



Alaska Regional Response Team and Alaska Area Committees Guidelines for Coordination and Consultation with Federally Recognized Tribes

I. Purpose

The goal of these Guidelines is to build upon existing individual agency tribal coordination and consultation guidance, and to ensure tribal input is an integral part of Alaska Regional Response Team (ARRT) and the coastal and inland zone Area Committee related activities and decision-making.

Nothing in these guidelines precludes or prevents any member agency from engaging with federally recognized Tribes consistent with their agency's tribal consultation and coordination policies, procedures and guidance.

II. Introduction

The obligation for federal agencies to engage and consult with federally recognized Indian tribes on a government-to-government basis is based on the U.S. Constitution and federal treaties, statutes, executive orders, and policies. The ARRT and Area Committees are interagency entities that exist (among other reasons) to develop and maintain a federal regional and area contingency plans to coordinate timely, effective response by various federal agencies and other organizations to discharges of oil, releases of hazardous substances, pollutants, or contaminants, or threats of such discharges or releases.

The ARRT provides (1) the regional mechanism for development and coordination of preparedness activities before a response action is taken, and for coordination of assistance and advice to Federal On Scene Coordinators (FOSCs) during such response actions, and (2) guidance to Area Committees to ensure inter-area consistency among individual Area Contingency Plans (ACPs), and consistency of individual ACPs with the Regional Contingency Plan and the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The ARRT is made up of representatives from federal agencies and the State of Alaska, Alaska Department of Environmental Conservation (ADEC), its actions are subject to state and federal laws, regulations, and policy directives.

The primary role of an Area Committee is to act as a preparedness and planning body. The primary objective of Area Committees is to develop, maintain, and exercise ACPs. Area Committees provide a forum for bringing together Federal, State, tribal, and local response stakeholders for the purpose of planning and preparing for responses to major incidents that affect multiple jurisdictions. FOSC and SOSCs serve as co-chairs to the Area Committee.

It is important to note that State government responsibilities may differ from those of federal agencies, and that these Guidelines apply only to the federal ARRT member agencies. This document serves as a guide to implement the laws, regulations, and policies related to federal interactions with federally recognized tribal governments.

It is the responsibility of the EPA and USCG to ensure that actions of the ARRT, Area Committees, and their working groups are conducted in a manner consistent with these Guidelines and engage tribes as early as possible in their work process, and document that engagement. It is the responsibility of the EPA and USCG to determine what level of tribal engagement is required, when assignments are delegated.

As described in 40 CFR 300.115, the ARRT may function as a standing RRT for policy-making and interagency coordination, or as an incident-specific response team activated in the event of a discharge or release.

III. Potential Impact to Tribal Resources

The EPA and USCG will determine as early as possible whether an action has the potential to impact tribal resources in accordance with E.O. 13175. In making this determination, the EPA and USCG will engage representatives from federally recognized tribes, members of the ARRT and Area Committees, member agencies’ tribal liaisons, Co-Chairs of ARRT and Area Committees working groups.

Federally recognized tribes are encouraged to contact the ARRT or appropriate Area Committee when they feel that an action may impact to their tribe and tribal resources.

In addition to above guidance, the following factors will be considered when determining the potential impact to tribal resources.

Table 1. Factors to Consider in Determining Impact to Tribal Resources	
Geographic Considerations	<ul style="list-style-type: none"> Action on or adjacent to Indian Country or an Alaska Native Village, or nearby (such as within the same airshed or watershed) if the action may affect a tribe’s health, resources, rights, or traditional way of life Action within the traditional use areas of a federally recognized tribe that may affect a tribe’s resources, rights, or traditional way of life
Tribal Resources	<ul style="list-style-type: none"> Action that may affect the treaty-reserved resources of a tribe Action that may affect the public health in the tribal community Action that may affect the cultural, traditional, or subsistence resources of a tribe or a tribe’s traditional way of life
Tribal Ownership	<ul style="list-style-type: none"> Action related to a facility owned or managed by a tribal government

IV. Tribal Coordination and Consultation Activities

These Guidelines address key aspects of tribal engagement, including communications, education, outreach, coordination & collaboration with federally recognized tribes, and consultation with federally recognized tribes.

- a. Communications, Education , Outreach, Coordination and Collaboration with Federally Recognized Tribes.

The ARRT and Area Committees will seek to identify opportunities to reach out to tribes in order to help ensure meaningful engagement. The table below identifies several methods of communications, education, outreach, and coordination & collaboration with federally recognized tribes.

