

Tribal Pesticide Program Council Policies and Procedures

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TPPC Rules and Procedures

OVERVIEW

The Tribal Pesticide Program Council (TPPC) is a tribal technical resource and program and policy development dialogue group, focused on pesticides issues and concerns. The TPPC assists tribes in building tribal pesticide programs, providing pesticide education and training, and researching, developing and presenting a broad range of tribal pesticide-related issues and concerns. It is the intent of the TPPC to focus on pesticides and be as inclusive as possible for all tribes and tribal organizations that have pesticide issues and concerns. The TPPC facilitates communications between tribes, tribal and intertribal organizations, tribal communities, and the U.S. Environmental Protection Agency (EPA) as well as other federal and state agencies on pesticides and pesticide-related issues. The TPPC is fully aware that not all tribes have established pesticide monitoring, enforcement or regulatory programs, and that some may not have the information or capacity necessary to determine if their tribes should develop pesticide programs, or if they should, how to implement those steps. The TPPC recognizes pesticide use and impacts vary considerably from region to region and tribe to tribe. The structure of the TPPC seeks to ensure that tribes with less experience can have relationships with and benefit from those with more experience, and to develop mentoring relationships.

It must be clear at the outset that the TPPC does not substitute for government-to-government consultation. It should also be understood that the TPPC will not serve as the sole or primary mechanism for communications between tribes and the EPA on pesticide matters. EPA Regional Offices perform the role of primary Agency contacts with the tribes in their areas, and the maintenance of such direct contact is strongly supported by the TPPC and EPA Headquarters. EPA Regional contacts are welcome and encouraged to participate in TPPC meetings when possible. The TPPC also provides an opportunity for tribes to speak directly with EPA Headquarters staff.

PURPOSE OF THE TPPC

The purpose of the TPPC is to:

1. Strengthen and be a resource for existing tribal pesticide programs;
2. Assist tribes without pesticide programs to assess whether they need to establish, develop, and implement programs, determine what type of

- programs that they need, and how to proceed;
3. Protect tribal communities from adverse effects of pesticides;
 4. Promote pollution prevention and reduce risks associated with pesticides;
 5. Help all the peoples of tribes to develop a better understanding of pesticides in relation to the protection of air, water, and soil, while promoting sustainable agriculture;
 6. Build effective and equitable partnerships as needed to advance tribal programs and target solutions to specific situations;
 7. Facilitate information exchange between the EPA and tribal lead agencies for pesticides as well as other tribal representatives identified as contact persons on pesticide issues. Tribal contacts may be other natural resources regulatory personnel of tribes or persons involved with a tribal farm, agriculture program or department, lands committee, or environmental education department that may be interested in or affected by pesticides;
 8. Engage the National Tribal Operations Committee (NTOC), the Regional Tribal Operations Committees (RTOC), the EPA American Indian Environmental Office (AIEO), and other tribal groups in their efforts on behalf of tribes to address tribal pesticide issues, programs and concerns;
 9. Work cooperatively with the EPA to ensure that, as appropriate, federal pesticide laws and regulations are applied at the tribal level and that tribal pesticide programs receive training and support to be effective; and
 10. Identify, analyze, and provide tribal comments to the EPA Office of Pesticide Program, EPA Office of Enforcement and Compliance Assurance, tribal pesticide programs, and other tribal, state and federal programs on matters relating to pesticide registration, enforcement, training, certification, water quality, disposal, and other areas of environmental and/or public health concern related to pesticide manufacture, sale, distribution, use, and disposal.

IMPORTANCE OF THE TPPC TO TRIBAL COMMUNITIES

As a part of their work, tribal pesticide regulatory officials evaluate the impact that federal pesticide regulations have on existing tribal pesticide regulatory programs. Many tribal communities need assistance in determining whether they need a tribal

pesticide program (single tribe or circuit rider) and how to develop one, or if they don't need a full-fledged program, how to get their pesticide issues addressed. The TPPC provides a place to share the results of this evaluation and a way to communicate with and educate both tribal and federal pesticide regulatory officials on behalf of tribal communities.

