



National Tribal Air Association (NTAA)

FY24 Priorities

March 20, 2024

The National Tribal Air Association (NTAA) was founded by resolution by the National Congress of American Indians in 2002. NTAA is celebrating its 24th year with 156 federally recognized member Tribes throughout the nation. It is with this focus in mind that we are reminded that Tribes are important partners with the Federal government specifically, when it comes to the protection of ambient air quality, indoor air quality and the mitigation of climate change issues and concerns.

As a communication liaison and information conduit, NTAA recognizes that all Tribes are unique with their own cultures, languages, and types of governance. In providing support for NTAA member Tribes, the organization strives to be mindful, to listen to each Tribe, and to continually encourage the EPA and other federal agencies to recognize that each Tribe knows what is important for their own communities. With that said, there are some common themes in the issues and needs that face Tribes across Indian Country. To support identifying common priorities NTAA acquires regular feedback through interactions with Tribes throughout the year through meetings, webinars and updates provided by the NTAA Executive Committee for each region. The following is information garnered from some of these interactions on the nationally consistent priorities identified by Tribes.

1. Policy and Regulation:

Regulations:

The NTAA provides policy support to Tribes in reviewing EPA rules and programs. The Policy Advisory Committee (PAC) tracks, reviews and develops Policy Resource Kits (PRKs) for Tribes on rules and regulations that may impact them. In FY 2023 The NTAA submitted comments and in some cases PRKs for 23 rules. The NTAA anticipates an increase in regulatory activities in FY24 as the Administration prepares for the upcoming election. Some focus areas under policy and regulation include.

Ambient Air Quality:

- **Criteria Pollutants**

In 2023, the NTAA asked Tribal environmental managers and leaders about air quality concerns and priorities of which 78% of respondents to the NTAA questionnaire identified ambient air quality issues as a priority. Addressing existing nonattainment areas for all criteria pollutants. Protecting air quality clearly impacts health in American Indian and Alaska Native communities and NTAA is generally supportive of the renewed focus on implementing the new revised PM 2.5 National Ambient Air Quality Standards.

Since the new Particulate Matter NAAQS was finalized this year, many Tribes will be impacted by the designations process. It is important that Tribes not only be provided the opportunity to participate in the designations to understand air quality, but to also assert Tribal sovereignty where they desire to do so. And still many Tribes lack the regulatory monitoring and capacity to participate in the process. Tribal Air Programs continue to place a priority in understanding their air quality through inventory development, monitoring, forecasting and communication and outreach to Tribal members.

In addition, supporting Tribes in managing mobile source emissions to address ambient air quality and climate change is important to help address the health and environmental impacts for Tribes. For example, road dust continues to be a challenge for Alaskan Native Villages as well as many rural Tribal communities. Providing funding and technical support continues to be important in these communities.

- **Permitting**

Permitting under the New Source Review or Title V programs continue to be important implementing tools under the Clean Air Act. Currently, States issue the vast majority of the CAA permits. But 47% of respondents to the questionnaire expressed interest in or currently are reviewing state issued permits. Through CAA permit review, Tribes can be effective by meaningful engagement on State issued Permits. However, Tribes often are either unaware of permitting of sources that impact them, or they lack the technical capacity to engage in review of permits. As a result, there is an ongoing and growing need for the time, technical support and training in understanding permitting.

Permitting in Indian Country is conducted largely by EPA. In these cases, it is imperative that EPA consult with the Tribes throughout the development and issuance of permits in Indian country. Though some Tribes implement their own permitting programs, others are continuing in the development and implementation permitting programs with little funding support from EPA. Respondents to the questionnaire identified the need for more technical support for permit review and for program development.

In addition, there is a growing Tribal need for increased regulation (permitting and/or enforcement) of metallic mining operations to improve air quality in Indian Country. Specifically, there are concerns about fugitive dust and air toxics emissions from taconite

mining in Region 5, uranium mining and rare earth mining in Region 9, and heavy metal and gold mining in Alaska. Proactive consultation on these permits is extremely important.

- **Support for Tribes in developing TIPs and permit programs**

In 2023, seven Tribes approved Tribal Implementation Plans (TIP). Some plans like Gila River Indian Community are comprehensive plans, that cover all the sources within the Reservation. Some are more targeted such as the Swinomish Tribe, which has a burn permit program and others are NSR or Minor source permitting programs like St. Regis Mohawk and Mohegan. The CAA and the TAR allow for this modular approach in Indian Country. It also allows for Tribes to start small and expand their programs over time. For example, the Mohegan Tribe's first TIP was a sole source TIP, last year expanded their TIP to include NSR permitting. EPA should keep TIP guidance current to support Tribes interested in developing TIPs in Indian Country.

