

U.S. EPA REGION 9 REGIONAL TRIBAL OPERATIONS COMMITTEE CHARTER

(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; May 13, 2015; October 24, 2016; and August 28, 2024)

The Regional Tribal Operations Committee (RTOC) is a working committee of EPA and Tribal personnel and is the regional counterpart to the National Tribal Operations Committee (NTOC). The RTOC is 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. Tribal representatives to the RTOC are selected through government-to-government communication by Tribal leaders in various geographical areas within Region 9. The RTOC does not replace direct Tribal to EPA relationships, nor does it constitute a forum for formal consultation between the federal government and Tribes. The RTOC recognizes and respects the existing Tribal sovereignty, cultural, political, and social continuity of Tribes.

I. Mission

The RTOC's mission is to:

- Assist EPA in meeting its federal trust responsibility to the federally-recognized Tribes;
- Provide technical support for the Tribal Programs in the Region;
- Strengthen Tribal environmental and human health and environmental programs;
- Enhance EPA's awareness of and timely responsiveness to Tribal needs; and
- Facilitate the communication and information exchange between Tribes and EPA.

II. Goals

The RTOC's goals are to:

- Enhance government-to-government relationships between Tribes and the 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, originally adopted in 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 the EPA Indian Policy.

III. Scope

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

1. Policy and Management of EPA Tribal Programs

The RTOC intends to allow members the opportunity to comment on regional and national policies and priorities and allow members to provide input on regional and national issues on the deployment of regional resources for Tribal Program activities. Below are some of the actions RTOC will work on in this area.

- The RTOC plans to provide a forum for reviewing and providing input on matters that impact the environment of Indian lands, and Region 9 Tribal Program operations.
- The RTOC intends to facilitate individual review and recommendations to the Regional Administrator and to the National Tribal Caucus on the development, modification, and implementation of Agency budgets and policies affecting Tribes. This supports NTOC's

role in identifying the resource needs of Tribes and the Regional Administrator's role in advising EPA headquarters on the budget.

- The RTOC supports a process for assessing and championing the environmental problems and needs of Tribes, and filling information gaps.
- The RTOC encourages EPA visits to Tribal reservations to better understand Tribal needs.
- The RTOC Tribal Caucus aims to encourage opportunities for the training, education, recruitment, and hire of American Indians and Alaskan natives in careers of environmental and public health protection. The RTOC strives to communicate funding, training, and other opportunities to help build Tribal capacity.

2. Coordination/Communication among Tribes and EPA

The RTOC serves as a communication forum for Tribal activities, ensuring effective, two-way communication between the Tribes within the Region and EPA. The RTOC may coordinate with federal agencies and strengthen communication among Tribes to disseminate information in a timely fashion and share ideas and feedback. RTOC facilitates direct communication between Tribes and EPA.

The RTOC provides a mechanism for individuals to identify issues, elevate them to the appropriate party for assistance, and coordinate program activities. The RTOC facilitates communication between the Tribes, Region 9, the NTOC, and the American Indian Environmental Office (AIEO).

Any memoranda or letters developed for the RTOC Co-Chair signature, or as designated by the Tribal Caucus, may be reviewed by the RTOC Tribal representatives electronically or in person before they are signed.

3. Education

The RTOC strives to ensure EPA Regional staff is educated about Tribes and Tribal Programs. The RTOC helps raise awareness of the diversity among Tribes and promotes a better understanding of Tribal jurisdiction and sovereignty. The RTOC also works to ensure that Tribes are informed about EPA activities and available resources, from EPA or other sources. Furthermore, the RTOC educates and raises issues about barriers and needs among Tribes in the Region.

IV. Authority

EPA's participation in this Charter is authorized by Sections 104(a) and (b) of the Clean Water Act, 33 U.S.C. §§ 1254(a) and (b); Sections 103(a) and (g) of the Clean Air Act, 42 U.S.C. §§ 7403(a) and (g); Section 305(a) of the Toxic Substances Control Act, 14 U.S.C. § 2665(a); Section 104(k)(6) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9604(k)(6); Section 8001(a) of the Solid Waste Disposal Act, 42 U.S.C. § 6981(a); Section 203(a) of the Marine Protection, Research and Sanctuaries Act, 33 U.S.C. § 1443(a); Section 1442(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-1; Section 102(2)(G) of the National Environmental Policy Act, 42 U.S.C. § 4332(2)(G); and Sections 6604(b)(5) and (b)(13) of the Pollution Prevention Act, 42 U.S.C. §§ 13103(b)(5) and (13).

