



Fact Sheet: Revised EPA Consultation Policy and Tribal Treaty or Similar Rights Guidance

What: The U.S. Environmental Protection Agency has revised the *EPA Policy on Consultation with Indian Tribes* (EPA Consultation Policy) and the companion *Guidance for Discussing Tribal Treaty or Similar Rights* (Tribal Treaty or Similar Rights Guidance). It is EPA's policy to consult on a government-to-government basis with federally recognized Tribal governments when EPA actions or decisions may affect Tribes. The EPA Consultation Policy was developed in 2011 to implement the *EPA Policy for the Administration of Environmental Programs on Indian Reservations* and Executive Order 13175 *Consultation and Coordination With Indian Tribal Governments*. The EPA Consultation Policy establishes standards for the consultation process. The Tribal Treaty or Similar Rights Guidance complements the policy by helping EPA staff navigate discussions with Tribes when an agency action or decision may affect such rights.

Why: The EPA Consultation Policy has been revised in response to the 2021 *Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships* requiring each agency to prepare and periodically update a detailed plan of action to implement the policies and directives of Executive Order 13175. The revisions incorporate standards developed by the White House and interagency workgroups to promote uniformity in the way the federal government conducts consultation with federally recognized Tribal governments.

New additions to the EPA Consultation Policy include:

- Definitions for "consultation" and "coordination"
- Guiding Principles addressing the consideration of Indigenous Knowledge and information regarding sacred sites
- Specificity on consultation timing, notification, coordination, participants, and follow-up
- A section titled "Consultation Process Review" providing a means to resolve Tribal concerns of the sufficiency, timing and agency compliance with consultation policy requirements
- Sections addressing "Related Public Engagement Laws, Regulations, and Policies" and "Agency Disclosure of Information"

New additions to the Tribal Treaty or Similar Rights Guidance include:

- Expanded scope beyond specific geographic areas to apply to national EPA actions or decisions
- Expanded rights considered beyond treaty rights to be "Tribal treaty or similar rights," meaning rights reserved or held by Tribes, either expressly or implicitly, through federal laws, such as treaties, statutes, and executive orders

For more information:

To learn more about the EPA Consultation Policy, visit <https://www.epa.gov/tribal/consultation-tribes>, or contact us at <https://www.epa.gov/tribal/forms/contact-us-about-environmental-protection-indian-country>.