Tribal communities, through their tribal regulatory officials, are invited to use the TPPC as a forum to address pesticides concerns that may arise at the local level. Grassroots citizens of tribes have stated that they need an avenue to raise concerns about health and environmental effects of pesticides which they feel are not being adequately answered. For example, some tribes have issues regarding the damaging impacts of pesticides on their lands from aerial sprayers coming from outside their borders.

An early TPPC assessment among tribes regarding pesticides elicited the following concerns: (1) endocrine disruptors, (2) bio-engineering, (3) the Bureau of Indian Affairs and its introduction of and use of pesticides on tribal lands, (4) the development of Quality Assurance Project Plans, (5) the impacts of pesticides on important native plants, (6) the need for more information about the use of pesticides to eradicate, control or otherwise mitigate noxious, invasive species, and (7) the exportation of pesticides to Third World countries that are banned or unlawful in the U.S., and their potential impacts on indigenous peoples in other parts of the world and/or their return to us in the form of residues on imported foods.

Agriculture is extremely important to some tribes. Contrary to many stereotypes, tribal farmers from the prehistory period to European contact were responsible for a number of agricultural accomplishments. There is an indigenous tradition of family gardens and large-scale and irrigated farming among some tribes. Tribal farms today are a key part of the economic support for some reservation communities. Income from farming on leased land within tribes' borders is critical in achieving the equivalent of a living wage. The need to carefully balance and consider environmental protection, public health, and community economic development is recognized.

The TPPC also includes members who oppose pesticide use, reflecting the diversity of tribal communities and a respect for cultural differences.

TPPC PARTICIPATION

Membership

The TPPC Council consists of tribal representatives representing tribes or tribal organizations that have pesticide interests or concerns.

Representatives must be authorized by their tribe or tribal organization. This necessitates them to send, to the TPPC Coordinator (Coordinator), a formal letter of appointment from a Tribal Chairman, Tribal Governor, a resolution from a Tribal Council (or similar governing body), or by a designated authority of the Tribal Council (or similar governing body). Formal letters must be on the letterhead of the Tribe or Tribal Organization. The Coordinator shall maintain these letters and resolutions, and shall inform the TPPC when any such authorizations are received. Any disputes over authorization or credentials shall be resolved by the TPPC Executive Committee (Executive Committee).

All TPPC members are responsible for keeping the Coordinator aware of their current contact information. A copy of this information shall be made available to TPPC members at each in-person meeting.

Chairperson and Vice Chairperson

The TPPC is overseen by a Chairperson and Vice Chairperson. The Vice Chairperson will fill the role of the Chairperson in his or her absence.

Executive Committee

The Executive Committee consists of tribal pesticide regulatory officials or representatives elected by TPPC members. The original goal is to have tribal representatives on the TPPC from each EPA region where federally recognized tribes exist. The following is the composition of the Executive Committee until such time the TPPC votes to change the composition:

- Region 1 - 1 representative
- Region 2 - 1 representative
- Region 3 - 1 representative

Region 4-	1 representative
Region 5 -	1 representative
Region 6 -	1 representative
Region 7 -	1 representative
Region 8 -	1 representative
Region 9 -	1 representative
Region 10 -	1 representative
Alaska -	1 representative
At Large -	4 representatives

Each primary representative shall have an alternate, whenever possible, who shall act on the former representative's behalf in his or her absence. If a person is elected to a Regional and At-Large position, they may only fill one, not both positions.

Executive Committee members shall be responsible for ensuring that their region's tribes are represented at TPPC meetings in order to determine and raise issues of importance to these tribes, and relay information back to them. Further, Executive Committee members are encouraged to communicate with their RTOCs and EPA Regional Offices **prior** to TPPC meetings in order to identify pesticide program needs and issues.

Elections

The TPPC Chairperson, Vice Chairperson, and other Executive Committee members are elected for two (2) year terms. The Chairperson, Vice Chairperson and At-Large representatives are selected by the full TPPC. Regional representatives are selected by the TPPC members within their region. Elections take place bi-annually during the in-person Fall TPPC meeting although Council members may cast their votes for candidates in advance of this meeting via an e-mail sent to the Coordinator. In the event a Fall TPPC Meeting is not held, elections will take place at the next scheduled in-person meeting.

