

Tribal Air Quality Programs

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CAAAC Meeting
January 12, 2011

History of Indian AQ Policy

- ◆ 1984 EPA Indian Policy recognized the unique status of tribes.
- ◆ 1990 CAA Amendments (Section 301(d)) established a tribal role in implementing the CAA.
- ◆ 1998 Tribal Authority Rule established Treatment as a State for tribes.
- ◆ Nov. 26, 2000 EO 13175 "Consultation and Coordination with Indian Tribal Governments" established regular and meaningful consultation and coordination on federal policies with tribal implications.
- ◆ 2010/2011 EPA Implementation Policy for EO 13175 proposed.

Tribal Authority Rule

Federal Register, Feb. 12, 1998

- ◆ Came out of the CAA Amendments of 1990.
- ◆ Identifies areas of the CAA where federally recognized tribes may be treated in the same manner as states.
- ◆ Defines eligibility requirements for tribes to participate in many CAA programs.
- ◆ Allows “severability” of CAA sections.
- ◆ EPA has authority where tribes choose not to implement their own programs.
- ◆ These authorities have resulted in increased funding for tribal air programs.

Advantages of the TAR

- ◆ The TAR highlights regulatory gaps in Indian Country.
- ◆ State Implementation Plans and state permits vacant in Indian Country due to lack of authority.
- ◆ Currently no minor source permitting or non-attainment major NSR permitting in Indian Country.
- ◆ Allows tribes to address upwind sources, which contribute to air pollution on-Reservation, but are not under the tribes' control.


Treatment as an Affected State

- ◆ Applies to regulation of "air resources within the exterior boundaries of the Reservation or other areas within the Tribe's jurisdiction".
- ◆ EPA grants approval on a case-by-case approach. Virtually all CAA programs are eligible.
- ◆ Eligible tribes must be federally recognized, must have an effective governing body, and must be capable of implementing the program for which they are applying.
- ◆ The tribe must also identify the exterior boundaries of the Reservation or demonstrate off-Reservation jurisdiction.


Tribal Air Programs Today

- ◆ Today there are 99 tribal air programs receiving support from EPA.
- ◆ There are 78 tribes performing monitoring with 52 of them reporting to AQS.
- ◆ Twenty-two tribes are performing toxics programs in their communities.
- ◆ Fifty-six tribes have completed Reservation emission inventories, with 13 more underway.
- ◆ Thirty-two TAS's and 2 Tribal TIP's have been approved.
- ◆ Tribes have visible involvement in some RPO's.


What Tribes Do Under AQ Programs

- ◆ Monitor ambient air.
 - ◆ Complete emission inventories.
 - ◆ Review and comment on local permits and Environmental Impact Statements.
 - ◆ Review proposed regulatory actions.
 - ◆ Perform educational outreach.
 - ◆ Serve on committees and workgroups.
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Continued, Tribal AQ Programs

