

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DEC 09 2011

REPLY TO THE ATTENTION OF

Karen R. Diver
Chairwoman
Fond du Lac Band of Lake Superior Chippewa Indians
1720 Big Lake Road
Cloquet, Minnesota 55720

Dear Chairwoman Diver:

The U.S. Environmental Protection Agency has made a preliminary decision to designate the Fond du Lac Band of Lake Superior Chippewa Indians (Fond du Lac Band) as unclassifiable/attainment for the revised 2008 ozone national ambient air quality standards (NAAQS).

On March 12, 2008, EPA revised its national air quality standards for ground-level ozone to provide increased protection of public health and the environment. EPA lowered the primary ozone standard from 0.08 parts per million (ppm) to 0.075 ppm to protect against health effects associated with ozone exposure, including a range of serious respiratory illnesses and increased premature death from heart or lung disease.

As a first step in implementing the 2008 ozone standards, EPA asked tribes and states to submit their designation recommendations, including appropriate area boundaries, by March 12, 2009. In September 2009, EPA announced it was reconsidering the 2008 ozone standards. The Agency later took steps to delay the designation process for the 2008 ozone standards pending the outcome of the reconsideration. In September 2011, the Office of Management and Budget returned to EPA the draft final rule addressing the reconsideration of the 2008 ozone standards. On September 22, 2011, EPA subsequently restarted the implementation effort by issuing a letter to clarify the status of the 2008 ozone standards for tribal, state, and local agencies at that time, outlining its new plans for moving forward to implement the more stringent ozone standards. As part of this effort, EPA indicated that it would proceed with designations using the recommendations made in 2009 as updated by the most current, certified air quality data from 2008-2010. Consistent with this approach, EPA intends to promulgate an appropriate designation for your area of Indian country using the Fond du Lac Band's February 19, 2009 recommendation.

As required by the Clean Air Act, EPA will designate an area as nonattainment if it is violating the 2008 ozone standards or contributing to a violation of the standards in a nearby area. Consistent with designations for previous ozone standards, EPA intends to designate an area as unclassifiable/attainment if there are certified, quality-assured air quality monitoring data showing the area is meeting the ozone standards or there are no monitoring data for the area, and EPA has not made a determination that the area is contributing to a violation in a nearby area.

After considering the Fond du Lac Band's February 19, 2009 ozone designations recommendation and other relevant technical information, including 2008-2010 air quality data, EPA intends to support the tribe's recommended area designation and to designate your area of Indian country as unclassifiable/attainment along with the surrounding state area.

Please notify us by January 6, 2012 if you are interested in consulting with us regarding the designations process. We offer this consultation pursuant to Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments* and with the *EPA Policy on Consultation and Coordination with Indian Tribes* (www.epa.gov/tribal/consultation/consult-policy.htm). Even if you prefer not to consult, we are available to brief you and your environmental staff regarding the specifics of this designation.

EPA will also make its preliminary designation decisions and supporting documentation available to the general public for review and comment. We will be announcing a 30-day public comment period shortly in the *Federal Register*. After considering additional information, EPA plans to promulgate final ozone designations in spring of 2012.

If your tribe is interested in consultation or participating in further discussions or meetings with EPA officials about the designations process, please do not hesitate to contact me at (312) 886-3000, or Cheryl L. Newton, Director, Air and Radiation Division, at (312) 353-6730 or newton.cheryl@epa.gov.

Sincerely,



Susan Hedman
Regional Administrator

cc: Wayne Dupuis, Environmental Department Manager
Joy Wiecks, Air Program Coordinator
Fond du Lac Band of Lake Superior Chippewa Indians