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December 16, 2014

U.S. Environmental Protection Agency
EPA Docket Center (EPA/DC)
Mail Code 28221T
Attn: Docket ID No. EPA-HQ-OAR-2013-0602
1200 Pennsylvania Ave., NW
Washington, DC, 20460

Subject: Proposed Rule for Carbon Pollution Emission Guidelines for Existing Stationary Sources: EGUs in Indian Country and U.S. Territories; Multi-Jurisdictional Partnerships; Proposed Rule

Introduction

The National Tribal Air Association (NTAA) is pleased to submit these comments regarding the U.S. Environmental Protection Agency's (EPA)'s proposed rule for Carbon Pollution Emission Guidelines for Existing Stationary Sources: EGUs in Indian Country and U.S. Territories; Multi-Jurisdictional Partnerships; Proposed Rule [EPA-HQ-OAR-2013-0602, FRL-9918-54- OAR] (November 4, 2014) (Proposed Rule).

The NTAA is an autonomous organization with 86 principal member Tribes. The organization's mission is to advance air quality management policies and programs, consistent with the needs, interests, and unique legal status of Indian Tribes. As such, the NTAA uses its resources to support the efforts of all federally recognized Tribes in protecting and improving the air quality within their respective jurisdictions. Although the organization always seeks to represent consensus perspectives on any given issue, it is important to note that the views expressed by the NTAA may not be agreed upon by all Tribes. Further, it is also important that EPA understands interactions with the organization do not substitute for government-to-government consultation, which can only be achieved through direct communication between the federal government and Indian Tribes.

The NTAA approves generally of the Supplementary Proposal. The standards under the Proposed Rule for existing sources in concert with the Supplemental Proposal will help to continue progress toward reducing emissions of CO₂, the most abundant greenhouse gas (GHG), as well as sulfur dioxide (SO_x), PM_{2.5}, and nitrogen oxides (NO_x) from electric generating units (EGUs) in the United States.

NTAA understands that this proposal serves as a supplement to the June 18, 2014 proposed rule for existing EGUs, which EPA has the Authority to regulate under

Section 111(d) of the Clean Air Act. The NTAA previously submitted comments to EPA in response to the Proposed Rules for Standards of Performance for Greenhouse Gas Emissions from New Stationary Sources: Electric Utility Generating Units, and for Carbon Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units. In the comment letter to EPA regarding the Proposed 111(d) Rule, NTAA outlined its position on the recommended building block approach to emissions reductions, multistate plans, cap-and-trade programs, environmental justice considerations for Tribes specifically pertaining to Executive Order 12898, and the importance of Tribal consultation. NTAA also provided regional examples of climate change impacts on Tribes. We are pleased to see that in Section VI. of the Supplementary Proposal, EPA acknowledged the unique challenges and environmental justice concerns that Tribes confront in the face of climate change¹.

NTAA is aware that the Supplemental Proposal addresses proposed emission guidelines for U.S. territories and areas of Indian country with existing fossil fuel-fired EGUs; rate-based emission reduction goals; and partnerships between jurisdictions. Furthermore, NTAA understands that EPA applied the same approach to Best System of Emission Reduction (BSER) for the facilities addressed in the Supplemental Proposal as it did for other facilities impacted by the June 2014 111(d) Proposed Rule.

Emission Rate-Based CO₂ Goals

As with the June 2014 111(d) Proposed Rule, EPA has outlined the following building blocks for Tribes and U.S. territories to meet the proposed emission reductions: (1) Make fossil fuel plants more efficient; (2) Use low-emitting power sources more, (3) Use more zero- and low-emitting power sources; and (4) Use electricity more efficiently. NTAA supports the development of sustainable, renewable energy (RE) development on Tribal lands both for its benefits to the environment and human health, and as a means of creating desirable jobs in Indian country. EPA points out the limitations of building blocks 1, 2, and 4 and proposes options for the application of building block 3 in Indian country. NTAA supports EPA's proposal.

Tribal Consultation

NTAA wishes to acknowledge EPA for generating a Supplementary Proposal to address the unique and pressing concerns of Tribes and territories. As always, NTAA encourages EPA to fully consult with affected Tribes, both those that operate the facilities outlined in the Supplemental Proposal, as well as Tribes whose air quality, lands, and cultures are being affected by said facilities.

Guidelines for Implementation Plans

In the past, regional planning organizations and other similar such partnerships have been a useful engagement mechanism for Tribes. NTAA supports the option of multijurisdictional or independent plans for Tribes with facilities impacted by the rule. Regarding EPA's solicitation for comment on "whether areas without affected EGUs may participate in multi-jurisdictional plans", the NTAA supports engagement of all Tribal partners in the development of CO₂ implementation plans and views this as a possible opportunity for Tribes to co-create RE

¹ As per section VI. (F) of the Proposed Rule.

infrastructure and stimulate local job growth.

NTAA wishes to acknowledge the EPA for developing these critical and long overdue CO2 regulations that will serve to curb the amount of GHGs emitted into our delicate atmosphere. We are deeply concerned that toxic co-pollutants emitted by EGUs, namely heavy metals, have been woefully neglected in past regulations. Our constituency have testified that heavy metal contamination from EGUs in the U.S. is impairing their lands, namely riparian habitats, through atmospheric deposition. This contamination threatens the continued vitality and safe consumption of key subsistence species, in particular, fish. NTAA recognizes that EPA has made recent efforts to mitigate emissions of toxic air pollutants through the Mercury and Air Toxics Standards Rule (77FR 9304) issued in February of 2012. We support the adoption of this and similar rules that serve to protect air quality and the health of subsistence species upon which Tribes rely heavily.

Conclusion

In summary, the NTAA is pleased to provide the aforementioned comments and recommendations concerning the Supplemental Proposal.

On Behalf of the NTAA Executive Committee,

A handwritten signature in black ink, appearing to read "Bill Thompson", is centered on the page. The signature is fluid and cursive.

Bill Thompson, Chairman, NTAA