



Resetting the Course of EPA

Reimagining and Reframing the Boundaries of
EPA's State, Tribal, & Local Relationships



This paper is part of the [Resetting the Course of EPA](#) project by the [Environmental Protection Network \(EPN\)](#), a bipartisan network of more than 500 former EPA career employees and political appointees across the country who served under multiple Democratic and Republican administrations.

Resetting the Course of EPA outlines specific and actionable steps that EPA leadership can take to reset the course of the agency to address the most significant and pervasive threats to public health and our environment. As there is no single roadmap, EPN looks forward to collaborating with others to advance the dialogue around the future of EPA and set ideas into motion that will better protect the health and wellbeing of everyone.

Additional Resetting the Course of EPA documents are available here:

<https://www.environmentalprotectionnetwork.org/reset>

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Summary

Today, the public is demanding greater, not less, environmental protection to address pollution, climate change, emerging challenges like persistent chemical contaminants, and disproportionate environmental and public health impacts on low-income communities and communities of color. States and tribes also find themselves in need of increased EPA support for improved information, communication, and monitoring technologies. Yet, state, tribal, and federal environmental protection resources have been severely depleted in recent years.

Our national environmental laws are based on the principle of cooperative federalism and government-to-government collaboration in which distinct roles and responsibilities have long been set for the EPA, states, and tribes, and more limited responsibilities for local governments. Now more than ever, the best way to protect human health and the environment is for EPA leaders to clarify and re-invest in cooperative federalism by reimagining and reframing the boundaries of EPA’s relationships with state, tribal, and local governments through a governance model—a “National Enterprise for Environmental Protection”—that breaks down long-held interpretations of how best to implement the law and to manage the work to enhance state, tribal, and local participation and increase their available resources in the delivery of our nation’s environmental programs and protections.

Recommendations

1. In harmony with federal law and the EPA Indian Policy, **reframe and better communicate the roles, responsibilities, and relationships between the EPA, states, tribes, and local governments** with an enhanced commitment to [E-Enterprise for the Environment](#). [\[Read More\]](#)
2. **Create a governance structure that supports nationwide participation;** recognizes tribal sovereignty; adapts to different environmental challenges faced by the various jurisdictions; enhances collaboration among federal, state, tribal, and local jurisdictions to solve international, national, and regional problems; and promotes sustainable solutions that improve public health and protects the environment. [\[Read More\]](#)
3. **Commit to early communication and participation of states, tribes, and local governments** in EPA rulemaking, enforcement, budgeting, policy-setting, and relevant decision-making. Begin this in advance of general public outreach or public comment, and recognize and encourage the contributions and leadership roles taken by states, tribes, or local governments in implementing environmental programs. [\[Read More\]](#)
4. **Commit to significant staffing and funding investments** and create the expectation that states, tribes, and local governments will do likewise, and that EPA will provide adequate support for protection in Indian Country, especially as it relates to environmental justice. [\[Read More\]](#)
5. **Prioritize EPA regional engagement** with states, tribes, local governments, regional governmental organizations, and NGOs to ensure equitable, nationwide protection of human health and the environment, and recognize that the capacities and capabilities of these entities are vital to tailoring environmental protection to the circumstances and needs of each region. [\[Read More\]](#)

Recommendation #1: Reframe and better communicate the roles, responsibilities, and relationships between the EPA, states, tribes, and local governments.

In harmony with federal law and the EPA Indian Policy, reframe and better communicate the roles, responsibilities, and relationships between the EPA, states, tribes, and local governments with an enhanced commitment to [E-Enterprise for the Environment](#).

IMMEDIATE ACTIONS

- ❖ Announce the EPA’s commitment to a National Enterprise for Environmental Protection Governance Framework and to working collaboratively with states, tribes, and local governments to ensure that environmental programs develop plans to address funding gaps.
- ❖ Issue a statement formally reaffirming the EPA Indian Policy, recognizing EPA’s commitment to working with tribes on a government-to-government basis consistent with their sovereign status.
- ❖ Announce a commitment to limit the bureaucracy and expand E-Enterprise for the Environment.
- ❖ Announce EPA’s commitment to transparent and consistent state program oversight and to working with tribes to protect Indian Country, including providing assistance, appropriate federal enforcement, and direct implementation of federal programs with a focus on addressing problems related to environmental justice.
- ❖ Commit to expand transparency, data availability, and open communication with the public.
- ❖ Require training for EPA staff on working effectively with tribal governments.

