

TRIBAL PESTICIDE PROGRAM COUNCIL

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August 9, 2024

Daniel Vaught
American Indian Environmental Office
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Washington, DC 20460

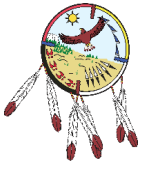
Re: Proposed Reorganization of the National Tribal Caucus (NTC) Under the Federal Advisory Committee Act (FACA)

Dear Mr. Vaught,

We appreciate the opportunity for the Tribal Pesticide Program (TPPC) to comment on the Proposed Reorganization of the National Tribal Caucus (NTC) Under the Federal Advisory Committee Act (FACA). The TPPC is a member-based organization with 99 members from 63 Tribes and tribal organizations, whose activities are funded by a cooperative agreement with the EPA. The Council serves as a tribal technical resource, and provides a forum for dialogue between Tribes and the EPA on program and policy development relating to pesticides issues and concerns. Assistance provided to Tribes includes support in building tribal pesticide programs and conducting pesticide education and training, and the preparation of resources for Tribes interested in specialized issues such as Integrated Pest Management and pollinators. Through its interaction with the EPA, the TPPC keeps Tribes informed of developments in the regulation of pesticides and pesticide use, and provides feedback to the EPA on such matters from a tribal perspective. Although the organization 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 important to understand interactions with the organization do not substitute for government-to-government consultation, which can only be achieved through direct communication between the federal government and Indian Tribes.

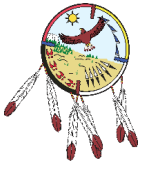
On behalf of the Tribal Pesticide Program Council (TPPC), I submit these comments on the Proposed Reorganization of the NTC Under FACA by the U.S. Environmental Protection Agency.

1. The point has been made in various meetings and listening sessions already, but it is important to reiterate that the way in which this proposal was rolled out, with no communication or coordination with the NTC or Tribes in general prior to opening the public comment period, was disrespectful and not in keeping with the government's policies requiring meaningful consultation with Tribes on matters that affect them. The public comment process is not the same as government-to-government consultation with sovereign tribal nations, and the TPPC is disappointed that AIEO of all EPA offices does not seem to grasp the distinction between the two.



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2. With regard to AIEO's proposal to reform the NTC under FACA, the primary complaint many TPPC members have expressed is that the requirement for FAC meetings to be open to the public will strip NTC representatives of the ability to discuss sensitive or confidential matters with EPA staff without members of the public listening in and gathering information that may later be used against the Tribes. Once again, it is critical for AIEO to understand that Tribes are not public interest groups but sovereign nations, to whom the US government has treaty and other obligations that differ significantly from those that apply to non-tribal citizens. And unfortunately history has shown that there are all too many non-tribal citizens who resent the special status of Tribes and will take any opportunity they can get to slander or malign the Tribes for their own benefit. If the NTC is reorganized under FACA the EPA can expect there to be significantly less candid discussion and sharing of information in future NTC meetings, as tribal representatives will likely be much less forthcoming out of concern that something they say may be used against them.
3. Another concern expressed by many TPPC members regards EPA's suggestion of increasing the proportion of elected tribal leaders on the NTC. This is problematic for a few reasons. One is that tribal leaders, while of course able to speak for their Tribes on big-picture issues of importance to their people, are rarely experts in environmental subjects as are the environmental staff who currently make up the bulk of NTC representatives. It has also been noted that tribal leaders (like any elected officials) typically have very busy schedules and may find it difficult to prepare for and attend NTC meetings in the way that their environmental staff do now. Additionally, a number of TPPC members have noted that EPA's request to have more elected tribal leaders on the NTC is disrespectful as it is highly unlikely the US government intends to require its own elected officials to participate in NTC meetings with the Tribes. With all this said, however, it is important to note that one TPPC member pointed out they felt the NTC might be more effective as an organization if it included more elected officials, to give more weight to the organization's concerns and recommendations.
4. Finally, the TPPC has concerns about the number of representatives and how they may be chosen if the NTC is reorganized under FACA. The two suggested options for the number of NTC representatives in EPA's proposal include 13 or 17 representatives, either of which would lead to both diminished representation overall (currently the NTC includes 20 primary representatives plus alternates) and extremely unequal representation (for example, Region 10 includes nearly half of the 574 federally recognized Tribes but would only be ensured of 1 representative along with each of the other regions). Additionally, the TPPC is concerned about how NTC representatives would be chosen if it were reorganized under FACA. Although the statute does not explicitly describe the process for choosing representatives, it seems to imply that FAC members are appointed rather than elected. If NTC representatives under EPA's proposal would have to be appointed by the agency this would mark a significant and unwelcome departure from the current system where Tribes from each Region choose



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their own representatives. Any change to the number or manner of choosing representatives to the NTC should include some semblance of proportionality across Indian Country and ensure that Tribes have the authority to choose their own representatives.

In conclusion, it is fair to say the TPPC is extremely concerned about the potential implications of reforming the NTC under FACA. The TPPC is not opposed to making changes that would enable the NTC to be a more effective partner and advisor to EPA, but strongly opposes any change that would diminish tribal sovereignty or voice in matters that intimately affect their lands and environment.

Once again the TPPC appreciates this opportunity to comment on the Proposed Reorganization of the NTC Under FACA . If you have any questions, please contact TPPC coordinator Mark Daniels at mark.daniels@nau.edu or 928-523-8897.

Sincerely,

Jasmine Courville
TPPC Chairperson