

Consultation and Coordination Plan

Proposed Reorganization of the National Tribal Caucus (NTC) Under the Federal Advisory Committee Act (FACA)

Overview

EPA is proposing to reorganize the National Tribal Caucus (NTC) as a Federal Advisory Committee (FAC) under the Federal Advisory Committee Act (FACA) and to increase the proportion of elected or traditionally appointed Tribal leaders that serve on the group. In conjunction with this proposal, EPA is reviewing the characteristics of the NTC to strengthen the operations of the group and increase collaboration with the other EPA Tribal Partnership Groups. These proposed changes will clarify the process by which EPA receives Tribal leadership recommendations on technical programs and budget planning, elevate the NTC as the preeminent group of Tribal representatives that provides advice directly to EPA leadership on items of national significance under EPA's purview, and strengthen EPA's ongoing commitment to collaboration and partnership with Tribes and the government-to-government relationship. This proposal reflects the commitment of the EPA to engage directly with Tribal leaders and ensures that Tribal leaders engage at the highest levels of the Agency on environmental issues that impact Indigenous communities.

Background information on the initiative

In 1994, then-EPA Administrator Carol Browner invited eighteen Tribal representatives to meet with EPA leadership to jointly discuss how to advance the protection and improve the conditions of Tribal health and the environment in Indian country. The Tribal representatives were collectively known as the National Tribal Caucus (NTC) and the joint group between the NTC and the EPA was called the National Tribal Operations Committee (NTOC). Representatives of the NTC must currently be either (1) elected Tribal leaders of federally recognized Tribes, or (2) environmental staff working for a federally recognized Tribe. Outside of the NTOC, the NTC engages with the Office of International and Tribal Affairs (OITA) year-round to exchange views, information, and advice concerning the implementation of EPA programs in Indian country.

Due to the hard work of Tribes and EPA over the past 30 years, the EPA Tribal Program has grown substantially and there is an extensive network of EPA staff that work within EPA and directly with Tribes to protect human health and the environment in Indian country. Correspondingly, there are almost twenty subject-specific Tribal Partnership Groups (TPGs) that work directly with EPA programs and regional offices. Just as the NTC engages regularly with OITA, each TPG works with a particular EPA office to discuss issues of interest regarding EPA environmental program implementation in Indian country and to provide expert advice to EPA. The TPGs play a vital role in standing up a strong network of Tribal professionals which is representative of EPA's strong Tribal program and partnership with Tribes, Tribal organizations, and Tribal environmental staff. However, as these TPGs have proliferated and the number of avenues by which EPA receives Tribal input has dramatically increased, the role of the NTC in engaging with EPA leadership and working in collaboration with the TPGs has become less clear and there is duplication in effort within the EPA-TPG infrastructure.

EPA's proposed reorganization of the NTC as a FAC and increase of the proportion of elected or traditionally appointed leaders recognizes the growth of the EPA Tribal program and the essential role of the NTC in being the preeminent group that engages with OITA and the EPA Administrator's Office. The

NTC is the sole Tribal group that has recurring annual meetings with the Administrator's Office and has a unique platform by which Tribal collaboration is provided directly to the highest tier of EPA leadership. A FAC with increased elected Tribal leadership and a to-be-created charter clarifying its relationship with EPA and the TPGs would create a cohesive structure that strengthens the relationship between EPA and Tribes. Duplication of roles and responsibilities of the proposed FAC with TPGs would be reduced. A new charter would better connect the expertise of the TPGs with the elected Tribal representatives of the NTC to provide informed advice and recommendations to EPA leadership on issues of interest to Indian country. Lastly, EPA would like to clarify that this proposal does not affect how the TPGs engage with the respective EPA office. For example, this proposal does not change how the National Tribal Air Association (NTAA) will engage with the EPA Office of Air and Radiation, nor does it change how the Regional Tribal Operations Committees, or similar regional TPGs, engage with EPA regional offices.

Reorganizing the NTC as a FAC would formalize the group's advisory role with EPA and distinguish the NTC from the almost twenty other TPGs with whom EPA engages. Compliance with FACA is necessary and the law applies whenever a federal agency seeks collective advice from an external group. As the NTC provides advice on an ongoing basis to the EPA Administrator and other senior leadership regarding budget recommendations and the implementation of environmental programs in Indian country, reorganizing the group as a FAC would formalize an advisory structure that ensures transparency, public access, and public participation, and compliance with FACA. FACA requires that committees provide advice that is independent, relevant, and developed using a process that is open to the public, and FACs serve an invaluable function in informing the operations of the EPA. Transition to a FAC would allow for greater awareness of the work of the group while following a formal, defined process for elected Tribal leaders to transmit recommendations to EPA leadership. A number of federal agencies have previously formed either FACs or similar advisory groups comprised of Tribal leaders and representatives, and since January 2021, the U.S. Department of Veterans Affairs and the U.S. Department of Agriculture have created new Tribal FACs under FACA.

Potential Tribal impacts

Reorganizing the NTC as a FAC would not affect the mission and goals of the group and EPA's American Indian Environmental Office would continue to facilitate regular meetings of the group. However, there are inherent differences among the current operations of the NTC and a FAC. In particular, characteristics of a FAC would include:

- Two-year charter renewal requirements, as well as two-year terms for all members.
- Charge questions to be posed to the FAC by EPA which would focus group advice to EPA and be informed by publicly available input.
- Public availability and Federal Register notices for charter renewals and meeting announcements. Members of the public, including representatives of all federally recognized Tribes, would be allowed to attend FAC meetings but would not be considered part of the group. Meeting material and minutes would be made available to the public.
- Regular reporting on administrative matters from EPA to the General Services Administration (GSA) on the operations of the group, such as the group's charter renewal status and a comprehensive annual review.
- The FAC may form subcommittees or workgroups for any purpose consistent with the charter. This would allow the FAC to address individual issues of interest identified by members of the group as they arise.

