NTAA Fact Sheet on U.S. EPA's Proposed Approval of Revisions to the Minnesota and Michigan Taconite Federal Implementation Plan

Summary of Proposed Revised FIP

The U. S. Environmental Protection Agency (EPA) is proposing revisions to a Federal Implementation plan (FIP) addressing the requirement for best available retrofit technology (BART) for taconite plants in Minnesota and Michigan. In response to petitions for reconsideration, EPA is proposing to revise the nitrogen oxides (NO_X) limits for taconite furnaces at facilities owned and operated by Cliffs Natural Resources (Cliffs) and ArcelorMittal USA LLC (ArcelorMittal). EPA is also proposing to revise the sulfur dioxide (SO_2) requirements at two of Cliffs' facilities. EPA is proposing these changes because new information has come to light that was not available when EPA originally promulgated the FIP on February 6, 2013. NTAA published this fact sheet and include policy points for your Tribe to use in submitting comments to EPA. Comments are due into EPA by December 23rd.

Introduction and Background of Tribe

I. If submitting comments, include specific details about your Tribe to help EPA understand your Tribal community.
II. General Information– There are approximately 5.5 million acres across present day northeastern Minnesota that is ceded territory according to existing treaties. Tribes retain treaty rights to hunt, fish, and gather. Fishing, hunting and other subsistence ways of life are deeply rooted in tribal culture and land.
III. Mining has had significant impacts to Tribes' ability to exercise these treaty rights in the ceded territory. Many ongoing, new and proposed projects, including power generation, mining, and other industrial facilities, have impaired air quality throughout the Great Lakes region and Tribal lands. Mercury deposition from mining and power generation has created public health alerts to limit fish consumption which has significant impact for Tribal communities that depend on fishing and hunting for subsistence. There is also a history of compliance issues and under-control of air emissions at these sources.

Outline of Concerns and Potential Impacts to Tribes

I. Protecting Tribal Community Health, Natural Resources and the Environment
   a. Two pollutants from taconite furnaces are nitrogen oxide (NOx) and sulfur dioxide (SO_2) – both of the pollutants contribute to smog and have been linked to serious health problems and environmental damage. Exposures to very small particles in the air have been linked with increased respiratory illness, decreased lung function, and even premature death. Particles, such as nitrates and sulfates, contribute to acid rain formation which makes lakes, rivers and streams unsuitable for many fish and erodes buildings, historical monuments, and paint on cars.

b. Burning coal also produces other pollutants that threaten public health and the natural environment. Heavy metals like arsenic and mercury directly impact public health and other pollutants and contribute to acid rain, regional haze and ground-level ozone.
c. Tribes are concerned that many of their members have asthma that may be attributed to poor air quality within Region V. EPA should set the lowest standards that were proposed because Native American Tribes and their Tribal members are disproportionately susceptible to the health effects of ozone and other air pollutants. In previous comments to EPA, NTAA has cited several studies that show that Native Americans and Alaska Natives have a disproportionate incidence of asthma and are at risk from exposure to ozone and other air pollutants. Continued exposure to air pollution can adversely affect Tribal community members including children, Tribal elders, members with asthma, and others who gather and use plants of cultural significance.
d. EPA should describe how the proposed taconite FIP ensures the protection of sensitive plant species and trees, which are adversely affected by ozone and other pollution levels well below the then existing secondary NAAQS standard. In its comments, NTAA wrote that the adverse effects of ozone on sensitive vegetation and trees species has the potential to directly impact the traditional cultural practices and lifeways of Native Americans who use those plant species for subsistence, medicines, and other traditional practices.
e. Many Tribes in Region V maintain strong cultural connections to wild rice gathering and cultivation. Any revisions to the proposed FIP must compare how the proposed changes in pollution limits would impact wild rice gathering and cultivation.
f. The proposed FIP must take into account impacts on the surrounding Tribes outside of Region V with respect to mercury deposition, acid rain and other down-wind impacts from taconite operations in Region V.
g. U.S. EPA recently implemented a national policy on Environmental Justice (EJ) for Working with Federally Recognized Tribes and Indigenous Peoples. EPA must uphold their duties to protect the interests of Tribes and their treaty rights and explain how this proposed FIP complies with EPA's existing guidance and policies with Federally Recognized Tribes and Indigenous Peoples. A thorough EJ analysis must be completed by EPA with respect to the proposed FIP and detail how the proposed FIP may affect Tribal communities. Any EJ analysis should be done in close coordination with federally-recognized Tribes in Region V.

