

GUIDELINES FOR COMMUNICATING WITH TRIBAL GOVERNMENTS

U.S. EPA REGION 5

11/29/04

A. Purpose and Background

The purpose of these guidelines is to clarify the Region 5 procedures for communicating with federally recognized tribal governments, including Indian organizations authorized by tribes. These procedures are based on the 1984 “EPA Policy for the Administration of Environmental Programs on Indian Reservations.” Each Administration since 1984 has formally reaffirmed its commitment to this document. The policy charges the Agency to conduct its relationship with tribal governments on a government-to-government basis, and recognizes that tribal governments are the primary parties for environmental management on reservations.

The benefits of these guidelines include:

- Avoidance of scheduling conflicts
- Enabling parties to prepare adequately for visits
- Consistency among divisions and offices
- Improved relations between programs and tribal governments
- Information for new EPA employees working on tribal issues

B. Application

USEPA communicates with tribal governments in different ways for a variety of purposes. The following Agency policies and procedures provide guidance to Region 5 staff for some of these purposes. These guidelines will apply to all other communication with tribal governments not captured by the following.

- Emergency environmental situations that require immediate response/notification
- Criminal investigations or enforcement
- Civil investigations or enforcement (including inspections)
Please see “Civil Enforcement and Compliance Assistance in Region 5 Indian Country: Questions and Answers”
- Formal consultation
Please see Executive Order 13175 (November 6, 2000) “Consultation and Coordination with Indian Tribal Governments” [and EPA Consultation Policy when finalized]

The term “tribal governments” includes all elected officials, appointed directors or officers, and all tribal staff who represent the government of a federally-recognized tribe or tribally-authorized Indian organization.

C. Procedures for Written Correspondence with Tribal Chairs

This section outlines procedures for Region 5 staff who receive correspondence from tribal chairs which requires written response, or who initiate written correspondence to tribal chairs.

1. Letters to the Regional Administrator from a tribal chair will be treated as controlled correspondence by the Office of the Regional Administrator. A copy of the letter from

the tribe will be provided to the Director of the Indian Environmental Office (IEO). Preparation of the response will be coordinated with the IEO Director, and the response will be routed for IEO Director (or Acting IEO Director) concurrence. The role of the IEO will be to assist the Divisions and Offices to develop responses that reflect the various Agency policies and guidance related to tribal governments.

If a response cannot be provided by the ten-day deadline for controlled correspondence, the assigned Division and Office will prepare an interim response to the tribal chair, in coordination with the IEO Director, indicating that the letter has been received and that a reply is being prepared. An explanation of the delay and an anticipated date of reply will be included.

2. Copies of letters mailed directly to Divisions and Offices from tribal chairs shall be provided to the IEO Director in a timely manner. Divisions and Offices will consult with the IEO Director on any responses to letters from tribal chairs.
3. Divisions and Offices will coordinate with the IEO director for concurrence on any letters from Region 5 to a tribal government involving broad policy issues, grant and program eligibility (treatment as a sovereign) determinations, jurisdictional issues, and delegations will be coordinated with the IEO Director and prepared for the signature of the Regional Administrator or his/her designee and sent to the tribal chair. A courtesy copy shall be sent to either the Environmental Coordinator or program-specific contact at the tribe.

D. Procedures for Visits to Tribal Governments

This section contains procedures for Region 5 staff that propose to meet with tribal governments in Indian Country. Tribal visits include trips to Region 5 Indian Country, as well as, meetings with tribal governments in other locations in Region 5. Region 5 staff are reminded that in accordance with the 1984 Indian Policy, the Agency recognizes tribal governments as sovereign entities and that visits should be conducted in a manner appropriate to our government-to-government relationship.

