



TRIBAL CONSULTATION ANNUAL REPORT

FISCAL YEAR 2023

JULY 1, 2022 - JUNE 30, 2023



Clean Air, Safe Water,
Healthy Land for Everyone

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1. Agency Overview - The Arizona Department of Environmental Quality (ADEQ) administers the state’s environmental laws and delegated federal programs to prevent air, water and land pollution and ensure cleanup when it does occur. Under the Environmental Quality Act of 1986, the Arizona State Legislature created ADEQ in 1987 as the state’s cabinet-level environmental agency. ADEQ is composed of three environmental programs: Air Quality, Water Quality and Waste, with functional units responsible for technical, operational and policy support. ADEQ carries out several core functions: planning, permitting, compliance management, monitoring, assessment, cleanups and outreach and employs approximately 500 people working throughout the state.

2. Highlights - ADEQ has increased its visibility and accessibility to Arizona’s 22 federally recognized Tribes. We developed a closer working relationship with the San Carlos Tribe and the Navajo Nation as a result of specific permitting activities being considered near these tribal nations. Also, ADEQ partnered with the Navajo Nation’s Abandoned Mine Lands Reclamation Department to tour seven of their uranium and coal reclaimed mines. During the coming year, we will work to establish similar relationships with other Tribes as we expand our proactive engagement with Tribes

3. Challenges - Although ADEQ routinely invites Tribal leaders to consult with ADEQ on activities that may impact them, very few respond and engage in consultation. To better serve tribal nations, ADEQ must understand when our actions might impact a tribe, why Tribes are not engaging now and what we can do to better serve their needs. To this end, in FY24 ADEQ will develop a strategy to increase direct Tribal outreach to listen, learn and then deploy modified processes that should result in a more effective working relationship between Tribes and ADEQ.

4. Tribal Consultation Policy Revisions - The Tribal Consultation and Collaboration policy was updated in May of 2022. In light of an expanded community engagement initiative currently being deployed agency-wide, and the current lack of robust response from Tribes, ADEQ is currently considering potential enhancements to the policy and plans to issue an update in October 2024. The policy will be shared with the Tribes for their input.

5. Tribal Engagement - In addition to continued communication regarding permitting decisions which may impact the Tribes, ADEQ provided assistance with emergency response training, coordinated and participated in meetings and a site tour regarding the abandoned mine program, educated Tribes about potential Brownfields grant program funding opportunities to clean up and redevelop potentially contaminated land, and worked to resolve environmental issues along our border with Mexico. The air quality division also provided instruments and training to enable the Navajo Nation to begin monitoring ozone on their lands. Additional information is located in Table 1.

Our Mission and Vision

To protect and enhance public health and the environment in Arizona.

- Through consistent, science-based environmental regulation; and clear, equitable engagement and communication;
- With integrity, respect, and the highest standards of effectiveness and efficiency;
- Because Arizonans treasure the unique environment of our state and its essential role in sustaining well-being and economic vitality, today and for future generations.

5a. Collaborative Events - ADEQ continues to seek opportunities to collaborate with Tribes through existing organizations. This year, staff participated in EPA Region 9 Tribal meetings, the Inter Tribal Council of Arizona (ITCA) Solid Waste Recycle Work Group, received reciprocity requests for three Tribal water and wastewater treatment operators through the ITCA, and facilitated convening the EPA Tribal Emergency Response Committee. Additional information is located in Table 2.

6. Tribal Consultation Activities - As stated in ADEQ's current Tribal Consultation and Collaboration Policy, ADEQ follows the procedures in the Consultation Toolkit maintained by the Arizona State Historic Preservation Office. ADEQ will consult with Tribes:

- Prior to the development of new rules, regulations, policies, or programs;
- On new air quality permits/registrations and permit revisions with significant emission increases within the following distances of Tribal boundaries:
 - 100 kilometers for New Source Review projects, 50 kilometers for other permits and 25 kilometers for registrations
- On water quality Arizona Pollutant Discharge Elimination System individual permits, individual Aquifer Protection permits, individual Reclaimed Water permits; Coal Combustion Residuals (CCR) program development and primacy process; and Hazardous Waste Treatment, Storage and Disposal permit activities.
- On matters that will, or are reasonably believed to have the potential to affect federally recognized Tribes.