II. Visibility / Regional Haze – Natural Beauty, Healthy Subsistence Living (fishing, hunting, gathering under treaty rights)
a. There are several Class I designated areas (wilderness and national parks) in proximity to the mining facilities, such as the Boundary Waters Canoe Area Wilderness. Class I areas are affected by poor visibility, thus the controls to emission limits are critically warranted in order to protect the Class I areas.
b. Forest County Potawatomi Community is a Class I air shed since its re-designation in 2008; as such, it requires the same protection as the Class I air sheds under the Clean Air Act's (CAA) visibility protection program, in which visibility is protected more stringently than under the National Ambient Air Quality Standards (NAAQS).
c. Selective Catalytic Reduction (SCR) is considered the best available retrofit technology that has been used at other coal facilities and could feasibly reduce NOx emissions for taconite furnaces. NTAA agrees with the National Park Service that recommended in comments to explore the use of tail-end SCR with gas stream reheat.
d. Although technical performance could differ depending on the technology used at taconite kilns, EPA should not allow proposed increased emission limits of NOx pollution that could increase NOx emissions of 50-67% measured by MMBtu.

III. Compliance Schedule & Fairness of Process to Reach Emission Limits

a. Tribes strongly urge a fair, scientifically sound and feasible process for all stakeholders including affected and surrounding communities; the taconite industry should not dictate its own compliance schedule or prolong compliance with federal laws and regulations.
b. Tribes recognize the balancing that must be made among human health protection, economy, jobs, technology, etc., however, it must not be at the cost of putting public health and the natural environment at risk.
c. Emission limits that were initially proposed in the original FIP are more reasonable than those proposed in the revised FIP.
d. The compliance schedule initially proposed in the original FIP was more reasonable from a health protection standpoint, and Tribes prefer the original FIP schedule rather than the longer compliance schedule proposed in the revised FIP.
e. For example, two of the facilities, Tilden and ArcelorMittal Minorca Mine, are provided additional time for installing emission controls, 26 to 50 months and 26 to 44 months, respectively; these are two of the five facilities being afforded additional time for compliance. In this instance, it is unclear why facilities who only operate one furnace each are being given more time for compliance than other facilities
f. Eastern bituminous coals are available that could meet both the requirements for a low sulfur coal (0.66%) and a very high heating value (*US DOE, NETL, Detailed Coal Specifications, Quality Guidelines for Energy System Studies, Final Report, DOE/NETL-401/012111, January 2012, page 31*).
g. In light of the serious climate and health threats posed by air pollution from the oil and gas industry inefficiencies and the availability of practical and attainable solutions, EPA needs to swiftly issue practical national standards directly aimed at cutting emissions at the existing and planned taconite kilns.

How to Submit your Comments:

The extended comment deadline is December 23, 2015.
Submit your comments, identified by Docket ID No. EPA-R05-OAR-2015-0196, by one of the following methods:
1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email:* *aburano.douglas@epa.gov*.
3. *Fax:* (312) 408-2279.
4. *Mail:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

References:

- http://www.regulations.gov/#!documentDetail;D=EPA-R05-OAR-2015-0196-0110
- www3.epa.gov/visibility
- *Tribal Air Resources Journal* – Accomplishments, Obstacles, Successes and Region 5 Tribes - Air Quality; 2015 Edition, Volume VII
- http://www7.nau.edu/itep/main/ntaa/docs/policy-response-kits/NTAA-Comment_letter_ground_level_ozone.pdf

For additional information, please contact NTAA at www.ntaatribalair.org