EARLY ACTIONS, INCLUDING THE FIRST 100 DAYS

- ❖ Get early input and commitment from the states, tribes, and local governments on a National Enterprise for Environmental Protection governance framework and the expansion of E-Enterprise for the Environment. Define the key principles, goals, and roles and responsibilities of participants to the framework and E-Enterprise, recognizing the unique sovereign status of tribes and EPA’s role in providing federal enforcement and direct program implementation as appropriate in Indian Country.
- ❖ Identify and review all initiatives (current and past) that promote(d) collaboration and cooperation between the EPA, states, tribes, and local governments in the delivery of environmental services, as required by the nation’s environmental laws, including the need for consultation with tribes and consideration of tribal treaty rights and resources in EPA decisions.

FIRST YEAR AND SUSTAINED ACTIONS

- ❖ Clarify the EPA’s oversight roles and responsibilities in relation to states, tribes (recognizing the role of appropriate federal enforcement and direct program implementation in Indian Country), and local governments. As appropriate and consistent with law, and without creating gaps, decrease or eliminate the overlap of environmental program delivery provided by the EPA, states, tribes, and local governments through guidance and policy initiatives.
- ❖ Commit to a division of work and responsibilities in harmony with federal environmental statutes (including [section 204 of the Unfunded Mandates Reform Act](#) as applied to local governments and

the EPA Indian Policy), based on technical skills and capabilities, knowledge and expertise, staffing, and funding resources and the ability to be effective. This may be done on a regional basis.

- ❖ Develop and implement a collaborative mechanism with the states and tribes to allow EPA to assist local governments directly in the delivery of specific, agreed-upon, environmental services.

Recommendation #2: Create a governance structure that supports nationwide participation by EPA, states, tribes, and local governments.

Create a governance structure that supports nationwide participation; recognizes tribal sovereignty; adapts to different environmental challenges faced by the various jurisdictions; enhances collaboration among federal, state, tribal, and local jurisdictions to solve international, national, and regional problems; and promotes sustainable solutions that improve public health and protects the environment.

IMMEDIATE ACTIONS

- ❖ Work through national organizations representing states, tribes (including the EPA National Tribal Caucus), and local governments to signal the intent to work more collaboratively and to identify areas where immediate progress can be made.

EARLY ACTIONS, INCLUDING THE FIRST 100 DAYS

- ❖ Issue guidance that encourages EPA regions, states, tribes, and local governments to form collaborative intergovernmental initiatives to address cross-jurisdictional, regional environmental problems.

FIRST YEAR AND SUSTAINED ACTIONS

- ❖ In collaboration with the states, tribes, and local governments, reform and expand the National Environmental Performance Partnership System and the use of Performance Partnership Agreements and Performance Partnership Grants to encourage joint priority-setting while providing flexibility for states, tribes, and local governments to address priority environmental needs and conditions.
- ❖ Evaluate the effects of this approach. Track effects on resources and environmental protection; identify areas for improvement consistent with promoting a National Enterprise for Environmental Protection and E-Enterprise for the Environment to ensure collaborative and robust protection of people’s health, our nation’s lands, and the environment, including in Indian Country.

Recommendation #3: Commit to early communication and participation of states, tribes, and local governments.

Commit to early communication and participation of states, tribes and local governments in EPA rulemaking, enforcement, budgeting, policy-setting and relevant decision-making. Begin this in advance of general public outreach or public comment, and recognize and encourage the contributions and leadership roles taken by states, tribes, or local governments in implementing environmental programs.

IMMEDIATE ACTIONS

- ❖ Evaluate, for the purpose of improving, how EPA offices and programs formally and informally consult and interact with states, tribes, local governments, and their affiliated associations.

