



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460


OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: OECA FIFRA STAG Grant Project Officers Guidance on Tribal Circuit Riders

FROM: Eric Miederhoff, Acting Chief
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Office of Compliance

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TO: Regional Pesticide Managers

The purpose of this memorandum is to provide guidance for FIFRA cooperative agreements for enforcement activities conducted by tribal circuit riders (circuit riders). A circuit rider is a tribe or tribal consortia that has agreed to serve one or more additional tribes (tribes served) under the cooperative agreement. This memorandum consolidates existing guidance and provides additional detail. To develop the recommendations contained in this memorandum, the Office of Compliance (OC) has consulted with and/or reviewed information from the following sources:

- Project Officers, Supervisors and tribal circuit riders from each region;
- [FIFRA Project Officers Manual](#) (July 2017);
- [2018-2021 FIFRA Cooperative Agreement Guidance](#)
- [Guidance for Funding Development and Administration of Tribal Pesticide Field Program and Enforcement Cooperative Agreements](#) (January 2011).

1. Priority Setting

The FIFRA Cooperative Agreement Guidance requires the submission of priority setting plans to conduct enforcement activities. Priority setting plans for cooperative agreements with circuit riders should be developed with consideration of:

- Degree of harm to human health and the environment,
- Information on the types of violations and where violations are occurring,
- Federal EPA priorities,
- Individual tribal needs assessments, if any,
- Pertinent information on the regulated community(ies), if any,
- Targeting information, if any,
- Economic loss (optional),

- Environmental or public health indicators such as relevant ecological studies (optional), and
- Maintaining a regulatory presence (optional).

At least annually, the circuit rider should engage all tribes served to discuss the considerations above. The circuit rider priority plan should include adequate consideration of the needs of all tribes served under the circuit rider program to the extent of available resources. Circuit riders should anticipate conducting some level of activity to respond to tips, complaints, and unforeseen emergencies in addition to conducting routine inspections. The criteria above should be used in prioritizing follow-up to tips and complaints.

2. Communication and Expectation Setting Among EPA, Circuit Riders, and Tribes Served

a. Communication Between Circuit Rider and Tribes Served

Circuit riders should communicate with tribes served on a regular basis and meet with tribal representatives in person (or by other means when meeting in person is not possible) at least once a year. The circuit rider should identify and maintain a list of contacts for each tribe served so they can be included in meetings and other communications, as appropriate. Important contacts may include: Tribal leadership; Tribal Environmental Director; and tribal environmental programs (e.g., pesticide, water, facilities, education, housing, etc). Note that circuit riders may also want to contact other federal and local agencies, including the Bureau of Indian Affairs and local county agriculture agents. See also, Section 3 on Feedback, Accountability and Tracking.

b. Communication Between EPA and Circuit Riders/Tribes Served

EPA Project Officers or Technical Contacts should meet periodically with circuit riders and the tribes served (either separately or together). These meetings can establish a channel of communication that can be used should issues and concerns arise. EPA, with the assistance of the circuit riders, should identify and maintain a list of contacts for each circuit rider and every tribe served. Important contacts may include: Tribal leadership, Tribal Environmental Director, and Tribal Pesticide Program Director as well as the person designated under Section 3 on Feedback, Accountability and Tracking.

c. Documents/Information to be Shared

At least annually, the circuit rider should provide the tribes served with the following documents and information:

- The priority plan submitted to the EPA Project Officer as part of the cooperative agreement,
- Written list of commitments to each of the tribes served,
- Written Communication Plan, which should include:
 - The method of communications (i.e., email, telephone, in-person),
 - The frequency of communications (e.g., annually, monthly, quarterly, etc.),
 - When and how the circuit rider can inform tribes served of upcoming inspections or other activities to be conducted,
 - When and how changes in plans can be communicated to tribes served,
 - When and how the circuit rider can inform tribes served of the outcome of inspections (excluding enforcement sensitive information and/or confidential information),

- When and how the circuit rider can inform the tribes served of enforcement actions, if any, resulting from inspections conducted (excluding enforcement sensitive and/or confidential information), and
- When and how the tribes served can inform the circuit rider of tips, complaints or emerging issues.

3. Feedback, Accountability and Tracking

a. Designated Point Person for Tribes Served

EPA recommends that each tribe served designate a point person (and an alternate, if possible) who will be responsible for tracking the circuit rider's commitments. The circuit rider will communicate regularly with the point person on completed and planned activities. This point person should communicate with their tribe and EPA on the status of circuit rider activities to ensure priorities are met or adjusted as appropriate and to highlight any issues that arise. The point person may also collect information from tribal contacts identified in Section 2.a. above through-out the year and share that information with the circuit rider. This information could be used to modify existing circuit rider commitments or contribute to planning of future activities.

4. Background

OC is providing this guidance, in part, as an Office of the Inspector General (OIG) corrective action in response to a recommendation in the Final Report, [Tribal Pesticide Enforcement Comes Close to Achieving EPA Goals, but "Circuit Rider" Inspector Guidance Needed](#). The OIG recommended that guidance be provided to Project Officers to:

- “Require circuit riders, under EPA cooperative enforcement agreements, to include the pesticide needs and risks of each federally-recognized tribe (tribe) on their circuit in the development of their priority-setting plans;
- Develop and implement tribal circuit rider guidance for tribal circuit rider pesticide inspectors that includes expectation-setting and communication with the tribes that are being served under a tribal pesticide enforcement cooperative agreement; and
- Develop and implement regional processes for EPA to receive feedback directly from tribes served by pesticide circuit riders.”

If you have any questions about this guidance or tribal circuit rider programs, please contact me or Helene Ambrosino on my staff at (202) 564-2627.