

## **Policy for Separately Designated Areas of Indian Country & Process Memo Synopsis of Substantive Changes**

### **Changes to the Policy**

- Tribal Comment: The language re: not splitting tribes is confusing. Add some examples.
  - Change: We explored the possibility of providing examples to clarify when it might be appropriate to split areas of Indian country, and when it might not. However, since the determination will be so case-specific and will depend on the factors and other relevant information, we were concerned that examples would imply an explicit decision. The language has been kept fairly consistent with the previous version, but has been modified slightly to hopefully make it clearer.
- Tribal Comment: The document doesn't clearly recognize that not all of the factors are relevant to all tribes.
  - Change: A sentence has been added that encourages Regional Offices, when requested, to work with the tribes to assist them with determining which factors are most relevant to their request/recommendation.
- Tribal Comment: Under the example decision-making scenarios, first bullet, it is unclear what the difference is between this scenario and the second bullet.
  - Change: Added an "i.e." for the classifications to make it clear that this bullet refers to a different classification.
- Tribal Comment: Many tribes expressed the concern that implementation is not clearly addressed in this document. While the document recognizes that there are implementation considerations, it doesn't really offer solutions. The tribes would like more guidance re: implementation.
  - Change: We added a section re: guidance and assistance we intend to provide to tribes to enable them to carry out this policy
- One additional change (not due to a comment):
  - A sentence has been added to the beginning of the document asking Regions to share it with the tribes and state agencies. A closing section has been added to include points of contact for questions.

### **Changes to the Process Memo**

- Tribal Comment: It would be helpful if conversations occur with staff before the tribal leader receives a 120-day letter so that it doesn't appear that EPA's decision is "set in stone." This will also help staff prepare their tribal leader for the letter before it arrives.
  - Change: A few sentences have been added to make it clear that if EPA intends to make any modifications to the recommendations, EPA should offer an

opportunity for tribal staff to engage in a technical dialogue regarding the recommendations. In addition, this step has been added to the table in Attachment A.

- NACAA Comment: It would be helpful for you to :cc us on 120-day letters that go to tribes so that we can better coordinate with them in the designations process.
  - Change: Language has been added, which states that Regional offices should help foster coordination between states and tribes and that states and tribes are to be :cc'd on each other's 120-day letters.
- Two additional changes (not due to comments):
  - In the previous version, we did not specify who should receive the 120-day letter (i.e., tribal leader). Language has been added to state that the 120-day letter should be addressed to tribal leaders, providing courtesy copies to tribal environmental directors or tribal air quality staff, as appropriate. This is consistent with our approach for the consultation letters.
  - A sentence has been added to the beginning of the document asking Regions to share it with the tribes. A closing section has been added to include points of contact for questions.