1. Visits scheduled to reservations by anyone representing US EPA Region 5 will be coordinated with the appropriate Region 5 Tribal Environmental Liaison (TEL) (see Section H) as soon as the time is proposed, to provide both the tribe and the Liaison with the option for an TEL presence or role in arranging the visit.
2. The American Indian Environmental Office and other Headquarters Offices are requested to coordinate with the appropriate Region 5 TEL when planning to visit tribal governments in Region 5.
3. Region 5 staff who plan to make a visit to a tribal government will coordinate a mutually agreed upon date with the appropriate staff at the tribal government (either the tribe's Environmental Coordinator or program-specific contact), at least two weeks prior to the date of the proposed visit.

4. IEO requests that any Region 5 staff who visit a reservation at a tribe's invitation notify IEO of the visit.
5. To help Divisions and Office plan their visits, IEO will share a regionwide list of scheduled visits and other events through the monthly Regional Indian Workgroup meeting.
6. All photographs/videos taken for official use other than for compliance, quality assurance, enforcement or inspection, must receive tribal permission, exercising judgment with the tribal host. The tribe may designate a tribal official to oversee the photography/filming.

E. Guidelines for Visits by Tribal Officials to the Region 5 Office

From time to time, tribal chairs, other elected tribal officials, and tribal staff make visits to the Region 5 office. This section contains guidelines for Region 5 staff to use for arranging these visits.

1. Divisions and Offices will notify the Regional Administrator/Deputy Regional Administrator and the IEO Director, in a timely manner, of upcoming visits by tribal chairs and other elected tribal leaders.
2. Visiting tribal chairs and other elected tribal leaders will be invited to meet with the Regional Administrator/Deputy Regional Administrator, Division and Office Directors, and/or the IEO Director, or their designees as appropriate.
3. Divisions and Offices will inform the IEO Director of visits by tribal officials/staff in a timely manner.
4. Division and Offices planning to conduct a workshop, training, or meeting to be widely attended by tribal officials/staff will inform the IEO Director.
5. Once notified by the Divisions and Offices, the IEO Director will inform the appropriate Region 5 Tribal Environmental Liaison of upcoming visits by tribal leaders and staff, as well as, planned workshops, training, or meetings generally attended by tribes. Other Divisions and Offices will also be notified to avoid any conflicts in timing.

F. Circuit Riders, Tribal Environmental Liaisons, and Other Program Field Staff

Some of the Region 5 Divisions/Offices have staff located in the field that are assigned to work with tribal governments on a daily basis. It would be overly burdensome to expect those staff to coordinate with the IEO on all interaction with tribal governments. However, it is important that Division and Office field staff and appropriate Region 5 tribal environmental liaisons communicate on a regular basis to share information on activities conducted in Indian Country. Liaisons, circuit riders, and field staff can use the Regional Indian Workgroup as a routine mechanism for communication. Additional communication may be required in the case of controversial issues or in response to problems that arise.

G. Contact Lists for Tribal Governments

The IEO maintains contact information for tribal chairs and the Environmental Coordinator for each tribe on the IEO Website (<http://epa.gov/region5/tribes>). Individual Region 5 Divisions and Offices may also maintain a program-specific list of contacts for each tribal government. Region 5 staff are encouraged to verify this contact information with the appropriate Region 5 Tribal Environmental Liaison prior to developing correspondence or making contact with tribal governments.

H. Region 5 Tribal Environmental Liaisons

The IEO maintains a staff person in Michigan, Minnesota, and Wisconsin to serve as a liaison between the Agency and the tribal governments located in each state. The Region 5 Tribal Environmental Liaisons assist the Region 5 Divisions and Offices to implement Agency programs in Indian Country, and the tribal governments to build environmental management capability.

Michigan: Jennifer Manville
(231) 922-4769
manville.jennifer@epa.gov

Minnesota: Ed Fairbanks
(218) 335-8167
fairbanks.ed@epa.gov

Wisconsin: Steve Dodge
(715) 799-4612
dodge.steve@epa.gov

If the appropriate liaison cannot be reached, EPA staff should contact the IEO Director.

IEO Director: William Dew
(312) 353-2087
dew.william@epa.gov

[signed on November 30, 2004]

Bharat Mathur
Acting Regional Administrator
U.S. EPA Region 5