In the event that the Chairperson or Vice Chairperson position becomes vacant, the Coordinator shall establish an election process (that may occur via e-mail) to fill the position in a timely manner. The process shall include a call for nominations for the position, a ballot issued to the TPPC Tribe/Organization on which they shall cast their

vote for a specific candidate, and any other steps that the full Council shall deem appropriate.

In the event that an At-Large position becomes vacant, there will be an election among the alternates for this position to fill the vacated primary At-Large position in a timely manner. The process shall include a call for nominations for the position, a ballot issued to TPPC members on which they shall cast their vote for a specific candidate, and any other steps that the full Council shall deem appropriate. There will then be a subsequent election process to fill the vacated alternate position.

In the event that a Region position becomes vacant, the Coordinator shall establish an election process (that may occur via e-mail) to fill the vacant position in a timely manner. The process shall include a call for nominations for the position, a ballot issued to the Region's TPPC members on which they shall cast their vote for a specific candidate, and any other steps that the Region's TPPC members shall deem appropriate. In the case of a primary member position that becomes vacant, the alternate for that position will automatically assume the primary position. There will then be a subsequent election process to fill the vacated alternate position.

In the event that there are no individuals from a Region to fill that Region's primary and/or alternate position, such position or positions will remain vacant until such time a person or persons become available to fill the position or positions.

During elections of TPPC Representatives, in the event there is more than one designated representative from a Member Tribe/Organization listed in their appointment letter, that Member Tribe/Organization may only cast one vote to stay fair and equitable to the group.

In order for a vote to be eligible, the Member Tribe/Organization must have a letter on file with their representative(s) listed, otherwise their vote is ineligible.

DECISION-MAKING

The TPPC seeks to engage in consensus building rather than voting, and encourages full discussion among the membership in making decisions this way. Written record of consensus decisions will also be maintained.

If consensus cannot be reached, voting by TPPC members may occur. Members voting during an in-person TPPC meeting, teleconference or via e-mail shall be considered a quorum, and the decision of that majority shall rule.

MEETINGS

TPPC meetings are open to the public, but only Council Members shall have the right to vote.

Timing

The Executive Committee and full Council shall meet in person twice each year at approximately six-month intervals. The EPA TPPC Project Officer shall make sure that a notice about the full Council meeting is published in the EPA Pesticide Programs Updates (<https://www.epa.gov/pesticides>). The notice may be published in other public notice venues identified by the TPPC Members. The Executive Committee may also meet in person at additional times throughout the year.

The Executive Committee shall also meet via teleconference on the third Wednesday of every month. The call-in number for these teleconferences shall be arranged by the EPA TPPC Project Officer.

An Executive Committee member who fails to notify the Coordinator within 24 hours of his or her absence from an in-person or a teleconference shall be considered absent without good cause. If the member is absent without good cause from three consecutive in-person meetings or teleconferences, or a combination of both, he or she shall be removed from the Executive Committee.

Location

An in-person TPPC meeting shall be held at a location agreeable to the members and based on the monies budgeted for the meeting. One of the semiannual TPPC meetings shall be held at EPA Headquarters in the Washington, DC area in order to afford members with the greatest opportunity to meet directly with and enhance the participation of Agency staff. The other semiannual meeting, when possible, shall be held on tribal lands and/or in tribal facilities.

Agenda

The TPPC Chairperson and Vice Chairperson shall work with the Executive Committee and Coordinator to establish meeting agendas. At least forty-five (45) days prior to any scheduled in-person TPPC meeting, and at least seven (days) prior to an Executive Committee teleconference, the Coordinator shall send a request to members and to any Workgroup members to provide potential meeting or teleconference agenda topics to the Coordinator. The Executive Committee, shall solicit agenda topics from EPA Headquarters and Regional staff during its teleconferences.

Agenda topics should be established at least thirty (30) days prior to in-person TPPC meetings in order that EPA may publish a reasonably accurate notice the Office of Pesticide Programs Updates (<https://www.epa.gov/pesticides>). The notice may be published in other public notice venues identified by the TPPC Members.

The TPPC Chairperson and Coordinator shall provide an agenda and any needed background information prior to an in-person TPPC meeting, and where possible, prior to an Executive Committee teleconference.

Meeting minutes along with action items shall be prepared by the Coordinator for meetings of the Executive Committee and Council, and provided to TPPC members and relevant EPA staff who deal with tribal pesticide issues.

