

New Issues  
 REGIONAL TRIBAL OPERATIONS COMMITTEE  
 May 1, 2012  
 San Francisco, CA.

August 22, 2012 Update

	REQUESTED BY	TASK	WHO	WHEN	STATUS
General					
1	Southern California	What is the status on funding certified Tribal labs for Benthic Macro-Invertebrate (BMI) sampling?	Christopher Chen		On June 8, the Benthic Macro-Invertebrate laboratory conference call was conducted with interested tribes to discuss methods for EPA to further support BMI sampling (see attachment on conference call notes). Two requests for sessions at the Annual Conference related to bioassessments were submitted. We also created a BMI workgroup for those interested in discussing the topic further.
2		Requesting that EPA calls not be identified as consultation. Many Tribal staff cannot participate when a call is listed as consultation. Also conference calls are not an appropriate form of consultation which should be done on a government to government basis not with staff.	Nate Lau		Please see attached.
3	Arizona Tribes	The tribes would like funding to develop credentialed inspectors. Current funding is going to contractors to support this effort, but funding directly to tribes and/or the Inter-Tribal Council of Arizona should be considered.	Steven Linder		Please see attached.

4	Southern California Tribes	Tribes have been receiving emails from Dona Harris and would like clarification on what program she is representing.	Nate Lau		We are working with EPA's American Indian Environmental Office to improve the emails to tribes announcing new opportunities or issues for tribal consultation. Specifically, the subject line in the emails will more clearly identify that it is an opportunity to consult on a specific issue.
5		Resend out 106 assessment to tribes	Cornelius Antone	5/4/12	Resent the 106 assessment on 5/17/12
6	Tribal Caucus Sarah Ryan	Would like an update on recent study regarding radioactive isotopes in kelp beds off California Coast (from Fukushima Plant release).	Laura Ebbert	By 6/3/12	On June 4, EPA provided a USDA contact for further assistance. Additional background information radioactivity and kelp was also sent.
7		Representatives interested in joining the Consultation workgroup should contact Nate Lau or Marta Berg.	Everyone	Now	Ongoing
8		If an incident involving a restricted use pesticide occurs in Indian country, can EPA respond? If there is misuse, can EPA take action? Details about enforcement under the draft national Federal Certification and Training plan need to be clarified.	Pam Cooper	Revisit at next RTOC	Please see attached.
9	Sarah Ryan	Follow up on questions regarding review of State Certified Federal Credentials (e.g. How often are credentials renewed?).	Dave Tomsovic	5/30/12	Please see attached.
10	Sarah Ryan	Why is a Quality Assurance Project Plan required for a lead sampling project?	Dave Tomsovic	5/30/12	Please see attached.
11		Send out notes	Jaclyn Listo	5/18/12	Notes were sent on May 7
12		Check and see if people can use FY12 GAP funds for FY13 conference.	Veronica Swann	5/25/12	Grantees within a four year grant period can register using FY12 funds. Tribes with expiring grants can wait until FY13 to register without incurring a late registration penalty.

**Action Item 2 Response:** Since the last RTOC, we have clarified the concerns about webinars with two tribal environmental directors, shared the concerns and specific recommendations with EPA Tribal Consultation Advisors in HQ programs, and are taking steps to establish the recommendations as a best practice. In short, the main recommendations were to recognize webinars as a tool for information sharing and not the primary means of consultation with tribes. Webinars can supplement consultation by being conducted in two segments with segment one being clearly identified for information sharing, and the second segment clearly used to receive any formal comments. Written comments or requests for specific one-to-one consultation will also be emphasized.

**Action Item 3 Response:** There are currently credentialed inspectors at the Navajo Nation and an inspection coalition that serves Nevada Tribes, implemented by the Washoe Tribe. Region 9 encourages the formation of further inspection coalitions, preferably involving 20 facilities or more. R9 will negotiate with the Office of Underground Storage Tanks to obtain funding to support credentialed inspectors working under coalition agreements. For further information contact Steven Linder at 415-972-3369.