Table 2. Methods of Communications, Education, Outreach, Coordination and Collaboration:	
Meeting Notices (Website & Email):	<p>The ARRT and Area Committees will ensure that the time, place, and agenda for meetings are posted to the ARRT and/or ADEC Area Committee websites.</p> <p>The ARRT and Area Committees will email tribes to notify them of upcoming meetings.</p> <p>Meeting notices will be posted, when practicable, at least 3 weeks prior to meetings, and will include how to obtain further meeting information and remote participation options.</p>
Remote Meeting Participation - Teleconference & Web Conference Services:	<p>ARRT meetings will have remote participation capability to encourage and enable tribal participation. When practical, meeting presentations will be available for live viewing via web conferencing (e.g. Adobe Connect) or download, along with audio participation via a teleconference bridge. Area Committees are encouraged to similarly arrange for remote participation capability.</p>
Meeting Summaries:	<p>Meeting summaries will be posted on the ARRT website and/or ADEC Area Committee websites.</p>
ARRT Newsletter:	<p>The ARRT will produce an annual ARRT newsletter which will contain information regarding the composition and function of the ARRT, a list of plan updates and other initiatives that the ARRT intends to undertake during the upcoming year, and an explanation of how and when tribes may participate in ARRT incident-specific activations. The newsletter will also contain information related to important Area Committee activities such as upcoming meetings and plan updates.</p> <p>This newsletter is distributed via email to all 229 federally recognized tribes in Alaska.</p>
Letters and Emails:	<p>The ARRT and Area Committees will communicate with tribes via letter and/or email on issues of concern to tribes and welcomes tribes to contact them regarding any issues or concerns they may have related to ARRT or Area Committee business.</p>
Teleconferences:	<p>In addition to regular meetings, the ARRT and Area Committees may organize teleconference calls to discuss issues of concern to tribes. This may also occur as part of an ARRT or Area Committees government-to-government consultation effort.</p>
Information Sessions:	<p>The ARRT or Area Committees may host informational sessions at conferences (e.g. Alaska Forum on the Environment, BIA Providers Conference or Alaska Tribal Conference on Environmental Management) or other similar venues where many tribes are gathered. The number of outreach events each year will depend on available agency resources.</p>

b. Government-to-Government Consultation (E.O. 13175) with Federally Recognized Tribes

Government-to-government consultation between appropriate tribal officials and federal agency representatives is an exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility. Communication will be open and transparent without compromising the rights of federally recognized tribes or the government-to-government consultation and coordination process.

In accordance with EO 13175, EPA and the USCG as leaders of the ARRT and Area Committees will offer government-to-government consultation on decisions, products and/or initiatives when these actions are determined to potentially impact tribal resources as those are broadly defined. Additionally, formal government-to-government consultation may be requested by any tribe. If a tribe requests consultation, a lead agency will be appointed to respond to the request. Where actions are joint, the EPA and the USCG will determine a mechanism for joint consultation in collaboration with relevant agencies.

c. Tribal Government Participation with the ARRT, Area Committees and their Working Groups

Section 300.115(d) of the NCP states that “Indian tribal governments may arrange for representation with the RRT appropriate to their geographical location.” Since the ARRT covers the state of Alaska, Alaska-based federally recognized tribes may have membership on the ARRT.

Section 300.180(a) of the NCP states that “Indian tribes wishing to participate should assign one person or office to represent the tribal government on the appropriate RRT.” Any federally recognized tribe wishing to have a representative on the ARRT should provide that request to the ARRT Co-Chairs (EPA and USCG), in writing.

Federally recognized tribes are encouraged to participate in ARRT, Area Committees and both ARRT and Area Committee working groups.

V. References

Table 3 lists the documents that guide federal departments and agencies in working with federally recognized tribes on a government-to-government basis and define the responsibilities of the ARRT and Area Committees.

Table 3. Guidance Documents Regarding Tribal Coordination and Consultation
Executive Order 13175: Consultation and Coordination with Indian Tribal Governments.
Presidential Memorandum issued November 5, 2009 on Tribal Consultation.
National Contingency Plan (40 CFR 300)
ARRT Charter
Other Federal Departmental and Agency Tribal Consultation Policies and Procedures
Regional Contingency Plan

The four [Alaska Area Contingency Plans](#) provide guidance on oil discharge and hazardous substance response operations.

A list of the federally recognized tribes is posted annually in the Federal Register, and may be viewed online at <https://www.federalregister.gov/>.

Contact information for federally recognized tribes is available in the ACP Contact Directory, available on the [ADEC References and Tools](#) website.