



This binder of information has been compiled by Regional Tribal Operation Committee Representatives (RTOC) to assist incoming RTOC Representatives. We hope that this will help you understand how the RTOC Body works and what guides it as well as answer any questions you may have.

The items inside are subject to change over time as they are updated and new ones develop. As items are revised or changed, we hope you will update as needed.

I hope this binder serves you well.

With Respect,

Nina Hapner  
Director of Environmental Planning  
Kashia Band of Pomo Indians  
Central California Representative, December 2014

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### ***National Documents***

GAP Guidance, 2013

GAP Guidebook, 2013

National Tribal Operations Committee Reference Guide

EPA Strategic Plan, FY2014-2018

### ***Consultation Documents***

EPA Policy on Consultation and Coordination with Tribes, 2011

Executive Memorandum to Department Heads and Agencies on Tribal Consultation, 2009

Executive Order 13175 Consultation and Coordination with Tribes, 2000

EPA Indian Policy, 1984

## **Brief History of the Regional Tribal Operations Committee and the General Assistance Program Act**

The Regional Tribal Operations Committee (RTOC) in Region 9 began meeting not long after the Indian Environmental General Assistance Program Act was enacted in 1992. The first Charter for RTOC was approved on July 28, 1995. The RTOC is a working committee of Tribal and EPA personnel co-chaired by a Tribal representative and an EPA representative. EPA designates its RTOC representatives through internal mechanisms. All Tribes within Region 9 are considered members of the RTOC. Tribal representatives to the RTOC are selected through government-to-government communication, by Tribal leaders in various geographical areas within Region 9.

The RTOC's mission is to assist EPA in meeting its trust responsibility to the Tribes, provide support for the Tribal Program in the Region, strengthen Tribal environmental and public health programs, enhance responsiveness to Tribal needs, and assist with the communication and information exchange between Tribes and EPA.

The Indian Environmental General Assistance Program Act was enacted on October 4, 1992 and amended on November 24, 1993 (P.L. 103-155 Stat. 1523) to extend the authorization of the Act to fiscal year 1998. Since that time the General Assistance Program has continued to assist Indian tribal governments and tribal consortia to enhance their capacity to administer environmental programs on Indian land.

The Indian Environmental General Assistance Program Act responds to the needs identified by Indian tribes for increased Federal assistance to improve environmental protection on Indian lands. The Act authorizes the EPA to award grants, at a minimum level of \$75,000 per year, to Indian tribes to develop the necessary technical, legal and administrative infrastructure for effective environmental regulation.

The strength of the General Assistance Program (GAP) is the flexibility provided to Indian tribes to plan and develop a reservation specific approach to environmental protection, consistent with tribally-identified environmental priorities. According to estimates by the EPA, approximately 100 of the 557 Federally-recognized Indian tribes have received GAP funding since its enactment. However, the demonstrated need by Indian tribes far exceeds the existing level of funding.

The General Assistance Program strengthens public health and environmental protection for Tribes, consistent with the Federal policies of Tribal Self-Determination and Self-Governance and EPA's 1984 Indian Policy. The Federal Government recognizes that Indian tribal governments are the appropriate authority to manage environmental programs on Indian reservations. The GAP program represents an important first step in developing tribal environmental regulatory capacity to protect environmental quality on Indian reservations. With GAP grants, Indian tribes are able to develop comprehensive and integrated tribal environmental programs in the areas of:

- Solid and hazardous waste management
- Water quality
- Air quality
- Pesticide management

<b>Position Title:</b>	<b>RTOC Representative</b>	<b>Travel Required:</b>	Yes
<b>Location:</b>	EPA Region 9	<b>Length of Service:</b>	2 years
<b>Job Description</b>			
<b>Role and Responsibilities</b>			
<ul style="list-style-type: none"> <li>• Have the support of your Tribal Council.</li> <li>• Ability to speak with the public with confidence and be clear and concise.</li> <li>• Be willing to provide verbal engagement and representation of Tribes when discussion is occurring.</li> <li>• Be engaged and be proactive in discussions.</li> <li>• Be knowledgeable of relevant policies and procedures pertaining to RTOC and EPA.</li> <li>• Be persistent to get an answer and provide feedback to all tribes as needed.</li> <li>• Must appoint an alternate for your position in case unable to attend meetings.</li> <li>• Periodically update tribal contact lists and share with RTOC Co-Chair and tribes.</li> <li>• Assist the RTOC Co – Chair with drafting agenda</li> <li>• Be willing to assist the RTOC Co-chair with reviewing minutes and action items.</li> <li>• Assist the RTOC Co-chair with engaging tribes within the RTOC.</li> <li>• Be familiar with the RTOC Charter and attend RTOC in conformity with the Charter.</li> <li>• Disseminate information pertaining to tribal issues not only on a local basis but regional as well (requirement to maintain contact information for tribes represented and get on state, federal, local agency list serves).</li> <li>• Be prepared to serve as a workgroup lead or on various councils if necessary.</li> <li>• Be aware and informed on national and regional agency strategies and legislation that have impacts on Tribes.</li> </ul>			
<b>Qualifications</b>			
<ul style="list-style-type: none"> <li>• Tribal leaders, Tribal Officers, Tribal Staff, Tribal Member of Tribe in the Region.</li> </ul>			
<b>Preferred Skills</b>			
<ul style="list-style-type: none"> <li>• Skill in operating business computers and office machines, including windows suite (excel, word, access, power point).</li> <li>• Knowledge of applicable federal, state, county, and local laws, regulations, and requirements.</li> <li>• Ability to maintain confidentiality, when necessary.</li> <li>• Ability to work positively with the Tribal community and co-workers in a conscientious and professional manner.</li> </ul>			
<b>Additional Notes</b>			