**Action Item 8 Response:** The Region 9 Pesticides Office clarified with OGC and OECA that EPA can investigate and take enforcement action against applicators for Federal misuse of a general use or restricted use pesticide now and after the national federal C & T Plan is adopted. We will work with OGC and OECA as needed to address additional questions regarding pesticide enforcement.

**Action Item 9 Response:** EPA response to RTOC question raised by Ms. Ryan at Big Valley Rancheria is premised on assumption that lead-based paint inspector/assessor would be based in California and certified by EPA Region IX to conduct lead-based paint hazard evaluations at pre-1978 housing/ child occupied facilities in Region IX Indian Country. Information below describes pertinent State of CA regulatory requirement that would have been accomplished prior to person's application to US EPA for federal certification as lead-based hazard risk assessor in Region IX Indian Country. Person applying for EPA certification to conduct lead hazard evaluations in Region IX Indian Country must have completed (under CA requirements) required training, experience and education before receiving CA-issued Lead Certificate. Person applying for federal certification to conduct lead-based paint hazard evaluations would have received Inspector/Assessor (I/A) Certificate from State of CA's Dept of Public Health. I/A certificate is for persons planning to inspect buildings for lead and assess type of lead hazards in buildings. Areas of inspection may include: (a) taking paint-chip, dust or soil samples or using an XRF machine to test painted surfaces; (b) conducting visual inspections to examine the condition of painted surfaces and the location of lead hazards in the building; (c) interpreting laboratory and XRF test results; (d) preparing reports on the amount of lead hazards in a building and the risks of lead poisoning to the building occupants; (e) recommending cost effective ways to safely handle the lead hazards; and (f) insuring no lead hazards remain after lead abatement work or other construction work where lead is present. Under CA's Title 17 regulations, certified Inspector/Assessor may perform lead hazard evaluations, including lead paint inspections, lead risk assessments, and clearance inspections; they may not prepare lead abatement plans.

**Action Item 10 Response:** EPA policy, nationally and regionally is that no physical sampling can be done prior to the approval of the quality assurance (QA) documentation by EPA. The grant award contains, as a grant condition, the requirement that a QA document be prepared, and approved by the EPA Region IX QA Office, before any sampling can be conducted by or on behalf of the grantee. EPA Region IX has no authority to waive the Agency's requirement for QA documentation prior to the collection of samples under an EPA grant. As indicated by Dave Taylor of Region IX's QA Office at the May 2012 RTOC session, the QA plan contains important provisions to ensure that grant funded projects are carried out properly (thus ensuring that federal grant funds are managed properly). The lead sampling plan will outlined specific technical procedures to identify sampling areas, proper methods and the use a certified laboratory to conduct analysis of samples.

## UPDATES FROM FEBRUARY ITEMS

#1.	The Regional Tribal representative to the GAP Online Steering Committee, Mike DeSpain, will provide GAP Online training to tribes in Nevada, Southern California, Arizona and Northern California.	Mike DeSpain, Mechoopda Tribe	Dates for GO training, May 22, 2012 at the Mechoopda Indian Tribal office. The next one is going to be held at one of the Washoe Tribes facilities in Carson City, NV. June 18, 2012 will be at Cabazon and the 19 <sup>th</sup> of June will be at ITCA in PHX. All training times will be a 5 to 6 hour block depending on issues from the other Tribes.
#2	Update from EPA on the FY12 budget that Congress just passed and the reported cuts to EPA. Tribes asked how this will effect tribal programs and which ones and how much.	Willard Chin, EPA	Information was given to tribal caucus on the regional summary for each of the major tribal programs.
#8	When will the NTOC invite work groups to present? What will the protocol be for sending out invitations?	NTOC reps/Clay	Corn will talk to Clay regarding this.
#13	Concern that EPA considers the webinars consultation, so it limits tribal environmental staff to participate, ie, HQ pesticide consultation, issues is staff on webinars cannot be recorded as "consultation"		See Action Item #2 from the May meeting, page 1 of this document.