

1/28/2021

Identifier	Action Items	Status	Category/Topic	Response
1	Request EPA collaborate with Tribes to develop a process whereby ETEP development can be streamlined and made more useful, and provide access to the R10 database of ETEP components - R10 gave a presentation on a database tool they are using to assist the process; Would like access to this database of ETEP components	In progress	GAP (ETEP)	Willard Chin led a call with Rob Roy, Lisa Gover, and Shausta Gaughen to discuss ETEP development best practices and opportunities for improvement, including what additional, guidance, templates and tools may be useful. Tribal Caucus will discuss on February 2 and follow up with proposed next steps.
2	Is there an update from EPA on the COVID pandemic, alterations to normal regulations or procedures such as relaxing release reporting, and what is EPA's position related to ongoing assistance to tribes during the pandemic? Will EPA provide any funding for the ongoing and increased need for assistance with O&M? - A lot of what has been shared is from other organizations? - How can tribes get more attention to things like drinking water O&M? Pandemic shows that this is a strong need.	Ongoing	COVID and Drinking Water	Emmanuelle's response regarding drinking water O&M: Ensuring the provision of safe drinking water and sanitation to tribal communities is a top priority for EPA. We understand that the pandemic and the wildfires have only compounded the need for operations and maintenance support for tribal water utilities. Unfortunately, Congress has not granted EPA either the authority or the appropriations to fund operations and maintenance activities for water utilities. Region 9 has utilized the flexibilities allowed by congress to fund O+M training and technical assistance to support tribal water operators. Some examples of this include the funding we provide to our contractor, RCAC, to provide one-on-one technical assistance and extensive training programs for tribal utilities in the region. Region 9 has also funded drinking water operator training courses and certification services through the Inter-tribal council of Arizona. Lastly, EPA partners closely with other federal agencies such as the Indian Health Service and BIA who have broader authorities to support operations and maintenance at Tribal water systems. If your water utility has a specific training, technical assistance or O+M need, I encourage you to contact me or your tribal drinking water program manager. The tribal DW team, working with our contractors and federal partners, will help to identify the resources that can best assist each utility. EPA has not "relaxed" drinking water requirements as a result of COVID-19. If a drinking water utility has experienced changes to their population, service connections, infrastructure, or had other operational changes, please contact your EPA Drinking Water program manager. The program manager will determine the appropriate monitoring requirements and frequency of sample collection for the water system. EPA's national webpage for coronavirus resources for tribal drinking water utilities is here: https://www.epa.gov/coronavirus/tribal-water-utility-resources-covid-19-pandemic And for all utilities here: https://www.epa.gov/coronavirus/coronavirus-and-drinking-water-and-wastewater
3	Request update on the EPA role in and response to OK Governor request (midnight rider) - So far, the tribes have been able to maintain their programs since they are mostly non enforcement programs - Tribes wanted to consult with EPA but the OK Governor wanted to be part of that - How will McGirt decision affect or be affected by this?; McGirt is criminal so will likely have no effect.	Complete	Legal	Email shared with Caucus with responses on 11/2/20; See "Fall 2020 RTOC Action Items Attachment 1"
	Questions: 1. This is still alarming in the sense that if this could be tacked on as a rider, what stops Congress from doing the same thing throughout Indian County? (Shasta Gaughen, Pala) 2. Is it possible to get a copy of Governor request to EPA (Lisa Gover, CA) Note: Copy of the OK Governor's Letter is in the TCOTS listing (Wilfred) - link was shared			
4	NTAA to collaborate with the RTOC California Workgroup with regard to the Daimler-Chrysler Consent Decree, Supplemental Environmental Projects (SEP). CARB contacted NTAA to coordinate efforts and develop opportunities for Tribes.	In progress	Air	Wilfred will provide a status update at our next RTOC.

	<p>FOIA Questions</p> <p>1. As a requirement Tribes are to be notified of FOIA request when specific information is pertinent to that individual Tribe along with information to be provided. Specific materials are exempt from FOIA that should be provided opportunity to confirm whether this information is to be shared. (John Parada)</p> <p>2. It would be helpful to see what EPA tribal summaries are so an idea of the type of information to be released. (Teri Red Owl)</p> <p>3. What type of information is included in the Tribal reports? (Shasta Gaughen, Teresa Romero, John Parada)</p> <p>4. Will USEPA respect the exemption allowable for FOIA requests? This requires notification to each specific Tribe. (John Parada)</p> <p>5. Will USEPA make the determination on exemptions applicable to documents? Sensitive information determined by a specific Tribe? (John Parada)</p> <p>6. Who updates the fact sheets? Are they done on a regular basis or as needed (e.g. change in leadership, reservation size, etc.)? (Kelcey Stricker)</p> <p>7. Is there any reasoning why he (requestor) wants the information? (Meyo Marrufo)</p>			
5		Ongoing	FOIA	Email shared with Caucus with responses on 11/2/20; See "Fall 2020 RTOC Action Items Attachment 2"
6	<p>Annual Reports: Can Jeremy talk about annual reports in addition to quarterly reports? Some Project Officer's or Programs want them, other do not. Should the Fourth Quarter GAP report also give a summary of the year? (Rob Roy)</p> <p>Laura - if your reports are cumulative; you satisfy two requirements in one. If not, requirements may vary by program. That may be something we can present on at the next RTOC?</p>	Complete	GAP	Webinar on Nov 12th addressed this point; information shared in an email with Caucus on 11/2/20; See "Fall 2020 RTOC Action Items Attachment 1" ; can answer further questions on this during Winter 2021 RTOC
7	Summer RTOC Action Item # 10 Mervin to provide the "One Drive" information to Tribal Caucus	In progress	RTOC	
8	Spring 2020 RTOC Action Item #14 What are your recommendations when local law enforcement cuts down marijuana plants but wont remove due to illegal pesticides?" Juliann will share the guidance document on EPA's approach to marijuana sites with RTOC when final (before the end of the calendar year).	In progress	Emergency Response	EPA's guidance document on EPA's approach to marijuana sites is in legal review; Juliann will share document with RTOC when final. EPA R9 is in the process of creating a fact sheet that will be used to inform response personnel about common hazards that may be present along with fate and transport characteristics, and state and federal resources that may be available for cleanup activities from marijuana farming. Please contact Pete Guria at EPA R9 with any specific scenerios in the meantime (Guria.Peter@epa.gov, 415-972-3043).