EARLY ACTIONS, INCLUDING THE FIRST 100 DAYS

- ❖ Examine legal and procedural hurdles to allowing states, tribes, and local governments to participate in early rulemaking, policy-setting and decision-making discussions, and suggest solutions to maximize participation when possible.

FIRST YEAR AND SUSTAINED ACTIONS

- ❖ Begin to eliminate hurdles to communication and involvement of the states, tribes, and local governments. As needed, revise and issue new guidance, policies, and rules.
- ❖ Evaluate the impact of improved early communication and involvement on rulemaking and implementation of environmental laws and practice, including appropriate federal enforcement and direct program implementation in Indian Country; identify areas for improvement.

Recommendation #4: Commit to significant staffing and funding investments.

Commit to significant staffing and funding investments and create the expectation that states, tribes, and local governments will do likewise, and that EPA will provide adequate support for protection in Indian Country, especially as it relates to environmental justice.

IMMEDIATE ACTIONS

- ❖ Develop a network of EPA, state, tribal, and local government representatives to work on prioritizing staffing and funding investments.
- ❖ Begin working to ensure adequate and targeted resources for state, local and tribal efforts.

EARLY ACTIONS, INCLUDING THE FIRST 100 DAYS

- ❖ Set goals and objectives for the network of EPA, state, tribe, and local government representatives working on prioritizing staffing and funding investments.
- ❖ Identify outcomes and targets that can be used to evaluate the effectiveness of staffing and funding investments.

FIRST YEAR AND SUSTAINED ACTIONS

- ❖ Working collaboratively, develop training and technical assistance programs for states, tribes, and local governments to assist them in meeting their environmental program responsibilities and, in appropriate cases, for tribes to work cooperatively in federal enforcement and direct program implementation in Indian Country.
- ❖ Identify and begin to implement changes and improvements in state, tribal, and local government grant programs administered by EPA, with the goal of increasing efficiency, providing flexibility, and emphasizing priority-setting in the delivery of environmental services.
- ❖ Maintain a network of EPA, state, tribal (including the EPA National Tribal Caucus), and local government representatives to work on prioritizing staffing and funding investments; schedule regular meetings and discussions to improve the overall success and performance of the network.

Recommendation #5: Prioritize EPA regional engagement.

Prioritize EPA regional engagement with states, tribes, local governments, regional governmental organizations, and NGOs to ensure equitable, nationwide protection of human health and the environment, and recognize that the capacities and capabilities of these entities are vital to tailoring environmental protection to the circumstances and needs of each region.

IMMEDIATE ACTIONS

- ❖ Reinstate \$20 million in funding in the Fiscal Year 2022 agency budget proposal for Regional Geographic Initiatives, to enable regional offices to rebuild collaboration and support innovative approaches to environmental protection.

EARLY ACTIONS, INCLUDING THE FIRST 100 DAYS

- ❖ The Deputy Administrator should review recent changes in agency delegations of authority to determine if they should be and can be reversed.
- ❖ The Administrator should issue a statement of support for regional geographic initiatives, including but not limited to the Great Lakes Program, regional air pollution control associations, the Chesapeake Bay Program, the Columbia River, the Gulf of Mexico Program, and National Estuary Programs.
- ❖ The agency operating plan should provide adequate funding for essential support services in Regional Administrators’ offices, with the understanding that funding will need support and clearly stated goals and objectives for effective administration of the regional office.

FIRST YEAR AND SUSTAINED ACTIONS

- ❖ At the earliest opportunity, the agency should convene a joint meeting of all newly appointed Regional Administrators and career Deputy Regional Administrators.

- ❖ The Deputy Administrator should create a task force of senior agency career officials, from headquarters and regional offices, to review the agency delegation manual and streamline approvals consistent with EPA’s [Lean Management System \(ELMS\)](#).
- ❖ The agency should continue regular meetings of the Executive Management Council, chaired by the Deputy Administrator, as a means for the political leadership of the agency to consult with the agency’s senior career leadership.
- ❖ Commit to continued and frequent meetings among EPA, state (including Environmental Council of States officers), and tribal leadership.

Participants in the EPN Workgroup

Reimagining and Reframing the Boundaries of EPA's State, Tribal, & Local Relationships

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