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**U.S. EPA, Region 9 Tribal Section Project Officer List**

updated 9/25/2015

**Arizona Tribes**

Ak-Chin	XX
Colorado River Indian Tribes	DC
Fort McDowell	XX
Fort Mojave	DC
Gila River	MB
Havasupai	VS
Hopi	PO
Hualapai	VS
Kaibab	PO
Navajo Nation	PO
Pasqua Yaqui	AB
Salt River	MB
San Carlos	PO
San Juan S. Paiute	PO
Tohono O'odham	AB
Tonto Apache	EB
White Mountain	PO
Yavapai Apache	EB
Yavapai Prescott	EB

**California Tribes**

Cloverdale	ML
Cocopah	AB
Cold Springs	ML
Colusa	GP
Cortina	XX
Coyote Valley	SK
Cuyapaipe	AB
Dry Creek	XX
Elem	VS
Elk Valley	MB
Enterprise	DC
Fort Bidwell	TW
Ft Independence	DW
Graton	XX
Greenville	DC
Grindstone	DC
Guidiville	SK
Hoopa	TW
Hopland	XX
Inaja & Cosmit	AB
Ione	GP
Jackson	GP
Jamul	AB
Karuk	TW
Kashia	XX
La Jolla	PO
La Posta	AB
Lone Pine	DW
Los Coyotes	EB
Lower Lake	VS
Lytton	ML
Manchester	SK
Manzanita	AB
Mechoopda	DC
Mesa Grande	EB
Middletown	VS
Mooretown	DC
Morongo	XX
Northfork	ML
Pala	AM
Paskenta	DC
Pauma	AM
Pechanga	AM
Picayune	XX
Pinoleville	SK
Pit River	TW

**California Tribes**

Potter Valley	SK
Quartz Valley	TW
Quechan	AB
Ramona	AM
Redding	DC
Redwood Valley	SK
Resighini	TW
Rincon	PO
Robinson	VS
Round Valley	SK
San Manuel	AM
San Pasqual	PO
Santa Rosa Rancheria	ML
Santa Rosa Reservation	EB
Santa Ynez	XX
Santa Ysabel	EB
Scotts Valley	VS
Sherwood Valley	SK
Shingle Springs	GP
Smith River	MB
Soboba	XX
Susanville	DC
Sycuan	ML
Table Mountain	ML
Tejon Tribe	XX
Timbisha	DW
Torres Martinez	WC
Trinidad	MB
Tule River	ML
Tuolumne	ML
29 Palms	WC
Upper Lake	VS
Viejas	AB
Wilton	GP
Wiyot	MB
Yocha DeHe	XX
Yurok	TW

**Consortia**

ITCA	XX
ITCN	GP
Klamath Basin Coalition	TW
NAEPC	AB
Owens Valley	DW
Upper Snake River	GP

**Nevada Tribes**

Battle Mountain	AM
Duck Valley	GP
Duckwater	WC
Elko	AM
Ely	WC
Fallon	XX
Fort McDermitt	GP
Goshute	WC
Las Vegas	PO
Lovelock	VS
Moapa	PO
Pyramid Lake	ML
Reno Sparks	XX
South Fork	AM
Summit Lake	VS
Walker River	XX
Washoe	ML
Wells	AM
Winnemucca	VS
Yerington	XX
Yomba	WC

**California Tribes**

Agua Caliente	WC
Alturas	TW
Auburn	GP
Augustine	WC
Barona	AB
Bear River	MB
Benton	DW
Berry Creek	DC
Big Lagoon	MB
Big Pine	DW
Big Sandy	ML
Big Valley	VS
Bishop	DW
Blue Lake	MB
Bridgeport	DW
Buena Vista	GP
CA Valley Miwok	GP
Cabazon	WC
Cahto	SK
Cahuilla	XX
Campo	AB
Capitan Grande	AB
Cedarville	TW
Chemehuevi	DC
Chicken Ranch	ML