Fall 2020 RTOC Action Items Attachment 1

Please see below the questions on the McGirt case from the Region 9 Fall RTOC and EPA's responses.

What is EPA's role in and response to Oklahoma's Governor request (midnight rider) (Rob Roy, Southern CA)

The State of Oklahoma requested approval to administer all of its EPA-approved environmental programs in areas of the State that are in Indian Country (except for areas outlined as "Exceptions to Request" – i.e., trust lands, allotments and treaty fee lands) pursuant to the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 ("SAFETEA"), Public Law 109-59, 119 Stat. 1144 (Aug. 10, 2005). EPA generally excludes Indian country from its approvals of state environmental regulatory programs. However, where a federal statute expressly provides for state program administration in Indian country, EPA must apply that law and approve a proper request for such state administration. Section 10211(a) of SAFETEA is such a law. The statute mandates that EPA approve a request from the State of Oklahoma to administer regulatory programs in areas of the State that are in Indian country where the statute's elements are met. EPA approved the State's request on October 1, 2020.

This is still alarming in the sense that if this could be tacked on as a rider, what stops Congress from doing the same thing throughout Indian Country? (Shasta Gaughen, Pala)

Congress could potentially pass other laws affecting environmental programs administered under EPA's statutes as they apply in Indian country. EPA would review and apply any such laws consistent with their terms. EPA staff is not aware of any such pending legislation, however. Tribes may also choose to consult with their legal counsel, who could have additional information about potential legislation.

Is it possible to get a copy of Governor request to EPA (Lisa Gover, CA)

Attached is the letter and response.

Fall 2020 RTOC Action Items Attachment 2

Fall 2020 RTOC- Q&A re: FOIA request for Tribal summaries

Below are the comments/questions from the Fall 2020 RTOC that came in on the FOIA request for Tribal summaries and EPA's responses so far.

1. As a requirement Tribes are to be notified of FOIA request when specific information is pertinent to that individual Tribe along with information to be provided. Specific materials are exempt from FOIA that should be provided opportunity to confirm whether this information is to be shared. (John Parada)

Under development. More information to be provided in advance of Winter RTOC.

2. It would be helpful to see what EPA tribal summaries are so an idea of the type of information to be released. (Teri Red Owl)

These summaries can be found at FOIAOnline, here:

<https://www.foiaonline.gov/foiaonline/action/public/home>, under FOIA request EPA-R9-2020-006258.

3. What type of information is included in the Tribal reports? (Shasta Gaughen, Teresa Romero, John Parada)

Tribal leadership, environmental director, publicly available summary statistics, relative location indicated by dot on state map, and information from each EPA media program that works with the tribe, focused on EPA grant funding levels and projects funded.

4. Will USEPA respect the exemption allowable for FOIA requests? Will USEPA make the determination on exemptions applicable to documents? Sensitive information determined by a specific Tribe? (John Parada)

EPA reviewed the factsheets and information that is not releasable, such as confidential or deliberative information, was redacted. EPA alone makes the final determination on whether information is withheld.

5. Who updates the fact sheets? Are they done on a regular basis or as needed (e.g. change in leadership, reservation size, etc.)? (Kelcey Stricker)

Factsheets are updated by EPA project officers as needed (e.g. if an EPA senior leader will be visiting a tribe) with the assistance of colleagues in each EPA Region 9 media office that works with the tribe.

6. Is there any reasoning why he (requestor) wants the information? (Meyo Marrufo)

We do not know the reason for the request.

Fall 2020 RTOC Action Items Attachment 3

Annual Reports (comments in Fall 2020 RTOC Chatbox):

Can Jeremy talk about annual reports in addition to quarterly reports? Some Project Officer's or Programs want them, other do not. Should the Fourth Quarter GAP report also give a summary of the year? (Rob Roy)

Laura - if your reports are cumulative; you satisfy two requirements in one. If not, requirements may vary by program. That may be something we can present on at the next RTOC?

For GAP reporting, this topic will be covered during the following webinar on **Thursday November 12th, 2020 from 2-4 pm Pacific Time:**

Webinar: GAP notification for FY22 work, quarterly reporting, reporting reviews, workplan development, and End-of-Year reports

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