Travel Logistics

The EPA maintains a Cooperative Agreement with an organization through which monies are provided to support the travel expenses of TPPC members to attend Executive Committee and full Council meetings.

It is the intent of the TPPC to be as inclusive as possible, but the Council may also be limited by the travel funds available to it. TPPC Members without appointment letters on file with the Coordinator are not guaranteed travel funding. Tribes with more than one representative listed in appointment letters may only receive funding for one representative to attend if there is limited funding. Therefore, the Coordinator is instructed to fill all available travel slots for each meeting in the following order:

1. TPPC Chairperson and Vice Chairperson

2. Executive Committee members
Primary members for each Region and Alaska, as well as primary At-Large members, receive first priority, except in the case where a primary member is unable to attend, then the alternate member acquires first priority (*e.g.*, to assure that there is representation of every Region at each in-person meeting). However, Executive Committee members that fail to submit their travel requests at least 30 days in advance of a meeting, or by a date as communicated by the Coordinator, these members shall lose their priority status as Executive Committee members and shall be assigned a travel slot as other Council members are.

3. Council members
Remaining travel slots to in-person meetings shall be provided to TPPC members on a first come, first served basis. However, every effort shall be made to assure that as many Council members from individual tribes are represented at meetings before additional slots are provided to tribes wishing to send more than one representative.

4. Other individuals
From time to time and based on available funding, the TPPC may also provide travel support to individuals who are not Council members but have an interest in pesticide issues.

TPPC COORDINATOR ROLE

The Coordinator's overall responsibility is to assist the TPPC in achieving its defined purposes. The Coordinator's priorities should be to establish good communication, help to build partnerships and cooperative efforts, maintain good records and data, and provide relevant information and support. Related to these priorities, the Coordinator shall:

- Assist the TPPC with meeting planning, agenda development, and timely communication of meeting dates and agendas.
- Make flight and hotel arrangements for semiannual in-person TPPC meetings for Council Members if needed.

- Arrange meeting space and facilities.
Prepare TPPC meeting minutes and action items, and send them to TPPC members and relevant EPA staff whom deal with tribal pesticide issues.
- Maintain up-to-date TPPC databases, mailing lists, and files.
- Serve as a clearinghouse for tribal pesticide codes, laws, regulations, and policies, as well as pesticide education and training materials.
- Respond to phone calls relating to TPPC-related matters.
- Distribute pesticide-related materials to TPPC members and other interested individuals.
- Provide financial reports to the TPPC during semiannual in-person meetings.
- With the written approval of the Executive Committee, and after consultation with the EPA TPPC Project Officer, seek to raise additional funds from foundations and other donors to support the work of the TPPC.
- Prepare narrative and financial reports for EPA per the Cooperative Agreement.
- Assist the Executive Committee in defining training needs, evaluating training that is available, and obtaining technical assistance where the Executive Committee requests such assistance.
- Maintain the TPPC website along with other staff and TPPC members.
- Maintain TPPC data in an electronic format for which copies shall be available to the TPPC Chairperson and EPA TPPC Project Officer.
- Serve as the administrative contact for the TPPC.
- Provide new TPPC members with a copy of the current TPPC Rules and Procedures, and any other relevant forms and materials.
- Arrange travel for TPPC members who serve as TPPC representatives at pesticide-related meetings.

The Coordinator does not speak for the TPPC. The Coordinator does not vote and is not a TPPC member. The Coordinator answers to the TPPC Chairperson, Vice Chairperson and Executive Committee, and the EPA TPPC Project Officer.

WORKGROUPS

The TPPC may form Workgroups on topics and issues as needed. Any Council member may participate in a Workgroup as well as non-Council members who are tribal representatives and have an interest in pesticide issues. Further, persons who have expertise to offer the TPPC may be invited to join a Workgroup.

Each Workgroup can organize itself as it chooses, but shall select a Contact Person who shall provide the Executive Committee with notice that the Workgroup has formed; a brief description of the Workgroup purpose; the names and contact information of all persons participating in the Workgroup; and periodic updates as to what the Workgroup is doing.