**AB:** Alheli Banos 619-235-4767  
**AM:** Angela Mendiola 415-972-3284  
**DC:** Destinee Cooper 415-972-3790  
**DW:** Damian Willson 415-972-3453  
**EB:** Erskine Benjamin 415-972-3561  
**GP:** Gilbert Pasqua 415-972-3788  
**MB:** Michelle Baker 415-972-3206  
**ML:** Mariela Lopez 415-972-3771  
**PO:** Pam Overman 415-972-3781  
**SK:** Shannon Kissinger 415-972-3323  
**TW:** Tim Wilhite 530-841-4577  
**VS:** Veronica Swann 415-972-3699  
**WC:** Willard Chin 415-972-3797  
 XX: Vacancy \*see Manager

**Manager:** Laura Ebbert 415-947-3561  
**Admin:** Kimberli Smith 415-972-3778  
**Newsletter:** Michele Anderson 415-972-3127

# Organization Chart for EPA's Pacific Southwest Office

<http://www2.epa.gov/aboutepa/organization-chart-epas-pacific-southwest-office>

**Office of the Regional Administrator**  
**(415) 947-8000 or**  
**866-EPA-WEST**

<http://www2.epa.gov/aboutepa/organization-chart-epas-pacific-southwest-office#ra>

**Office of Public Affairs**

<http://www2.epa.gov/aboutepa/organization-chart-epas-pacific-southwest-office#opa>

**Office of Regional Counsel**

<http://www2.epa.gov/aboutepa/organization-chart-epas-pacific-southwest-office#orc>

**Superfund Division**

<http://www2.epa.gov/aboutepa/organization-chart-epas-pacific-southwest-office#sf>

**Air Division**

<http://www2.epa.gov/aboutepa/organization-chart-epas-pacific-southwest-office#air>

**Land Division**

<http://www2.epa.gov/aboutepa/organization-chart-epas-pacific-southwest-office#land>

**Water Division**

<http://www2.epa.gov/aboutepa/organization-chart-epas-pacific-southwest-office#water>

**Management and Technical Services  
Division**

<http://www2.epa.gov/aboutepa/organization-chart-epas-pacific-southwest-office#mts>

**Enforcement Division**

<http://www2.epa.gov/aboutepa/organization-chart-epas-pacific-southwest-office#enf>

# Work Group Meeting Summary

**RTOC Work Group Name:** \_\_\_\_\_

**Work Group Co-Leads:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Place/Location:** \_\_\_\_\_

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<b>Participants:</b>	
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<b>Notes:</b>	
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# Work Group Meeting Summary

Action Item	Who	When

<b>Next Steps:</b>	
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# **U.S. EPA REGION 9 REGIONAL TRIBAL OPERATIONS COMMITTEE CHARTER**

(July 28, 1995, As Amended June 11, 1996, September 2, 1998, February 2, 2000, July 25, 2001, October 26, 2004, February 7, 2005, April 24, 2007, and November 13, 2014)

The Regional Tribal Operations Committee (RTOC) is the Regional counterpart to the Tribal Operations Committee (TOC). The RTOC does not replace direct Tribal to EPA relationships, nor does it constitute a forum for consultation between the federal government and Tribes. The RTOC recognizes and respects the existing Tribal jurisdiction, cultural, political and social continuity of Tribes.

## **Mission**

**The RTOC's mission is to:**

- Assist EPA in meeting its trust responsibility to the Tribes;
- Provide support for the Tribal Program in the Region;
- Strengthen Tribal environmental and public health programs;
- Enhance responsiveness to Tribal needs;
- Assist with the communication and information exchange between Tribes, the TOC and EPA

## **Goals**

**The RTOC's goals are to:**

- Enhance government-to-government relationships between EPA and all Tribes.
- Promote and strengthen the inherent ability and continuing efforts of Tribes to manage programs to provide environmental and public health protection.
- Assist EPA in meeting the principles of the EPA Indian Policy of 1984.<sup>1</sup>
- Foster and encourage a partnership between EPA and Tribal governments, and build relationships to improve environmental and public health protection on Indian lands. It will demonstrate leadership in federal agency and Tribal government relations. It will provide a forum to:
  - \* Develop strategies and recommendations for Regional resources and operating policies, based on Tribal and EPA experiences
  - \* Foster better understanding and bridge gaps between EPA and Tribal government cultures.

