

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 elected or duly appointed tribal government officials or their authorized representatives 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 interests in decision-making, and respect for tribal self-government and sovereignty. Consultation is different from input and interaction or collaboration and outreach: consultation is government-to-government, whereas input and interaction or collaboration and outreach 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 unique relationship between the United States and the Indian tribes, including federally-recognized Alaska Native entities. Federal Indian Law addresses, among other things, tribal sovereignty, tribal treaty rights, and jurisdiction in Indian country.

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 acts 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.

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 over their members and territories. Because each Indian tribe is a sovereign government, EPA officials (and those from other federal agencies) interact with tribal officials as representatives of their government. EPA consults – on a government-to-government basis – with federally-recognized tribes.

Indian country

This term is defined by federal statute at 18 U.S.C. § 1151 to include all land within federal Indian reservations, dependent Indian communities, and certain lands or allotments owned by Indians. Indian country includes lands held in trust by the United States for the benefit of an Indian tribe that have not been formally designated as reservations. Tribal land issues can be quite complicated; therefore, you should talk to EPA Regional Indian Program representatives, Regional Counsel, or the Office of General Counsel for more in-depth information.

Indian Tribe

A federally recognized “Indian tribe” is an entity that appears on the list of federally recognized tribes published by the U.S. Bureau of Indian Affairs (BIA) of the U.S. Department of the 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 generally 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.

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 affected 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 affected tribes.

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 descendants of European colonizers. The Native Hawaiian community generally has a different relationship with the U.S. Government. You should consult your tribal legal and policy experts for more information where issues regarding Native Hawaiians may be raised.

Reservations

“Indian reservations” are a subset of Indian country (see 18 U.S.C. § 1151). Reservations may have been set aside from the public domain by an act of Congress, executive order, or treaty. The exterior boundaries of reservations may include lands not owned by the tribe, including, but not limited to, allotments and nonmember-owned fee lands.

Sovereignty

“Sovereignty” is the authority that a government draws upon to govern. In the United States, tribes retain important aspects of sovereignty and authority over their members and territory.

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.

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

The “Tribal Authority Rule” refers to the EPA regulation that implements the provisions of the Clean Air Act that authorize eligible tribes to implement tribal air quality programs under the Clean Air Act in a manner similar to states. The final Tribal Authority Rule was published at 63 Fed. Reg. 7254 (February 12, 1998).

Tribal Consultation

See definition of “Consultation.”

Tribal Environmental Professional (TEP)

“Tribal Environmental Professionals” are employed by the tribal government to work on environmental issues. They cannot make decisions on behalf of the tribal governments but they are knowledgeable of the day-to-day environmental concerns of the tribes and should be consulted with on a regular basis.

Tribal Governments

Most tribes have their own governments, which are generally formed to suit the particular tribe’s practical, cultural, political, or religious needs. Many 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 Officials

“Tribal officials” for the purpose of this policy means **an elected or duly appointed official of Indian tribal governments or their authorized representatives or authorized inter-tribal organizations.** EPA generally recognizes an inter-tribal organization to be authorized to represent a tribal government after receiving confirmation from an elected or duly-appointed tribal leader that the inter-tribal organization is authorized to consult with EPA on the tribe’s behalf. Such confirmation should be provided in writing.

Trust Responsibility

See Federal Trust Responsibility.

