

Clearinghouse Rule 10-048

Report to
Legislative Council Rules Clearinghouse
NR 400, 404 to 408, and 484, Wis. Adm. Code
Natural Resources Board Order No. AM-12-10

Wisconsin Statutory Authority

ss. 227.11(2)(a) and 285.11(1) and (6) Stats., interpreting s. 285.11(6) Stats.

Federal Authority

None

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

This rule is being proposed to amend portions of our rules to incorporate the federal re-designation of certain parcels of the Forest County Potawatomi Community (FCPC) Reservation as a non-Federal Class I area for the prevention of significant deterioration (PSD) of air quality, and to include portions of a 1999 Final Agreement reached between the state and the Forest County Potawatomi Community concerning the Class I area.

A Class I area is defined in ch. NR 405, Wis. Adm. Code. In general, the PSD program is designed to preserve air quality in Class I areas such as national parks and other areas meeting the National Ambient Air Quality Standards. Class I areas are subject to lower allowable increases in ambient concentrations of particulate matter, sulfur dioxide, and nitrogen dioxide.

The FCPC non-Federal Class I air quality area was established by US EPA in 2008 at the request of the FCPC (the original FCPC request for this designation was filed in 1995). The Final Agreement between the state and the FCPC resolved issues pertaining to implementation of a FCPC Class I area and details what the Department, FCPC, and potentially affected permit applicants need to do to evaluate the impact of new or modified sources of air pollution that may potentially impact the FCPC Class I area. This Final Agreement took effect upon federal establishment of the FCPC Class I area.

Department regulations are being updated to ensure permit applicants understand the requirements for air pollution sources which are presently located, and which may in the future locate, near the FCPC Class I area.

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review .

Description of any Forms (attach copies if available)

None

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