V. 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 Tribal Caucus. However, for organizational purposes, Tribal representatives to the RTOC are selected through formal ballot, by leaders from federally-recognized Tribes in various geographical areas within Region 9. The Tribal RTOC representatives, in turn, will select representatives to the National Tribal Committee (NTC).

I. EPA Representation

- A. The Regional Administrator, or designee, will serve as the EPA Co-Chair of the RTOC.
- B. Each EPA Region 9 Division Director shall ensure representation from their Division to the RTOC.
- C. EPA's RTOC cohort includes management and staff from each of the Divisions within EPA Region 9, as designated by each Division Director.

II. Tribal Representation

A. Composition

All Tribes within Region 9 are members of the RTOC Tribal Caucus, and their designees are welcome at all meetings. However, for organizational and voting purposes, there shall be Tribal representatives, elected by the federally-recognized Tribes in their specific geographic region. The elected or appointed state Tribal RTOC representatives are:

- 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;
- Seven (7) from Arizona: two from the northern area, two from the central area, two from the southern area, and one from Navajo Nation;
- Seven (7) from Nevada at-large representatives.

B. Tribal Caucus 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 description of the nominee. EPA will put nominations on a formal ballot for vote by Tribal leaders within the area from which each representative will be chosen. In RTOC elections, votes are cast for a specific individual representing Tribes in the geographic region, not the Tribe that individual may be serving or be employed by.

C. Alternates

Each elected Tribal Caucus Representative must designate, in writing, an alternate to attend meetings if the representative is unable to attend. Alternates will be selected using the protocol that the representatives' Tribe or agency chooses 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 Tribal Caucus Representatives from the same geographic area may share the same alternate.

D. Term, Attendance, and Vacancy

Each RTOC representative will serve a two-year term starting on October 1st the year their term starts. If an RTOC representative misses three meetings within a two-year period (without sending an alternate), they will automatically be removed from the position. A position vacated for this reason or otherwise (g., resignation) will then be filled, at or before the next RTOC meeting, as follows:

- By the persons designated alternate; or
- If there is no alternate or the alternate is unable or unwilling to serve, by the person from the same geographic area who received the second highest number of votes in the last election; or

- 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.

E. NTC Representatives

Region 9 NTC representatives are selected by each individual state Tribal caucus and by the Navajo Nation before the Spring RTOC meeting. There are four (4) EPA Region 9 NTC representatives: one (1) for Arizona, one (1) for California, one (1) for Nevada, and one (1) for the Navajo Nation. If there is a tie in the voting for any NTC delegate, a coin will be flipped to determine the selection. The NTC alternate for Region 9 will be the RTOC Tribal Co-Chair. To avoid representational issues, the Region 9 RTOC Co-Chair and NTC alternate shall not be a representative of the Navajo Nation, as they already have NTC representation.

F. Tribal Co-Chair

Tribal Caucus shall select from among themselves, 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, a Co-Chair alternate to conduct meetings if the Tribal Co-Chair is unable to perform duties.

G. Election Process (Timeline)

- Process will start on the first Friday in October – EPA will email Tribal leaders asking for nomination (attach forms with RTOC representative duties and responsibilities) or an agreed upon date by the Co-Chairs.
- Second Friday in November – Nominations must be emailed or postmarked) by this date or a date the Co-Chairs agree to

in its state or geographic area. All nominees to be asked if they are willing to serve 2-year term on nomination form.

- Second Friday in January – EPA to send out formal ballots or a date the Co-Chairs agree to in its vicinity.
- Second Friday in February – Votes must be emailed by this date or a date the Co-Chairs agree to in its vicinity.
- Second Friday in March – Ballots to be counted and elected representatives to be notified and sent notification emails by the EPA. EPA will send an announcement of newly elected RTOC representatives to all Tribal leaders and environmental directors. Emails 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.
- RTOC Co-Chairs will be elected on a rotating basis (Arizona to California to Nevada and repeat). The Tribes in the state whose turn it is may renominate the currently serving co-chair or nominate a new candidate to fill the role.
- NTOC representatives will be selected at the Spring RTOC meeting, and request that nominations be directed to the sitting Tribal Co-Chair prior to or at that meeting. All nominations will be voted on through written ballot compiled by each state. The ballots will be counted by the election team of one individual from each state, totaling three, selected by the RTOC Tribal Co-Chair. If there is a tie in a geographic region, the winner of a coin flip will determine the selection for reasons of expediency. The RTOC Co-Chair will coordinate the coin flip with the two nominated people at the Spring RTOC.
- If late RTOC representative nomination forms are received by EPA for a specific geographic area and there are vacant RTOC representative positions in that geographic area, nominations

will be considered by the RTOC Co-Chairs, though acceptance of late nomination forms is not guaranteed.

