

KEY TERMS & CONCEPTS

Authorized Inter-Tribal Organization

An “authorized inter-Tribal organization” is an organization that has been officially designated by the elected or duly-appointed leader of a federally recognized Tribal government to represent that Tribe on a particular issue.

Consultation

Consultation generally consists of meaningful and timely communication between EPA officials and Tribal government officials in developing Agency actions that affect Tribes. Consultation means open sharing of information, the full expression of Tribal and EPA views, a commitment to consider Tribal views in decision-making, and respect for Tribal self-government and sovereignty. Consultation is different from input and interaction: consultation is government to government whereas input and interaction can be with communities, environmental staff, and others.

Consultation versus Community Involvement

It is important to distinguish between government-to-government consultation and community involvement activities. Community involvement typically involves members of the Tribal community directly and is normally separate from consultation or discussions with the Tribal government. Consultation occurs in addition to the public participation process.

Federal Indian Law

“Federal Indian Law” refers to the body of law that defines the legal relationship between the United States and the Indian Tribes, including federally-recognized Alaska Native entities. Federal Indian Law primarily concerns Tribal sovereignty, individual and Tribal property rights, and the division of jurisdiction between Tribes and states.

Federal Indian Trust Responsibility

The federal government has a “trust responsibility” to federally recognized Indian Tribes that arises from treaties, statutes, executive orders, and the historical relations between the United States and Indian Tribes. Like other federal agencies, EPA must act in accordance with the trust responsibility – which generally includes consulting with and considering the interests of Tribes – when taking actions that may affect Tribes or their resources. One of the tenets of trust responsibility is the obligation of the federal government to protect tribal sovereignty.

Government-to-Government Relationship

The relationship between federally recognized Indian Tribal governments and the federal government is a unique one. Indian Tribes possess an inherent sovereignty and are sometimes described as domestic dependent nations. Because each Indian tribe is a sovereign government, EPA officials (and those from other federal agencies) are expected to interact with Tribal officials as representatives of their government. EPA can consult – on a government-to-government basis – only with federally recognized Tribes. However, it is important to include all interested parties in the process in an appropriate manner.

Indian country

This term is defined by federal statute to include all land within federal Indian reservations, dependent Indian communities, and certain lands or allotments owned by Indians. Indian country also includes lands held in trust by the United States. Tribal land issues can be quite complicated; therefore, there may be a need to talk to EPA Regional Indian Program representatives, Regional Counsel, or the Office of General Counsel for more in-depth information.

Indian Country Jurisdiction

With some exceptions, the borders of Indian country determine the extent of Tribal jurisdiction, the extent of certain types of federal jurisdiction, and the exclusion of state jurisdiction.¹ There are several different types of Indian country, and they are often found mixed together. See term “Indian country” for more information.

Indian Nations

“Indian nations” is a term used to describe the geographic area of an independent sovereign nation. This would include any land referred to as “Indian country” and/or “reservations.”

Indian Tribe

An “Indian tribe” is an entity that appears on the list of federally recognized Tribes published annually by the Bureau of Indian Affairs (BIA) of the Department of Interior (DOI). It is generally a community of Indians who are ethnologically similar, but who as a community also exist in a legal-political sense.

Indian Tribal governments determine who is a member of an Indian Tribe by ensuring that they meet specific Tribal membership criteria. Each tribe has its own laws and methods of determining membership, but typically it is based on ancestry. Indians also constitute an ethnic minority in the United States protected by the civil rights guarantee of the Constitution and Civil Rights Acts. Discrimination for or against Native Americans on the basis of race, color or national origin is as illegal as it is for other ethnic groups.

Multiple Tribes

More than one Tribe could have interest in the same area. In this type of situation, EPA should offer to consult with all interested Tribes. In some cases, Tribes may form a group to speak with one unified voice. If this does not happen, EPA should continue to consult with all interested Tribes. (The singular version of “Tribe” can also include more than one tribe and can be used if applicable.)

Native Americans (also referred to as Indian, American Indian, and Alaska Native)

The terms “Native American,” “American Indian,” “Indian” and “Alaska Native” can be used in a very broad sense to describe members of ethnically distinct groups of United States citizens who are indigenous to North America. All of these terms are generally accepted, but it is preferable to use individual Tribal affiliation whenever possible.

Native Hawaiians

“Native Hawaiians” can be described as Native American because they are indigenous to their areas and they are not descendents of European colonizers. The Native Hawaiian community has a different relationship with the U.S. Government. They are not recognized as a legal, political entity, or government.

Reservations

“Indian country” and “Indian reservation” are often used interchangeably, although reservations are a subset of Indian country. Today, reservations tend to be divided and may have been set aside from the public domain by an act of Congress, executive order, or treaty. The exterior boundaries of reservations often enclose lands not owned by the tribe, including, but not limited to, allotments and nonmember-owned fee lands.

