

# **U.S. EPA REGION 9 REGIONAL TRIBAL OPERATIONS COMMITTEE CHARTER (DRAFT)**

(July 28, 1995. As Amended June 11, 1996, September 2, 1998, February 2, 2000, July 25, 2001, October 26, 2004, February 7, 2005, April 24, 2007, November 13, 2014) **Draft April 5, 2022**

## **Mission**

### **The RTOC's mission is to:**

- Assist EPA in meeting its trust responsibility to the Tribes;
- Provide support for the Tribal Programs in the Region;
- Strengthen Tribal environmental and human health and environmental programs;
- Enhance responsiveness to Tribal needs;
- Facilitate with the communication and information exchange between Tribes and EPA.

## **Goals**

### **The RTOC's goals are to:**

- Enhance government-to-government relationships between Tribes and EPA.
- Promote and strengthen the inherent ability and continuing efforts of Tribes to manage programs to provide environmental and human health protection.
- Assist EPA in meeting the principles of the EPA Indian Policy of 1984.
- Foster and encourage a partnership, promote understanding, and bridge gaps between Tribal and EPA government cultures, and build relationships to improve environmental and human health protection on Indian lands.
- Demonstrate leadership in Tribal government and federal agency relations by developing strategies and recommendations for Regional resources and operating policies, based on 1EPA Indian Policy of 1984.

## **Scope**

To further the above listed goals, the RTOC will focus on three key areas:

1. **Policy and Management of EPA Indian Programs.** The RTOC will review and make recommendations on the development of Regional strategies for all Indian Program activities. It will advise on Regional policies and priorities and make recommendations on the deployment of Regional resources for Tribal Program activities. It also will provide input on how national budget and resources should be allocated.
  - a. The RTOC will review and make recommendations on Regional program activities that impact the environment of Indian lands, including Agency initiatives that may impact Region 9 Tribal Program operations.

- b. The RTOC will review and make recommendations on the development, modification, and implementation of Agency budgets and policies.
- c. The RTOC will help identify a process for assessing the environmental problems and needs of Tribes, and filling information gaps.
- d. The RTOC will identify and promote opportunities for the training, education, recruitment, and hiring of American Indians and Alaskan natives in careers of environmental and public health protection.

## **2. Coordination/Communication among Tribes, EPA, and other Agencies.**

The RTOC will serve as a communication forum for Tribal activities, ensuring effective, two-way communication between the Tribes in the Region and EPA. It will coordinate with other federal agencies and establish and strengthen communication among Tribes to disseminate information and ideas and solicit feedback. RTOC facilitates direct communication between and among tribes and EPA both individually and collectively. Protocols will be developed to achieve this. RTOC members, both from tribes and from the EPA, support the concept of an environmental presence at each Tribe.

As a coordinating body, the RTOC will provide a mechanism to identify issues, elevate them to the appropriate level, and coordinate program activities to increase effectiveness. The RTOC will provide a direct linkage to the TOC, in order to facilitate effective communication between the Tribes, Region 9, the TOC, and the American Indian Environmental Office and endeavors to be transparent in its activities.

In order to maintain the integrity and strength of the RTOC as an advisory body, any documents or letters developed for the RTOC Co-Chair signature, or as designated by the Tribal Caucus, will be reviewed by the RTOC tribal representatives electronically or in person before being sent out.

## **3. Education. The RTOC strives to ensure EPA Regional staff is educated about Tribes and Indian Programs.**

It helps raise awareness of the diversity among Tribes and promote a better understanding of jurisdiction and sovereignty. It also works to ensure that Tribes are informed about EPA activities and available resources, from EPA or other sources. The RTOC educates EPA about specific barriers and needs among Tribes in the Region.

- 1) The RTOC as a body will not participate in individual application review and awards of EPA grants or contracts.
- 2) The RTOC also supports increasing the number of EPA trips to Tribal lands to identify Tribal needs.
- 3) This encompasses opportunities in Tribal and federal agencies.

## Structure and Membership

The RTOC is a working committee of EPA and Tribal personnel co-chaired by an EPA representative and a Tribal representative. EPA designates its RTOC representatives through internal mechanisms. All Tribes within Region 9 are considered members of the RTOC. However, for organizational purposes, Tribal representatives to the RTOC shall be selected through government-to-government communication, by Tribal leaders in various geographical areas within Region 9. The Tribal RTOC representatives, in turn, will select representatives to the National Tribal Operations Committee (NTOC).

### I. EPA Representation

- A. Each EPA Region 9 Division shall provide representation on the RTOC.
- B. EPA representatives to the RTOC are identified by the Regional Tribal Program.
- C. The Regional Tribal Administrator or their designee, shall serve as the EPA Co-Chair of the RTOC. If the Regional Administrator is not able to attend a meeting, they exercise that designation of a designee.