During FY24, ADEQ will develop a tracking indicator for these air, water, and waste Tribal engagement commitments.

Table 1
Tribal Engagement

Date	Tribe Name	Engagement Description
July 18, 2022	Gila River Indian Community (GRIC)	ADEQ's Emergency Response Unit (ERU) facilitated contact between EPA Region 9 and GRIC's Office of Emergency Management regarding training for the Tribes and presented an overview of the Tribal Emergency Response Commission (TERC) and the Tribal Emergency Planning Committee (TEPC) roles and responsibilities.
July 18, 2022	Navajo Nation	A contractor planning a 10-acre Kayenta pipeline project sought guidance about construction-related stormwater permitting. ADEQ facilitated discussions with the Navajo Nations Water Department, within the Navajo Environmental Protection Agency (EPA). ADEQ also assisted in clarifying applicability of Clean Water Act Section 401 permitting requirements.
July 19, 2022	San Carlos Apache Tribe (SCAT)	At the request of the SCAT, ADEQ met and discussed the high level plan for Tribal Consultation on the Surface Water Protection Program Rulemaking.
September 27 through September 29, 2022	Navajo Nation	ADEQ Tribal Liaison, team members from the Water Quality Division, and representatives from the Arizona State Mine Inspector's Office visited with Navajo Nation's Abandoned Mine Lands Reclamation Department (Department). The Department team led a tour of seven completed reclaimed mines (uranium and coal) and explained NAMLRD's reclamation methods and process.
August 18, 2022	White Mountain Apache Tribe (WMAT) and San Carlos Apache Tribe (SCAT)	ADEQ Brownfields coordinator met with WMAT and SCAT to identify possible future projects that may be eligible for funding through the Infrastructure Investment and Jobs Act (IIJA).
November 7, 2022	SCAT	As a direct result of consultation with SCAT, ADEQ extended the draft air quality permit renewal public comment period for the Freeport McMoran Miami Smelter by 45 days.
January 19, 2023	Tohono O'odham Nation	ADEQ met with Tohono O'odham Nation in a general meeting about the ADEQ Partnership Abandoned Mine Lands inventory project offering them resources that may be potentially helpful to the Tribe's similar work.
March 1, 2023	Cocopah Tribe	ADEQ responded to an inquiry from Rhino Onward International regarding a proposed Hydrogen Plant on the Cocopah Tribe's land. ADEQ explained it has no authority or jurisdiction on Arizona Tribal lands. A follow up meeting was held with Cocopah to review the inquiry and ADEQ's response which they conveyed that they were already aware but was appreciative of ADEQ proactively reaching out.

Date	Tribe Name	Engagement Description
March 15, 2023	Tohono O'odham Nation	ADEQ representatives from the ADEQ Border and Community Liaison team attended an EPA meeting hosted for an AZ Border Region Climate Justice Community Check-In Session Meeting in Sahuarita, AZ. This session was led by the USEPA Region 9's (USEPA R9) Environmental Justice Team and supported by Border 2025 Program staff. The meeting gave an opportunity to discuss important environmental issues impacting community members.
March through July, 2023	San Carlos Apache Tribe	ADEQ's Air Quality Division coordinated with the San Carlos Apache Tribe, Attorney General regarding their input on ADEQ's draft Air Quality State Operating Permit Program Revision. ADEQ reviewed the comments and provided a detailed response to explain the draft Operating Permit Program Revision. In addition to providing its written response, a Leader-to-Leader meeting was held on July 5th for ADEQ to present on this topic.
April through May, 2023	Fort McDowell Yavapai Nation	ADEQ provided air quality instrumentation support to the Fort McDowell Yavapai Nation to assist with their Ozone monitoring, troubleshoot instrument issues, and ensure that their data was accurate.
May 4, 2023	San Carlos Apache Tribe	ADEQ received a request for Consultation concerning the Aquifer Protection Permit (APP) Significant Amendment to Freeport-McMoran Safford, Inc. for the Freeport-McMoran Safford Mine located in Graham County, Arizona.
Ongoing in June and July 2023	Ak-Chin Indian Community	The City of Casa Grande draft AZPDES permit was provided to The Ak-Chin Indian Community's outside counsel and Environmental Program Manager for review and comment. The Ak-Chin leadership scheduled a follow up meeting with ADEQ's Water Quality Director and Tribal Liaison on August 24, 2023.
June 7, 2023	Hopi Tribe	ADEQ met with The Hopi Tribe's Natural Resources group to communicate and share ADEQ's oil and gas orphan well grant program and current well inventory and offered any resources that may be of benefit to them.
June 15, 2023	Gila River Indian Community	Informed GRIC of a 30-day public comment period for draft AZPDES Permit No. AZ0024554 for the City of Phoenix - Rio Salado Habitat Restoration Area and provided the draft permit, fact sheet, and public notice. Also provided ADEQ website to access the documents.
June 22, 2023	Havasupai Tribe	ADEQ provided a copy of the individual AZPDES permit modification for the Havasupai Garden Potable Water Pump Station in Coconino County to Havasupai Tribe's outside counsel for comment.