- **Air Quality Assessment via Tribal monitoring, emissions inventory and data collection and management**

Understanding air quality on each Reservation is the starting point for all Tribal air program development. It is also the basis for asserting Tribal Sovereignty by providing for an understanding to the health, environmental and cultural impacts for the Tribes so that the citizens of each Reservation can be empowered to support ongoing program activities. As a result, emissions inventory development and air quality monitoring are critical to taking these first steps in understanding air quality for each area of Indian Country. As of FY23, 78 Tribes have developed emissions inventories and 94 are conducting ambient monitoring.

There are some common barriers and issues Tribes face in conducting these assessments. For example, because of existing state monitoring networks many of the EPA Regional Offices do not recognize the need for Tribal monitoring. However, Tribes have found that by conducting their own regulatory monitoring they are more empowered to participate in the designations process for new National Ambient air quality standards thus, supporting asserting Tribal Sovereignty. The expense of ongoing monitoring has also constrained expanding the monitoring networks. Some Tribes conducting regulatory monitoring have had limited access to the Technical Systems Audits required for certification of the data. While others have equipment that is old and outdated and in need of replacing, others have struggled with QAPP approval and inconsistency between and within the Regions.

With the implementation of sensor technology, Tribes have new opportunities to undertake air quality assessment. The American Rescue Plan (ARP) and IRA funding has improved access to these monitoring resources. However, these are both one-time infusions of resources and can provide some baseline assessments but don't allow for a sustainable program moving forward.

- **Air Toxics:**

47% of the responding Tribes identified understanding the risk of sources of air toxics in their communities as a priority. There is an ongoing interest in the impacts of mercury on Tribal resources like exposure from fish consumption as well as exposure from deposition on medicinal resources.

Other Tribes have concerns about exposure from specific sources and source categories including but not limited to emissions from oil and gas development including pipelines, power plants, and mining operations (including taconite and uranium).

As the climate continues to warm, wildfires are occurring across Indian Country at alarming rates. Drought impacts and climate-based wind events are fueling these massive fires which do not stop at Tribal borders. Air quality impacts can be critical during fire events and can last for weeks or months. This is a growing concern and is a new threat to many Alaskan Tribes who have not had to experience severe wildfires in the past.

- **PFAS/PFOS**

The NTAA is concerned that the EPA's PFAS Strategy does little to expand the understanding of the impact of PFAS/PFOS through the air media. Given that PFAS are "forever chemicals and bioaccumulating" deposition of PFAS/PFOS through air emissions must be addressed to stop the cycle of continuing contamination. NTAA is participating in the Agency's PFAS working group and will continue to support ongoing work in this area.

- **Climate Change**

In the questionnaire sent out earlier this year NTAA member Tribes 90% indicated climate change was a top priority for them. Including the need for technical support on adaptation planning, access to renewable energy, impacts on cultural lifeways, relocation and other important issues. The NTAA urges the EPA to work closely with Tribes on climate change issues and concerns to address this increasing threat to the environment and to Tribal Cultural Lifeways. Dedicated funding to build Tribal capacity for climate change is needed. This includes Tribal set-asides in the future IRA and other Congressional funding programs.

In addition, as a push to reduce the carbon footprint in Indian Country many Tribes are interested in understanding and accessing electrification where possible. The NTAA seeks to prioritize equitable mobility for Tribes and underserved communities by reducing emissions through the electrification of all power sectors including heavy and light duty vehicles. The electric vehicle (EV) infrastructure wave should not leave Tribes behind. In the development of these important programs EPA and other federal agencies, must recognize the constraint of access to electricity and the grid in many areas of Indian Country.

It is important to recognize the impacts of rare earth mining necessary to provide for the EV development which has a significant negative impact on Tribes where the mining occurs. Rare earth elements are associated with uranium mining and uranium mines have

been and continue to add to health risks in Indian Country. In addition, the country's only conventional uranium mill not only accepts and processes uranium mill tailings from other sites in the country with high rare earth concentrations, but other sites in the world such as Estonia and Brazil.

- **Radon and SIRG:**

The EPA has been requesting that Tribes apply for State and Tribal Indoor Radon Grants (SIRG) funding. However, the application process is difficult. The process needs to be streamlined to give Tribes an opportunity to apply. More Tribal assistance for the grant application and how and when to incorporate it into a Tribal PPG would be helpful. Currently, there are only 13 Tribes receiving the grants.

- **Indoor Air:**

82% of the responding Tribes said indoor air quality is an issue with issues concerning indoor air quality. Tribes experience a range of indoor air quality exposures including:

Indoor air continues to be a priority for many Tribes and dedicated funding is needed for existing and new Tribal air programs. Tribes have a range of indoor air quality issues including mold and moisture intrusion. Funding for training, monitoring, inspections, and remediation of air quality issues are important. Education and outreach to inform community members about the importance of addressing indoor air toxics issues from wood burning, household chemicals and pesticides is also important from some Tribes. Finally, many remediation activities need to balance with weatherization activities to ensure efficient home activities.