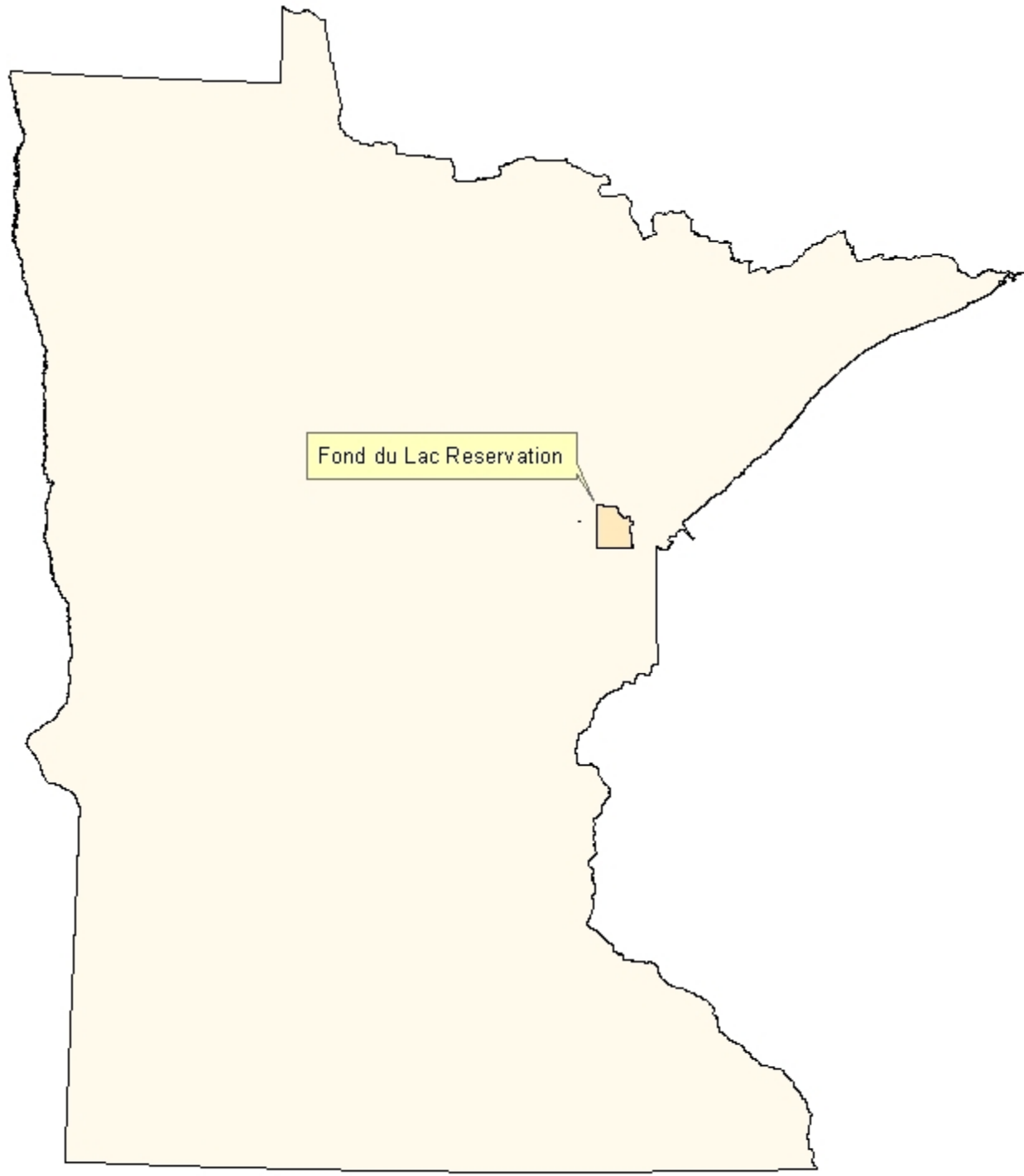
- ◆ Perform on-Reservation special studies.
 - ◆ Expand authorities on-Reservation (permitting, TIPs, etc).
 - ◆ Designate attainment/non-attainment on Reservations.
 - ◆ Do on-Reservation Indoor Air Quality work.
 - ◆ Work on climate change adaptation plans.
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Why Do Tribes Pursue Environmental Quality?

- ◆ Protect on- and off-Reservation resources for cultural, religious, and substance purposes.
 - ◆ To build Self-determination.
 - ◆ Expand authorities and build capacity.
 - ◆ To supplement tribal economic development plans.
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Fond du Lac Air Program

- ◆ FdL Reservation is 100,000 acres. Reservation is heavily wooded, with many wetlands. Has 108 water bodies, including 843 acres of wild rice waters.
- ◆ Ceded Territories covers another 8 million acres.
- ◆ Local sources include: taconite (iron ore) mines; pulp and paper facilities; shipping and rail; natural gas and oil pipelines; EGU's; refinery; traffic from major highway; unpaved roads.



Fond du Lac Reservation


FdL AQ Program

- ◆ We have two staff members, sharing 1.5 FTE.
- ◆ Monitoring Program: currently monitor mercury deposition and ozone. In the past, PM2.5, NADP, NOx, dioxin.
- ◆ Active in: permit review, EIS review, regulatory review, regional haze, greenhouse gas mitigation, mercury issues.
- ◆ Have experience in indoor air quality (lead, radon, mold, secondhand smoke, asthma triggers).
- ◆ Have completed an emission inventory.



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Challenges Facing Tribal Air Programs

- ◆ Stagnant funding.
 - ◆ Some tribes have jurisdictional and/or political issues with surrounding states.
 - ◆ In rural areas it can be hard to attract/keep technically trained staff.
 - ◆ Small staff trying to do everything.
 - ◆ Training is available, but limited.
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For More Information

- ◆ www.ntaatribalair.org
- ◆ www4.nau.edu/itep
- ◆ www.epa.gov/air/tribal/backgrnd.html
- ◆ www.epa.gov/indian/
- ◆ www.epa.gov/aieo/