The Workgroup Contact Person shall be responsible for ensuring that appropriate issues are referred to the Executive Committee for consideration. Each person who agrees to be a member of a Workgroup shall be provided with appropriate notice of all meetings, teleconferences, and other activities from the Contact Person. The Coordinator shall also periodically inform the TPPC as to what Workgroups exist and their Contact Persons.

Workgroup members should keep in mind that there is no line item in the TPPC budget for Workgroup expenses. If a Workgroup wishes to meet the day prior to an in-person TPPC Meeting, a request must be made to the Executive Committee and Coordinator. If the Executive Committee and Coordinator determine that monies exist for a Workgroup meeting and that such a meeting is necessary, it may approve the use of TPPC funds for some or all of the Workgroup meeting expenses.

People who agree to serve on a Workgroup shall serve on that Workgroup as long as they choose to or are able to serve.

ISSUE PAPERS

The Issue Papers process shall include the identification of an issue, compilation of background information on the issue, the development of options for resolving the issue, the proposal of a solution or solutions to or consultation on the issue, and an assignment of priority to the issue.

The Issue Papers process is intended to document significant issues, national and/or intertribal in scope, impacting tribes across the nation that require action or information to resolve. This process is not intended to replace general communications regarding a tribe's or intertribal group's specific issue, nor is it intended to document every minor commitment or issue.

It is expected that Workgroups will be the primary source for the development of Issue Papers that present the tribal perspective. It is the responsibility of the Workgroups to provide Issue Papers for any issue on which TPPC members wish formal consideration by the EPA. On occasion, an individual or more informal group may submit an Issue Paper to the TPPC. The Coordinator may also assist in the production of Issue Papers when time allows. Copies of all Issue Papers and any responses to them should be provided to the Coordinator for filing and tracking.

Issue papers shall be discussed at the TPPC meetings, and either accepted or rejected by consensus, or if consensus cannot be reached, by vote at the TPPC meetings or by email. If accepted, a priority status shall be designated by the TPPC.

It is understood that while having the TPPC set priorities for Issue Papers is helpful, it may not always be possible for the EPA to address the highest priority issue first. The Coordinator shall maintain a track record of Issue Papers presented and any responses. Any Issue Paper submitted that is ignored will remain on the list as "Unanswered."

Please note:

Although the TPPC always seeks to represent consensus perspectives on any given issue, it is important to note that the views expressed by the TPPC may not be agreed upon by all Tribes. Further, it is also important that EPA understands interactions with the TPPC do not substitute for government-to-government consultation, which can only be achieved through direct communication between the federal government and Indian Tribes."

EPA AND TPPC RELATIONSHIP

The relationship between the EPA and TPPC is intended to be a collaborative and cooperative partnership. It should **not** be considered government-to-government consultation nor is it a federal advisory committee. It is an opportunity for hearty dialogue, feedback, and informed comment between the EPA and TPPC. However, TPPC members can help facilitate government-to-government consultation on pesticide issues and concerns and in the coordination with tribes that is required by Executive Order 13175. EPA staff who work with the TPPC are expected, as are TPPC members, to be cognizant of Executive Order 13175 and work in accordance with it.

It is the role of the TPPC, as environmental professionals who work on pesticide issues and concerns, to be a primary tribal voice on pesticides program development, issues and concerns. This may include the task of listening to what the EPA is thinking and/or learning what the Agency's priorities are, and then having TPPC members provide their professional input.

At the heart of cultural differences about consultation with tribes is the understanding that decisions are group decisions, not the views or opinions of individuals. Trying to speed up consultation by meeting with individuals who may or may not be well informed, and are not necessarily authorized to speak on behalf of a tribe causes real problems.

Initiative on issues is expected to be developed from within the TPPC. The TPPC works hard to be an entity that focuses itself on tribally-driven issues and concerns in our collaborative and cooperative relationship with the EPA. However, all Council members are free to initiate any issue or agenda item of their own or pick up on a suggestion by anyone to bring to the Chairperson, Executive Committee, or full Council.

TPPC POLICIES

Endorsements

The TPPC has encountered situations in which EPA staff and others have attempted to utilize the Council's position on which to make statements about their own respective positions, plans, programs, approaches or methods. They seem to take this approach to show that they are doing the right thing, or doing what tribes want, and sometimes in an extremely general way. The TPPC urges all federal government officials and others to exercise caution in making such statements.