- At the Spring RTOC Meeting: A new RTOC Tribal Co-Chair, to be selected by incoming Tribal RTOC representatives during the Tribal Caucus. Any incoming Tribal RTOC representative will orally nominate an incoming RTOC representative to serve as the RTOC Co-Chair. There can be multiple nominations. A vote will be held among the incoming RTOC representatives to determine the Co-Chair. NTOC delegates will similarly be selected by state Tribal caucuses, and by the Navajo Nation. In the case of a tie for either RTOC Co-Chair or NTOC representative, votes shall be verified and recounted by the current Tribal Co-Chair. If the tie is not resolved, a coin flip will determine the selection. Selections will be made by each of the Arizona, California, and Nevada Tribal caucuses 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. The alternate will be decided upon in writing to EPA Region 9 by the RTOC Tribal Co-Chair.
- Spring and Summer RTOC meetings – Co-Chair elect attends meetings and learns duties from existing Co-Chair. Existing Co-Chair serves out term until September 30th.
- October 1st, Co-Chair begins their two-year term and EPA awards new grant.

III. Subcommittees

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

- The activities of RTOC subcommittees and workgroups and of National Tribal Partnership Groups may be standing agenda items at each RTOC.
- To meet the mission and goals outlined in the EPA Region 9 RTOC Charter, the RTOC will endeavor to fill the Tribal lead and EPA lead for each active RTOC subcommittee and workgroup. Some subcommittees and workgroups are temporary and will be formed or dissolved by agreement of the full RTOC. Periodic review of subcommittees shall be conducted by the RTOC and/or RTOC Co-Chair.
- Vacant subcommittee and workgroup leadership positions should be communicated to the RTOC before scheduled RTOC meetings, when possible. Nominations to fill the Tribal lead positions will be solicited 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 next RTOC Tribal Caucus meeting and discuss the qualifications for each nominee for each subcommittee and workgroup. 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. If subcommittee lead positions have been vacant for more than two quarters, RTOC or RTOC Co-Chair shall review dissolving the subcommittee. Subcommittee leads shall provide oral or written report outs during the quarterly Tribal Caucus meetings.

VI. Meetings

- The RTOC will meet four times a year. Additional meetings may be scheduled, if necessary, contingent upon the availability of 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 cannot attend, designated alternates will attend in their absence.

- Full caucus portion of the RTOC meetings will be open to the public. EPA employees, Tribal members and other agencies may attend.

VII. Administration

Designated EPA staff will participate in and help plan all RTOC meetings. The EPA RTOC Co-Chairs and support staff will arrange RTOC meetings, distribute information and agendas to members, provide support for particular projects or tasks. Where legally permitted, Tribal representatives on the RTOC may use available General Assistance Program (GAP) funds to support participation.

VIII. Charter Amendment and Review

As the RTOC's role and responsibilities evolve, it may review and amend this document as necessary. This charter will be reviewed once every five years by the RTOC or by a Charter Workgroup formed by the EPA and Tribal Co-Chairs for this purpose; any proposed amendments may be proposed by the RTOC, the Tribal Caucus, or by a Charter Workgroup, disseminated for review and input by all the Tribes in Region 9, and voted upon by the Tribal Caucus, reviewed by the EPA, and subsequently approved or not approved by the RTOC at the next scheduled RTOC meeting.

IX. Special Understandings

As required by the Antideficiency Act, 31 U.S.C. 1341 and 1342, all commitments made by EPA in this Charter are subject to the availability of appropriated funds. Nothing in this Charter, in and of itself, obligates EPA to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations that would be inconsistent with Agency budget priorities. The parties agree not to submit a claim for compensation for services rendered to EPA in connection with any activities it carries out in furtherance of this Charter. Any transaction involving reimbursement or contribution of funds between the parties to this Charter

will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

Nothing in this Charter exempts the parties from complying with any applicable federal, state, or local law or regulations.

This Charter is not intended to result in any legal obligations on the part of either EPA or any of the parties. This Charter does not create any right or benefit, enforceable by law or equity, against the parties, their officers or employees, or any other person. This Charter does not direct or apply to any person or entity outside of the parties to this Charter.

X. Signatures

Digitally Signed: Roman Orona *September 9, 2024*

Roman Orona, RTOC Tribal Co-Chair

Date

Digitally Signed: Martha Aceves *September 6, 2024*

Martha Guzman, RTOC EPA Co-Chair

Date