Sovereignty

¹ 117 S.Ct. 1404 (1997)

“Sovereignty” is the authority that a government draws upon to govern. In the United States, sovereignty is considered to be inherent, and existed in tribes prior to the country itself. The Tribes represent an independent sovereign of the United States and, therefore, can govern from their own inherent sovereignty. Tribes may choose whatever forms of government best suits their practical and cultural needs. No decisions about Tribal lands or resources and people should be made without consulting the Tribal government.

Treaties

Through treaties, Indian Nations ceded certain lands and rights to the United States and reserved certain lands (“reservations”) and rights for themselves. In many treaties, Tribal governments reserved hunting, fishing, and gathering rights in territories beyond the land that they reserved for occupation.

Tribal Air Coordinators (TAC)

Each Regional Office has a tribal air coordinator that participates in monthly conference calls organized by the sub-lead EPA Region for Tribal Air Issues. These regional contacts (see contacts list in appendix) are familiar with tribal issues specific to the tribes in their region and can serve as a good resource in early planning efforts and follow-up consultation.

Tribe

There is no definitive legal description of what constitutes a tribe that applies to all areas of this field of law. One of the most widely-used descriptions comes from the 1901 Supreme Court case, *Montoya v United States*: “a body of Indians of the same or similar race, united in a community under one leadership or government, and inhabiting a particular sometimes ill-defined territory.”²

Tribal Area

“Tribal area” is a generic term adapted from concepts used by the U.S. Census Bureau to discuss where Native Americans live. It includes American Indian reservations, Alaska Native Villages, and other special types of areas that represent ongoing centers of Tribal culture.

Tribal Authority Rule

Tribes have the authority to assert jurisdiction over their people and their land; define their own Tribal membership criteria; create Tribal legislation, law enforcement, and court systems; and tax their members. “Tribal Authority Rule” implements the provisions of the Clean Air Act to authorize eligible Tribes to implement their own Tribal air quality programs.

Tribal Coordination

“Tribal Coordination” refers to harmonization of EPA’s Tribal outreach and information dissemination/exchange activities to ensure that Tribal governments are aware of EPA actions that might impact them and afforded the opportunity to alert EPA that they wish to be consulted according to the terms of Executive Order 13175 early in the process of developing those actions.

Tribal Consultation

“Tribal Consultation” consists of a meaningful and timely two-way exchange with Tribal officials in developing Agency actions, providing for open sharing of information, the full expression of Tribal and EPA views, a commitment to consider Tribal and EPA views, a commitment to consider Tribal views in decision-making, and respect for Tribal self-government and sovereignty.

Tribal Governments

² 180 U.S. 261, 266.

Federal law recognizes that Tribes may adopt whatever forms of government best suite their own practical cultural or religious needs. Most Tribal government structures combine traditional features with Western forms. More traditional Tribal governments may select political officials by consensus with decisions based on family, clan, or religious law; while other Tribal governments may use a more democratic process to elect officials.

Tribal Implications

Policies that have “Tribal implications” refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between Federal Government and Indian Tribes, or on the distribution of power and responsibilities between Federal Government and Indian Tribes.

Tribal Officials

“Tribal officials” means elected or duly appointed officials of Indian Tribal governments or authorized inter-Tribal organizations. EPA would generally recognize a representative of a Tribal government as a “duly appointed official” after receiving confirmation from an elected or duly-appointed Tribal leader that the representative is authorized to consult with EPA on the Tribe’s behalf. Such confirmation should be provided in writing.

Trust Responsibility

Under the general trust responsibility, the federal government is to consult with and consider the interests of the Tribes when engaged in any activity that may affect them. All federal agencies share in the trust responsibility.

TRIBAL ORGANIZATIONS

AIEO – The American Indian Environmental Office

AIEO is part of the U.S. EPA. The AIEO, working with its regional components, is responsible for coordinating the Agency-wide effort to strengthen public health and environmental protection in Indian country. AIEO oversees development and implementation of the Agency's Indian policy.

ITCA – Inter-Tribal Council of Arizona

ITCA provides a united effort to promote Indian self-reliance through public policy development. ITCA provides an independent capacity to obtain, analyze and disseminate information vital to Indian community development. The 19 member tribes of ITCA are the highest elected tribal official, tribal chairpersons, presidents, and governors.

ITEC - Inter-Tribal Environmental Council of Oklahoma

The ITEC was formed in 1992 by the signing of a Memorandum of Understanding between 20 Oklahoma tribes and EPA Region 6. Since that time other tribes have joined and the current membership is 31 of the 27 federally-recognized tribes in Oklahoma. The ITEC provides environmental management for air, land and water resources to the member tribes.