Table 2
Collaborative Events

Date	Organization / Event Name	Engagement Description
August 25, 2022	EPA Tribal Emergency Planning and Preparedness Meeting	ADEQ's ERU and the Arizona State Emergency Response Commission (AZSERC) Coordinator held the EPA Tribal Emergency Planning and Preparedness meeting. It provided an overview of the Tribal Emergency Response Commission (TERC) and the Tribal Emergency Planning Committee (TEPC) roles and responsibilities to the Arizona Tribal Council.
September 6, 2022	ITCA	ADEQ's Recycling Coordinator participated on a panel with Waste Management and Republic Services regarding lessons learned pertaining to recycling markets at ITCA's Solid Waste Working Group Session.
September 16, 2022	Governor Ducey's Office Policy Advisor on Tribal Affairs	The former Arizona Governor's Office Policy Advisor on Tribal Affairs provided training to approximately 20 ADEQ staff. The 2-hour introduction training provided a baseline understanding on the different policy decisions throughout U.S. history that have created the current conditions faced by American Indian Tribes and their community members. With continuous dialogue, the presentation explains how the challenges began and emphasizes how policy decisions will have a lasting impact for generations to come.
October 25 through 27, 2022	EPA Region 9 Tribal / EPA Conference	ADEQ's Tribal Liaison presented at the conference about ADEQ's Tribal Engagement and Consultation Activities.
November 2022	Arizona State University (ASU), Northern Arizona University (NAU) and University of Arizona (UArizona)	ADEQ requested a meeting with the Arizona Tribes about a new partnership with ADEQ, where researchers from ASU, NAU and UArizona planned to inventory abandoned mines to identify potential risks and work to create environmental management options.

Date	Organization / Event Name	Engagement Description
Weekly Cadence	ADEQ ERU Incident Notifications to Arizona Tribes	ADEQ ERU sends notifications to the Tribes that includes local and national Hazmat training opportunities, Hazardous Materials Emergency Preparedness Grant funding availability, Emergency Response Fund availability, Federal Appeal Court information, Hazardous Materials Conference information, U.S. Chemical Safety and Hazard Investigation Board (CSB), Federal Energy Regulatory Commission (FERC), American Chemistry Council (ACC), Chemical Facility Anti-Terrorism Standards (CFATS), Cybersecurity * Infrastructure Security Agency (CISA), State Emergency Response Commission (SERC) - Tribal Emergency Response Commission (TERC), U.S. Environmental Protection Agency (EPA), US Dept. of Homeland Security FEMA, and National Incident Management System (NIMS) updates and information.
FY23	ITCA	ADEQs Safe Drinking Water section (SDWS) conducts an annual internal review of the Operator Certification Program. This review includes tracking requests for reciprocity and early examination and certificate renewal audits. ADEQ received 70 requests for reciprocity from 17 states, including 3 from the Inter Tribal Council of Arizona. The Program continues to obtain new operators from states like California, Texas, and Colorado.