With respect to a particular plan, program, approach, or method that is taking place or being proposed, the TPPC may support some, all or none of it. The Council has provided its official endorsement which requires written approval of the full Council and a signature by the TPPC Chairperson. A file of any such endorsements shall be maintained by the Coordinator. As of September 2011, the TPPC has made only one endorsement, that being its support of the Stockholm Treaty on Persistent Organic Pollutants.

Information Release

The TPPC does not hold confidential or proprietary information or intellectual property belonging to tribes. The TPPC receives requests from outside sources for general information about the Council, its members and contacts, meetings, and procedures. The TPPC is required and does operate in a transparent manner. However, the Council recognizes that this is not the general practice of a number of tribes due to historic experiences, poor to non-existent legal capacity to protect their valued information, and the desire to hold almost all information very closely.

TPPC meetings, except for tribal caucus (internal deliberations), are open to the public. The TPPC reserves the right to keep discussions confidential that involve or could infringe upon matters of import to the protection of tribal sovereignty, self-determination and treaty rights, and the proper discharge of the federal trust obligation to tribes. Given the current state of the law (that confidential communications between a tribe and a federal agency are not exempt from disclosure under the Freedom of Information Act), TPPC documents with respect to such matters are not created or available.

The Executive Committee shall be informed and have the opportunity to approve or disapprove a request for TPPC information and/or an information release from any party outside the EPA. A TPPC Documents and Information Request Release Form has been developed and is included in the TPPC Rules and Procedures to be used when a request for TPPC information has been made. The purpose of the form is to ensure that anyone requesting and receiving information from the TPPC understands that such information is being provided, to the extent allowable by law, only for educational use in the public interest, or to be of assistance to tribes or tribal organizations, and not for any purpose harmful to any tribe or tribal organization, and is not to be used for commercial or private benefit.

TPPC Documents and Information Request Release Form

It is a part of the Tribal Pesticide Program Council's (TPPC's) purpose to educate the public, particularly the tribal public, and to assist in the development and strengthening of tribal environmental and natural resources capabilities. In the normal course of TPPC business, the Council shares considerable information with its federal partner, the U.S. Environmental Protection Agency (EPA), and the EPA shares considerable information with the Council. It is in the best interest of the TPPC and the tribes and tribal communities that both the Council and EPA both share and protect information pertaining to the TPPC. The history of indigenous peoples and tribes has taught us that information may be considered property of value, and exploited by others to the detriment of tribes. This form has been developed to further the TPPC's educational purposes, and to communicate the Council's intentions to be helpful to other tribal organizations, and to the public in general, while showing due respect for tribal concerns about confidentiality and protecting the TPPC and tribal interests.

No information with the exception of information required to be shared with the EPA TPPC Project Officer is to be released by the Coordinator without this form being signed by the Coordinator and by the requesting party. The TPPC Executive Committee must be informed about any information request and have the opportunity to approve or disapprove anytime that there is a request for TPPC information and/or an information release.

All requesting parties and/or individuals must identify what is being requested and sign this release form.

The purpose of this form is to confirm that anyone requesting and receiving information from the TPPC understands that by signing this form, they are verifying that:

- (1) the information requested will in no way be used to generate income for private or commercial industry;
- (2) the information requested will not be regenerated in proposals or other such documents, or incorporated in any solicitation or fund-raising effort;
- (3) the information requested will not be used in any litigation, conflict, or

adversarial manner to harm or exploit any tribe or tribal organization, or the TPPC or to harm the resources of any tribe or tribal organization, or the TPPC.

Further, the TPPC reserves the right to decline the release of any information that involves or could infringe upon matters of import to the protection of tribal sovereignty, self-determination and treaty rights, and the proper discharge of the federal trust obligation. The survival and sustainability of all tribes and their peoples is of great importance to us and will not be compromised.

By signing this form, the Coordinator certifies that the TPPC Executive Committee has been consulted and has authorized the release of this information.

I hereby verify that the TPPC Executive Committee was informed of this request for _____ (information) and approved the release of this information on _____(date), to the best of its' knowledge and belief, in accordance with the terms of this release form.

Signature of TPPC Coordinator - Releasing Information

Date

Signature of Requesting Party

Date