NCAI – National Congress of American Indians

Founded in 1944, NCAI is the oldest, largest, and most representative national Indian organization, serving more than three quarters of the American Indian and Alaska Native population. NCAI is organized as a representative congress of consensus on national priority issues.

NTAA – National Tribal Air Association

NTAA's mission is to advance air quality management policies and programs, consistent with the needs, interests, and unique legal status of American Indian Tribes, Alaska Natives and Native Hawaiians.

NTEC – National Tribal Environmental Council

NTEC was formed in 1992 and is a membership organization dedicated to working with and assisting tribes in the protection and preservation of the reservation environment. NTEC is open to membership to federally-recognized Indian tribes and currently has 182 member tribes.

NTOC – National Tribal Operations Committee

The (National) Tribal Operations Committee (NTOC) was formed in February 1994 in order to improve communication and build stronger partnerships between the tribes and EPA. NTOC comprises 19 tribal leaders or their environmental program managers (the National Tribal Caucus) and EPA's Senior Leadership Team, including the Administrator, the Deputy Administrator, and the Assistant and Regional Administrators.

RTOC – Regional Tribal Operations Committee

Federally-recognized Tribes reside in nine of the Agency's ten regions (Region 3 is the exception). Each of these nine regions has appointed a Regional Indian Coordinator, and some of the regions have established an Indian program office. Some regions have a formal Regional Tribal Operations Committee comprised of Tribes residing within that region.

TAMS - Tribal Air Monitoring Support Center

The TAMS Center is a partnership between OAR offices, OAQPS, and ORIA with support from NAU's **Institute for Tribal Environmental Professionals (ITEP)**. The mission of the TAMS Center is to develop the Tribal capacity to assess, understand, and prevent environmental impacts that adversely affect health, culture, and natural resources.

EPA TRIBAL AIR PROGRAM CONTACTS

Office of Air Quality Planning and Standards
Community & Tribal Program Group

Laura McKelvey
919-541-5497
mckelvey.laura@epa.gov

Office of Air and Radiation

Darrell Harmon
202-564-7416
harmon.darrel@epa.gov

American Indian Environmental Office (AIEO)
202-564-0303

Region 1

Ida McDonnell
617-918-1653
mcdonnell.ida@epa.gov

Region 2

Gavin Lau
212-637-3717
lau.gavin@epa.gov

Region 4

Brandi Jenkins
404-562-9124
jenkins.brandi@epa.gov

Gracy Danois (T5 review)
404-562-9119
danois.gracy@epa.gov

Region 5

Benjamin Giwojna (MN)
312-886-0247
giwojna.benjamin@epa.gov

Stephanie Cheaney (MI)
312-886-3509
cheaney.stephanie@epa.gov

Tim Carter (WI)
312-886-6774
carter.timothy@epa.gov

Region 6

Elizabeth Brazile (NM, TX)
214-665-6449

brazile.elizabeth@epa.gov

Region 6 (con't)

Bill Nally (AQ Analysis)
214-665-8351
nally.bill@epa.gov

Region 7

Robert Fenemore
913-551-7745
fenemore.robert@epa.gov

Region 8

Robert Copeland
303-312-6290
copeland.robert@epa.gov

Region 9

Sara Bartholomew (S. CA)
415-947-4100
bartholomeq.sara@epa.gov

Gary Lance (N. & C. CA)
415-972-3992
lance.gary@epa.gov

Maeve Foley (AZ)
415-972-4105
foley.maeve@epa.gov

Roy Ford (NV)
415-972-3997
ford.roy@epa.gov

Region 10

Mary Manous (Lead)
206-553-1059
manous.mary@epa.gov

Christina Miller
206-553-1586
miller.christina@epa.gov

Doug Cole (ID)
208-378-5764
cole.douglas@epa.gov

OAQPS TRIBAL REPRESENTATIVES

Office of Air Quality Planning and Standards, overall representative

Laura McKelvey
919-541-5497
mckelvey.laura@epa.gov

Air Quality Assessment Division

Mike Papp
919-541- 2408
papp.michael@epa.gov

Air Quality Policy Division

Barbara Driscoll
919-541-1051
Driscoll.barbara@epa.gov

Julie McClintock
919-541-5339
Mcclintock.julie@epa.gov

Jessica Montanez
919-541-3407
Montanez.jessica@epa.gov

Health and Environmental Impacts Division

Christine Davis
919-541-1565
Davis.christine@epa.gov

Outreach and Information Division

Yvonne W. Johnson
919-541-3921
Johnson.yvonnew@epa.gov

Tami Laplante
919-541-1915
Laplante.tami@epa.gov

Laura McKelvey
919-541-5497
Mckelvey.laura@epa.gov

Mike Papp
919-541-2408
Papp.michael@epa.gov

Sector Policies and Programs Division

Charlene Spells
919-541-5255
Spells.charlene@epa.gov