this notice, EPA will establish a date by which the State must submit the contingency measures required by section 172(c)(9) of the Act (see 57 FR 13498 at 13510–12 and 13543–44). Section 172(b) provides that such date shall be no later than three years from the date of the nonattainment designation. EPA believes that 18 months provides a reasonable amount of time for the development of contingency measures. Thus, if EPA finalizes a nonattainment designation for this area, EPA would likely establish a schedule requiring that contingency measures be submitted with the other Part D

[4] Under Federal and EPA Indian policy, EPA treats Federally-recognized Indian tribes as sovereign authorities with the independent authority for Reservation affairs and not as political subdivisions of States. See April 29, 1994 Presidential Memorandum, ''Government-to-Government Relations with Native American Tribal Governments,'' 59 FR 22,951 (May 4, 1994); ''EPA Policy for the Administration of Environmental Programs on Indian Reservations'' at p. 2 (November 8, 1984), reaffirmed by Administrator Carol M. Browner in a Memorandum issued on March 14, 1994; and 54 FR 43956 (Aug. 25, 1994) (''Indian Tribes: Air Quality Planning and Management''). Before EPA will recognize a State's attempt to regulate sources within the exterior boundaries of a reservation for purposes of a Clean Air Act program, the State must affirmatively establish that it has the legal authority to regulate such sources. See, *e.g.*, 42 U.S.C. § 7410(a)(2)(E)(i) (each implementation plan must provide necessary assurances that the State will have adequate authority under State law to carry out such implementation plan); 42 U.S.C. § 7661a(b)(5) (State must demonstrate that it has adequate authority to issue and enforce permits for all sources required to have a permit under Title V); see also *Washington Department of Ecology* v. *EPA*, 752 F.2d 1467, 1472 (9th Cir. 1985) (upholding EPA's finding that the State offered no independent authority for claiming jurisdiction over Tribal lands and affirming EPA's associated disapproval of that portion of the State RCRA program covering Tribal lands).

requirements described above within 18 months from such designation.

V. Request for Public Comment

EPA is, by this notice, proposing that the PM–10 designation for Kootenai County, excluding the area within the exterior boundaries of the Coeur d'Alene Indian Reservation, be revised from unclassifiable to nonattainment. On September 22, 1992, EPA previously provided notice and opportunity for public comment on a proposed PM–10 nonattainment designation for the City of Coeur d'Alene, which is located within Kootenai County (see 57 FR 43846). In response to comments from the State of Idaho on that proposal, EPA is now providing an additional opportunity for public comment on the expansion of the boundaries to include all of Kootenai County, excluding the area within the exterior boundaries of the Coeur d'Alene Indian Reservation. EPA is requesting public comment on all aspects of this proposal including the appropriateness of the proposed designation and the scope of the proposed boundary. Written comments should be submitted to EPA at the address identified above by March 13, 1995.

VI. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare for proposed rules subject to notice and comment rulemaking an initial regulatory flexibility analysis describing the impact of the proposed rule on small entities. 5 U.S.C. 603–604. The requirement for preparing such analysis is inapplicable, however, if the Administrator certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities (see 5 U.S.C. 605(b)). Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

The redesignation proposed in this notice does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. To the extent that the State must adopt new regulations, based on an area's nonattainment status, EPA will review the effect those actions have on small entities at the time the State submits those regulations. The Administrator certifies that the approval of the redesignation action proposed today will not have a significant economic impact on a substantial number of small entities.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this action from Executive Order 12866 review.

Authority: 42 U.S.C. 7401–7671g.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: December 28, 1994.

Chuck Clarke,

Regional Administrator.

[FR Doc. 95–699 Filed 1–10–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 21, 94, and 101

[WT Docket No. 94–148; FCC 94–314]

Microwave Fixed Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this action, the Commission proposed to simplify the rules for the common carrier and private operational fixed microwave services that are currently contained in separate Parts of the Commission's Rules, and to consolidate those rules into a new Part. The key objectives of this action are to restructure the fixed microwave rules so that they are easier for the public to understand and use, to conform similar rule provisions to the maximum extent possible, to eliminate redundancy, and to remove obsolete language from the Commission's Rules. The Commission is also reviewing the need for and impact of certain regulatory requirements and policies for the common carrier and private operational fixed microwave services.

DATES: Comments must be submitted on or before February 3, 1995. Reply comments must be submitted on or before February 21, 1995.

FOR FURTHER INFORMATION CONTACT: Robert James, Wireless Telecommunications Bureau, (202) 634–1706.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking in WT Docket No. 94–148, FCC 94–314, adopted December 9, 1994, and released December 28, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street NW., Washington, DC 20037.

Summary of the Order

1. Common carrier microwave services and private operational fixed microwave services share many of the same frequency bands and use substantially the same equipment. As a result of recent changes that are discussed below, the interference standards, antenna standards, and coordination procedures for private and common carrier fixed microwave services have further converged. This rulemaking is an effort to conform filing, processing, operational, and technical requirements for services that are technically similar and, thereby, to gain significant economies and alleviate confusion to the public.

2. Communications services that use the microwave spectrum for fixed services include common carriers (currently regulated by Part 21 of the FCC Rules), common carrier multiple address systems (Part 22), broadcasters (Part 74), cable TV operators (Part 78), and private operational fixed users (currently regulated by Part 94). The radio frequency spectrum is allocated among these services on either a shared or an exclusive basis. When different service users have similar needs, they are sometimes required to share spectrum bands.

3. Of the services listed above, the common carrier and private operational fixed microwave users are the most similar in technical requirements and share the most frequency bands. The convergence of the common carrier and private operational fixed microwave technical standards has occurred over the last decade as a result of several rulemaking proceedings. See Second Report and Order in GEN Docket No. 79–188, 48 FR 50322 (1983); Third Report and Order in GEN Docket No. 82–334, 52 FR 07136 (1987); Third Report and Order in GEN Docket No. 82–243, 56 FR 34149 (1991); and First Report and Order in PR Docket No. 83–426, 50 FR 13338 (1985). Recently, a further convergence of these two services occurred as a result of the reallocation of five bands above 3 GHz