### II. Tribal Representation

- A. Composition: All Tribes within Region 9 are considered members of the RTOC Tribal Caucus and their designees are welcome at all meetings. However, for organizational and voting purposes, there shall be 2 Tribal representatives, elected by specific geographic area. If a Tribe resides in more than one state or geographic area, that Tribe will give written notice to the RTOC as to which geographic area they represent on the RTOC, and this represented geographic area should be in accordance with EPA determination of location of the Tribe.
  1. Ten (10) from California: three from the northern area, three from the central area, three from the southern area, and one from the eastern area.
  2. Seven (7) from Arizona: two from the northern area, two from the central area, two from the southern area and one from Navajo Nation.
  3. Seven (7) from Nevada: these will be at-large representatives.
- B. Tribal Representative Selection Process: EPA will issue a letter to Tribal leaders requesting nominations from the Tribal leaders in each area. Tribal leaders may nominate anyone they feel is qualified and will be committed to the RTOC, whether a representative of their own Tribe or another. Nominations will include the name, Tribal affiliation and a short statement of qualifications of the nominee. EPA will put nominations on a formal ballot for vote by Tribal leaders within the particular area from which each representative will be chosen. This process is further detailed in section G below. In RTOC elections, the person, and not the Tribe the person represents, is chosen.

C. Alternates: Each elected RTOC representative must designate, in writing, an alternate to attend meetings if the representative is unable to attend. Alternates will be selected using the representatives' Tribal or agency protocol, and will be submitted to the RTOC Tribal Co-Chair within three months of the date of the letter confirming their election or appointment. If no alternate is selected within three months by the representative, the nominee with the next highest number of votes will be selected to serve in the alternate position. If there are no additional nominees to serve as an alternate, the Co-Chair and the Tribal Caucus will select an alternate. Elected RTOC representatives may share the same alternate.

D. Term, Attendance and Vacancy: Each RTOC representative will serve a two-year term starting on October 1<sup>st</sup> the year their term starts. If an RTOC representative misses three meetings within a two-year period (without sending an alternate), they will automatically step down. A position vacated for this reason or otherwise (i.e., resignation) will then be filled, at or before the next RTOC meeting, as follows: (1) by the person's designated alternate, or if there is no alternate or the alternate is unable or unwilling to serve, (2) by the person from the same geographic area who received the second highest number of votes in the last election, or (3) by a person elected by the tribes in the geographic area represented by the vacant position, with assistance from EPA or RTOC if requested. The new representative will serve out the remainder of the term and be subject to the same rules as any other elected representative, including attendance and naming an alternate. If the vacancy occurs within 90 days of the next regular election, the position may remain vacant until filled through the regular election process. Any special election will follow the same rules as outlined in Section II (B).

E. NTOC Representatives: each state tribal caucus and the Navajo nation will select from among themselves at the Spring RTOC, Region 9 NTOC representatives. There are four (4) EPA Region 9 NTOC representatives: one (1) for Arizona, one (1) for California, one (1) for Nevada, and one (1) for the Navajo Nation. The NTOC representative does not have to be an RTOC representative but needs to meet the NTOC qualifications. The NTOC Charter states that all regions will be allowed one alternate; the alternate for Region 9 will be the RTOC Tribal Co – Chair. If there is a tie in the voting for any state, a coin will be flipped to determine the selection.

F. Tribal Co-Chair: Tribal RTOC representatives shall select from among themselves, in accordance with section G below, the Tribal Co-Chair of the RTOC, whose term of office shall run concurrently with his or her term as a representative. Tribal RTOC representatives shall also select from among themselves, in accordance with Section G below, a Co-Chair alternate to conduct meetings if the Tribal Co-Chair is unable to perform duties.

G. Election Process; Timeline: (for use in election years)

1. Second Friday in November - EPA to send letter to Tribal leaders asking for nominations (attach nomination forms with RTOC representative duties and responsibilities).

