



National Tribal Air Association Fact Sheet

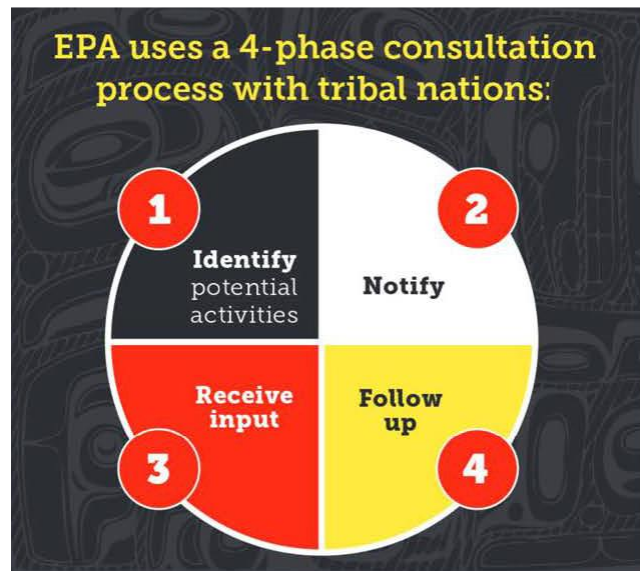
Fact Sheet

The U.S. Environmental Protection Agency's *Revisions to the 2011 Policy on Consultation and Coordination with Indian Tribes & 2016 Guidance for Discussing Tribal Treaty or Similar Rights*.

*The comment deadline is **July 21, 2023**. Your comment letter can be submitted via email to Zoe Ruge at ruge.zoe@epa.gov please include the subject line, "EPA Consultation Tribal Comments."*

Background

The U.S. Environmental Protection Agency (EPA) is currently revising its 2011 EPA Policy on Consultation and Coordination with Indian Tribes ("Consultation Policy") that establishes EPA standards for the consultation process. The Consultation Policy defines when and how consultation takes place, designates EPA consultation contacts to promote consistency and coordination of the process, and establishes management oversight and reporting to ensure accountability and transparency. The graphic below was produced by EPA and shows its process for government-to-government consultation as laid out in the Consultation Policy. At the same time, EPA is revising its Guidance for Discussing Tribal Treaty Rights ("2016 Treaty Rights Guidance"). The Guidance was designed to provide steps for EPA to take during Tribal consultation on EPA actions that may affect specific geographic areas when Tribal treaty rights may exist, or when a resource-based treaty right lies within those areas. The Guidance is designed to ensure that EPA's actions do not conflict with treaty rights and to ensure that EPA further protects treaty rights where possible under its authorities.



Why is EPA Revising this Policy and Guidance Now?

EPA decided to revise these documents because of President Biden’s January 26, 2021, Memorandum on Tribal Consultation and Strengthening Nation-to-Nation relationships (“2021 Presidential Memorandum”). The revisions are intended to improve EPA’s implementation of Executive Order 13175: Consultation and Coordination with Indian Tribal Governments (2000). The 2021 Presidential Memorandum required EPA and all other federal agencies to consult with Tribes and then propose “a detailed plan

of actions the agency will take to implement the policies and directives of [EO 13175].” In EPA’s consultation with Tribes regarding this detailed plan, EPA heard, among other comments, that Tribes were unsatisfied with EPA consultation because it does not provide sufficient time for meaningful consultation, EPA does not sufficiently distinguish between an early comment period and a consultation opportunity, and EPA staff and leadership need further training on Tribal governments and their unique status. EPA decided to revise its consultation and coordination practices and its Consultation Policy and related Guidance to attempt to address these comments and other concerns raised by Tribes.

How does this affect my Tribe?

The EPA’s 2011 Consultation Policy establishes national guidelines for consultation across EPA and the 2016 Guidance provides specific procedures where Tribal treaty or similar rights may be affected by EPA decisions or actions.

EPA should be encouraged to not only reexamine its consultation policies but also to renew its commitment to Tribal sovereignty and to ensure that its staff and leadership are appropriately educated about Tribal sovereignty, which can hopefully lead to EPA more meaningfully supporting Tribes and providing the necessary training, technical support, and funding for Tribal air monitoring and Tribal air programs.



How to Comment

- The consultation and coordination period for both the Consultation Policy and the Treaty Rights Guidance extends through July 21, 2023.
- All information regarding the proposed revisions is available on EPA’s Tribal Consultation Opportunities Tracking System (TCOTS) at <https://tcots.epa.gov>.
- If your Tribe would like to schedule a one-on-one consultation with EPA, please contact Zoe Ruge with the American Indian Environmental Office at ruge.zoe@epa.gov or (202) 566-1695. The AIEO stated that it respectfully requests that requests be made in advance of the July 21, 2023, deadline.
- Tribes may submit written comments via email to Zoe Ruge at ruge.zoe@epa.gov please include the subject line, “EPA Consultation Tribal Comments.”

To Learn More

In addition to the information provided on EPA’s TCOTs website noted above, the NTAA has created a template letter that your Tribe can use to help with providing written feedback and is available on NTAA’s policy resource kit website. Any questions can be directed to the NTAA’s Program Manager, Carolyn Kelly, at carolyn.kelly@nau.edu.