2. Consultation

Tribes are sovereign nations and as such the Federal Government has an obligation to consult with EACH Tribe when its decisions can impact that, Tribe. It is imperative that as the Tribe's implementation partners, the EPA and other Federal Agencies are careful not to dictate to Tribes what they should work on in their grant workplans and their ETEPs. The EPA must recognize that Tribes know what is important for the needs of their communities while implementing the Clean Air Act (CAA) and other EPA programs. For example, Regional EPA Office Project Officers (PO) take care when working with Tribal grantees, so they do not seem to be dictating to Tribes what to put in their grant applications. EPA POs should provide the Tribes with an array of potential grants from SIRG, 103 and 105 grants, IRA etc., but not predetermine what the Tribes will have access to.

Similarly, the EPA program offices should always conduct consultation with each rule whether they believe it will affect Tribes or not. Consultation should not be considered a check the box activity by providing a generic notification through TCOTs or holding a webinar. Notification on rulemaking should be given to Tribes well in advance of releasing the policy, rule, permit, etc., "early and often." Consultation should always be held in accordance with each Tribe's consultation policy on a Tribal Government-to-Federal Government basis.

In conducting consultation, EPA should keep in mind that consultations should be meaningful. NTAA recognizes that comments they receive need to balance the needs of an array of interests. However, where active consultations have occurred and the Tribes have provided significant feedback over a series of meetings that demonstrate the impact on Tribal health, treaty rights and lifeways, it is disingenuous to then in the final rule act by disregarding the input that was given. The consultation then is not meaningful, nor does it address the agency's stated Tribal policy or Environmental Justice policies. A relevant example of this is the recent final Taconite RTR where there were monthly meetings with Tribes, states, and other interested parties over the course of a few years and the input offered was disregarded, which demonstrated the agency's disingenuous application of meaningful engagement and consultation.

Similarly, it is imperative that the EPA provide information on all funding opportunities so that the Tribes can determine which programs will best fit their needs. For example, some Tribes have missed opportunities for applying for SIRG grants, because they were unaware of the funding announcements.

3. Funding

In FY23, the NTAA Air Budget request was \$57.4 million to meet the current base program demand for Tribal air programs to address air quality in Indian Country. This request was to support existing Tribal air programs, allow for air programs for Tribes where funding wasn't available to them, to develop air programs and to provide support for ongoing staff support for Tribes in accessing IRA funding.

The EPA was able to increase STAG funding for Tribes by \$3 million in FY24, which was an expansion along with the current stagnant funding amount of \$12.5 million annual appropriation authorized under the Clean Air Act (CAA) Section 103 and 105 for Tribal Air Grants. The EPA has requested \$24 million in funding for FY24 as indicated in the National Program Guidance. However, this is still well below the NTAA air budget request of \$57.4 million needed to address the continuation and growth of the base program for Tribes. In FY24 and FY25 the NTAA requested a budget of \$79 million which included funding for Climate Change programs. In the future, NTAA will drop Climate Change from these requests and focus on the critical needs of Tribal 103 and 105 grant demand.

For FY26 the **NTAA is requesting 85.25 million** for Tribal Air and Climate Change programs and includes an average rate increase, worker wage increase, and equipment cost increase.

The NTAA is aware that there are different funding opportunities available through the Inflation Reduction Act (IRA) and American Rescue Plan (ARP) which can be an important resource to leverage ongoing funding. However, this temporary funding cannot be used to sustain ongoing programs. In addition, there are special funds intended to support climate change and greenhouse gas reductions, which although very important to Tribes, they do not support the equally important air quality work being accomplished in Indian Country.

The result is that some Tribes may receive a one-time infusion of resources, to conduct limited work but will, over time, lose the staff and capacity supported by this one time funding. In addition, by not increasing the base program funding the Tribes will not only lose the capacity

developed for climate change they may also lose staff capacity for the existing base CAA programs as staff gets shifted from ambient air quality, indoor air quality and other base programs to support the IRA funded activities.

There are on-going limitations for the development and sustainability of new Tribal air programs. The NTAA supports providing equitable access to IRA funding as well as substantially increasing STAG funding for growing and sustaining Tribal air quality programs. It is important to recognize that with the wide array of IRA grants from the USEPA and other Federal Agencies, Tribes are required to track, apply, and manage all of these potential funding opportunities with existing staff. In addition, many of these grant opportunities are required to use the Climate and Economic Justice Screening Tool (CEJST) for determining “disadvantaged” communities, which inappropriately precludes many Tribes from accessing important funding. For example, in the Solar for All program, no California Tribes were determined to be eligible for these funds. Therefore, without increased STAG funding, which would allow for additional staff and capacity, applying for these grants will be at the expense of existing projects/program implementation.

The NTAA views the CAA section 103 and 105 and the Tribal Authority Rule as opportunities to protect their people from the deadly impacts of air pollution. However, the body remains deeply dismayed that that opportunity is not funded to levels requested in this and past documents. We urge EPA to reconsider and increase funding to the levels necessary to make a meaningful impact in our disadvantaged communities or provide notice from a higher level on why Tribes don't merit their consideration.