2. Second Friday in December - Nominations must be postmarked by this date. All nominees to be asked if they are willing to serve a 2-year term.
3. Second Friday in January - EPA to send out cover letter and formal ballots.
4. Second Friday in February - Votes must be postmarked by this date.
5. Second Friday in March - Ballots to be counted and elected representatives to be notified and sent Congratulatory letters by Tribal Section (TS). TS to send announcement of newly elected RTOC representatives to all tribal leaders and environmental directors. Letters will include notification that the new Tribal Co-Chair and NTOC representatives will be selected at the April meeting, and request that nominations be directed to the sitting Tribal Co-Chair prior to or at that meeting. If there is a tie in a geographic region, a coin will be flipped to determine the selection for reason of expediency. The RTOC Co-Chair will coordinate the coin flip with the two nominated people.
6. If late RTOC representative nomination forms are received by EPA for a specific geographic area and there are open RTOC representative positions in that geographic area, nominations will be received by and considered in coordination with the RTOC Co-Chairs.
7. Spring RTOC Meeting: RTOC Tribal Co-Chair, and alternates to be selected by incoming tribal RTOC representatives during the Tribal Caucus. An incoming tribal RTOC representative will orally nominate one incoming RTOC representative to serve as the RTOC Co-Chair. There can be multiple nominations from different incoming RTOC representatives. Then there will be a vote by the incoming RTOC representatives. NTOC delegates to be selected by state tribal caucus from among themselves, and the Navajo Nation from among themselves. In the case of a tie for either RTOC Co-Chair or NTOC representative, votes shall be verified to ensure that they are accurate. If the vote was conducted by ballot, recount the ballots. If it was conducted orally, ask the voters to restate their votes. If tie(s) is not resolved, a coin flip will determine the selection. Selections will be made by each of the three state geographic regions to be verbally announced at the full RTOC meeting. If the Navajo Nation NTOC representative is also voted in as the RTOC Tribal Co-Chair, the Navajo tribal caucus shall choose another representative from the Tribe to be their NTOC representative.
8. By the deadline given by the TS, not earlier than April 1 - Co-Chair elect submits grant application to EPA.
9. Spring & Summer RTOC Meetings - Co-Chair elect attends meetings and learns duties from existing Co-Chair. Existing Co-Chair serves out term until September 30.
10. October 1 - Co-Chair begins 2-year term and EPA awards new grant.

### III. Subcommittees

As a working committee, the RTOC may appoint subcommittees or workgroups, composed of EPA personnel and Tribal designees, as needed, to develop issues or accomplish tasks. Each workgroup shall have a Tribal lead and an EPA lead.

The RTOC workgroups and National Tribal Partnership Groups will be standing agenda items discussed at each RTOC.

In order to meet the Mission, Goals, and Scope outlined in the EPA Region 9 RTOC Charter, the Tribal Caucus and EPA will try to fill the Tribal lead and EPA lead for each present EPA Region 9 subcommittee and workgroup. Some subcommittees and workgroups are temporary, and will be formed or dissolved based on determination by the full RTOC.

Open subcommittee and workgroup lead positions will be communicated to the RTOC before scheduled RTOC meetings, when possible. Nominations to fill the Tribal lead positions will be taken in by the Tribal RTOC Co-Chair, before and during the applicable RTOC meeting. The Tribal RTOC Co-Chair will share the nominations with the RTOC Tribal Caucus during the RTOC tribal caucus meeting and discuss the qualifications for each nominee. The Tribal RTOC Co-Chair will ask the nominees if they accept their respective nominations. The nominees may decline their nomination before or during the RTOC meeting. If only one nominee remains for a respective subcommittee or workgroup, the Tribal RTOC Co-Chair will appoint that nominee.

The National Tribal Partnership Groups currently are:

National Tribal Caucus

National Tribal Air Association

National Tribal Water Council

National Tribal Science Council

Tribal Pesticide Program Council

Tribal Waste and Response Steering Committee

National Tribal Toxics Committee

EPA Environmental Information Exchange Network

National Environmental Justice Advisory Council

It is likely that not all partnership group lead positions may be filled during this process, but RTOC workgroup lead positions should be filled as soon as possible.

### **Meetings**

At a minimum, the Committee will meet four times a year. Additional meetings will be scheduled if necessary, contingent upon available funds. Meetings will be conducted by the co-chairs, including facilitation and management of the agenda.

RTOC members should make every effort to attend meetings. If they are absent, they will abide by the decisions made in their absence. If they cannot attend, members have the responsibility of presenting their opinions through their alternates or other means (e.g. letter, email).

Recommendations and actions will be made by RTOC representatives and will reflect the spirit of consensus to the extent possible.

Full RTOC meetings will be open to EPA employees, and all Tribal members and staff. Tribal leaders are invited to attend. Persons other than EPA staff or Tribal members and staff may be invited to attend at the discretion of the Committee.

### **Administration**

EPA will staff the RTOC. EPA will arrange RTOC meetings; distribute information, agenda & minutes to members; provide support for particular projects or tasks. Tribal representatives on the RTOC will be compensated for their participation to the fullest extent possible.

### **Charter Amendment and Review**

As the RTOC's role and responsibilities evolve, it may amend this document as necessary. This charter will be reviewed at least annually by the tribal caucus and full RTOC; any proposed amendments shall be developed by the Tribal Caucus and Charter Workgroup, disseminated for review and input by all the Tribes in Region 9, and voted upon by the Tribal Caucus, then approved or not approved by the full RTOC at the next suitable meeting.