Learn more about the current NTC, including the current 2012 Charter, on [the NTC website](#). Learn more about the Federal Advisory Committee Act on [EPA's FACA website](#).

Request for Tribal Input on the Proposed Reorganization of the NTC

EPA is proposing to reorganize the NTC as a FAC with a new charter and is providing a 60-day consultation opportunity under the [EPA Policy on Consultation with Indian Tribes](#). EPA appreciates input provided on any aspect of the proposal to change to a FAC or on a future FAC charter or operations of the group.

Questions / topic areas of particular importance to inform EPA's consideration are outlined below.

Reorganizing the NTC as a FAC

1. Should the NTC be reorganized as a FAC to distinguish it from other TPGs and provide a defined framework to strengthen recommendations provided to EPA senior leadership? Are there other advisory group models that EPA should consider to fulfill the mission of the NTC?
2. Following general practices among other EPA and federal agency FAC groups, EPA is proposing the FAC have four full group meetings a year. Do you have any input on the full group meeting framework outlined below?
 - a. Two in-person meetings
 - i. Fall meeting: In-person in Washington, D.C. with EPA Senior Leadership, including the Administrator, focusing on technical program recommendations
 - ii. Spring meeting: In-person or virtual in Indian country with Office of International and Tribal Affairs (OITA) and Office of the Chief Financial Officer (OCFO) leadership, focusing on budget recommendations
 - b. Two virtual meetings to occur in between the in-person meetings identified above, to review technical information provided by TPGs and the public and finalize NTC consensus recommendations to EPA.
3. A FAC must have a charter that defines the mission or charge of the group. EPA proposes to have the group's mission continue from that of the NTC and be two-fold:
 - a. Recommendations regarding the implementation of EPA programs in Indian country; and
 - b. Budget recommendations.

Are there any additional recommendations you have for the mission of a new FAC? Is there any detail on the two proposed mission areas listed above that EPA should better define?

EPA's current proposal is to create a FAC to strengthen the mission of the NTC. Irrespective of the creation of a Tribal FAC, EPA is interested in Tribal consultation input on the structure of the FAC/NTC.

Structure of Group Membership

4. What should be the criteria for membership on the FAC/NTC, with the goal of providing informed technical and budgetary advice directly to EPA leadership?
 - a. Should the group be comprised entirely of elected or traditionally appointed Tribal leaders to best represent the government-to-government relationship?
 - b. How can EPA best incorporate the expertise of the Headquarters-based Tribal Partnership Groups (TPGs) into the group? Should they be official representatives on the group in support of the elected or traditionally appointed Tribal leaders?
5. How many representatives should be on the FAC/NTC? With consideration of input received regarding the above questions, how should EPA structure the group?
 - a. One potential option is for the group to be comprised entirely of elected Tribal leaders with one representative from each of the 10 EPA regions and three additional at-large positions, for a total of 13 representatives.
 - b. Another potential option is for the group to have one elected Tribal leader from each of the 10 EPA regions and one representative from each of the seven EPA Headquarters-based TPGs, for a total of 17 representatives.
 - i. National Tribal Air Association
 - ii. National Tribal Toxics Council
 - iii. National Tribal Water Council
 - iv. Tribal Exchange Network Group
 - v. Tribal Pesticide Program Council
 - vi. Tribal Science Council
 - vii. Tribal Waste and Response Steering Committee
 - c. Are there other structural possibilities (number of representatives, geographic diversity) that EPA should consider?
6. Are there Tribal advisory group structures present in other federal agencies that, to your knowledge, work particularly well?

Opportunities for Tribal Consultation and Engagement

Please reach out to Daniel Vaught, AIEO, at vaught.daniel@epa.gov or (202) 564-6038, if you have any questions regarding this Tribal consultation opportunity, if you would like to request government-to-government consultation with EPA on this matter, or if you would like to provide written input to EPA. So that EPA can schedule any government-to-government consultation meetings during the consultation period, we kindly suggest that requests for consultation meetings be sent by May 17, 2024.

AIEO will be hosting two informational sessions soon after the initiation of the consultation and coordination period. Please see below for the date and time of the events, as well as the Microsoft Teams links for these virtual sessions.

Information regarding this consultation opportunity, including the Consultation Notification Letter and this Consultation and Coordination Plan, are available on the Tribal Consultation and Opportunities System (TCOTS): <https://tcots.epa.gov/>

Consultation Period Timeline

Please contact Daniel Vaught if you have any questions regarding the events listed in the timeline below.

Date/Time	Event (description)
April 11, 2024	Initiation of Tribal consultation and coordination period
April 22, 2024 3:30 – 5:00pm ET	Informational webinar #1 MS Teams Link
April 24, 2024 2:30 – 4:00pm ET	Informational session #2 MS Teams Link
	Individual consultation meetings, upon request
May 17, 2024	Requested deadline for consultation meeting requests
June 10, 2024	Close of the consultation and coordination period – requested deadline for written comments