

EPA ORGANIZATION

Internal deliberative pre-decisional - FOR USE BY 2024 PRESIDENT-ELECT TRANSITION TEAM MEMBERS ONLY

ISSUE SUMMARY:

On May 16, 2024, EPA Region 5 issued a Notice of Violation to US Steel for alleged Clean Water Act violations at its Keewatin, MN taconite mine ("Keetac"). Since 2018, Keetac has exceeded the sulfate effluent limits in its Clean Water Act NPDES permits 299 times.

KEY POINTS:

- The EPA performed a Clean Water Act inspection at US Steel's Keetac facility in October 2022. The principal activities at the facility are the open-pit mining of taconite and the associated processing of mined taconite to produce taconite pellets.
- EPA's review of records as part of that inspection found that the facility had discharged sulfate in amounts exceeding the sulfate limits in its Clean Water Act NPDES permits.
- Keetac has two Clean Water Act NPDES permits, one for the mining operations and one for the tailings basin. The permits have sulfate limits of 14 mg/L for the calendar month average sulfate concentration and 24 mg/L for the calendar month maximum sulfate concentration. US Steel's discharges from the Keetac facility have exceeded the permitted sulfate limits in these permits 299 times since August 2018.
- Due to these effluent limit exceedances, the EPA issued a Notice of Violation (NOV) to US Steel on May 16, 2024.
- On May 29, the EPA met with the staff of Minnesota Senator Tina Smith to describe EPA's general enforcement process and to summarize the publicly available information contained in the NOV.
- The permits' sulfate limits are derived from the Minnesota water quality standard implemented to be protective of waters used for the production of wild rice. These waters are an important cultural, economic, and agricultural resource for Minnesota's Tribal nations such as the Dakota and Ojibwe.
- Keetac's Clean Water Act permits authorize discharges into waters upstream of Hay Lake, which, according to MPCA, is a wild rice water and an impaired waterbody.
- The Minnesota State Legislature passed laws in 2015 and 2016 prohibiting MPCA from requiring permittees to spend money on sulfate treatment in order to comply with sulfate limits in Clean Water Act permits and declaring that the permit sulfate limits are no longer valid. EPA Region 5 formally disapproved of these laws in 2022 and explained that the sulfate limits and compliance schedules invalidated by the 2016 law remain subject to federal enforcement.
- Minnesota is the only state that has this specific type of sulfate water quality standard.

ONGOING/UPCOMING REVIEWS FOR FY2025:

KEY EXTERNAL STAKEHOLDERS:

Congress Industry States Tribes Media Other Federal Agency
 NGO Local Governments Public

MOVING FORWARD:

- Ongoing negotiations. The EPA's goal is for US Steel to come into compliance with their permitted sulfate limits.
- The EPA can pursue enforcement via administrative or judicial methods for the alleged Clean Water Act violations.