<sup>1</sup>EPA Indian Policy of 1984, as reaffirmed by EPA Administrator Johnson in 2005.

## Scope

The RTOC will help further the development of government-to-government relationships between EPA and all Tribes in the Region. Within that scope, the RTOC will have a role in three key areas:

**(1) Policy and Management of EPA Indian Programs.** The RTOC will review and make recommendations on the development of Regional strategies for all Indian Program activities. It will advise Regional policies and priorities and make recommendations on the deployment of Regional resources for Tribal Program activities.<sup>2</sup> It also will provide input on how national budget and resources should be allocated.

- The RTOC will review and make recommendations on Regional program activities that impact the environment of Indian lands, including Agency initiatives that may impact Region 9 Tribal Program operations.
- The RTOC will review and make recommendations on the development, modification, and implementation of Agency policies.
- The RTOC will help identify a process for assessing the environmental problems and needs of Tribes, and filling information gaps.<sup>3</sup>
- The RTOC will identify and promote opportunities for the training, education, recruitment, and hiring of American Indians and Alaskan natives in careers of environmental and public health protection.<sup>4</sup>

**(2) Coordination/Communication among Tribes, EPA, and other Agencies.** The RTOC will serve as a communication forum for Tribal activities. It will work to ensure effective, two-way communication between EPA and the Tribes in the Region, and facilitate and coordinate communication with other federal agencies. It will establish a communication network among Tribes to disseminate information and ideas and solicit feedback. It also will advise Tribes how to contact EPA directly, and work to ensure that there is an environmental presence in each Tribe.

As a coordinating body, the RTOC will provide a mechanism to identify issues, elevate them to the appropriate level, and coordinate program activities to increase effectiveness. The RTOC will provide a direct linkage to the TOC, in order to facilitate effective communication between the Tribes, Region 9, the TOC, and the American Indian Environmental Office.

In order to maintain the integrity and strength of the RTOC as an advisory body, any documents or letters (including drafts) developed by the RTOC must be reviewed and vetted by the Tribal Caucus before being sent.

**(3) Education.** The RTOC will work to ensure that Regional staff is educated about Tribes and Indian Programs. It will help raise awareness of the diversity among Tribes and promote a better understanding of jurisdiction and sovereignty. It also will work to ensure that Tribes are informed about EPA activities and available resources.

<sup>2</sup> The RTOC as a body will not participate in individual application review and awards of EPA grants or contracts.

<sup>3</sup> The RTOC also supports increasing the number of EPA trips to Tribal lands to identify Tribal needs.

<sup>4</sup> This encompasses opportunities in Tribal and federal agencies.

## Structure and Membership

The RTOC is a working committee of EPA and Tribal personnel co-chaired by an EPA representative and a Tribal representative. EPA designates its RTOC representatives through internal mechanisms. All Tribes within Region 9 are considered members of the RTOC. However, for organizational purposes, Tribal representatives to the RTOC shall be selected through government-to-government communication, by Tribal leaders in various geographical areas within Region 9. The Tribal RTOC representatives, in turn, will select representatives to the National Tribal Operations Committee (NTOC).

### I. EPA Representation

- A. There shall be a total of 18 EPA representatives.
- B. EPA representatives to the RTOC are identified by the Regional Tribal Program.
- C. The Director of the Land Division, or his designee, shall serve as the EPA Co-Chair of the RTOC.

### II. Tribal Representation

- A. Composition: All Tribes within Region 9 are considered members of RTOC and their designees are welcome at all meetings. However, for organizational purposes, there shall be 24 Tribal representatives, selected by specific geographic area:
  1. Ten (10) from California: three from the northern area, three from the central area, three from the southern area, and one from the Owens Valley.
  2. Seven (7) from Arizona: two from the northern area, two from the central area, two from the southern area and one from Navajo Nation.
  3. Seven (7) from Nevada: these will be at-large representatives.

These elected Tribal representatives, along with other Tribal officers or employees, are collectively referred to as the "RTOC Tribal Caucus."

- B. Tribal Representative Selection Process: EPA will issue a letter to Tribal leaders requesting nominations from the Tribal leaders in each area. Tribal leaders may nominate anyone they feel is qualified and will be committed to the RTOC, whether a representative of their own Tribe or another. Nominations will include the name, Tribal affiliation and a short statement of qualifications of the nominee. EPA will put nominations on a formal ballot for vote by Tribal leaders within the particular area from which each representative will be chosen. This process is further detailed in section G below. In RTOC elections, the person, and not the Tribe the person represents, is chosen.
- C. Alternates: Each elected RTOC representative must designate, in writing, an alternate to attend meetings if the representative is unable to attend. Alternates will be selected using the representatives' Tribal or agency protocol, and will be submitted to the RTOC Tribal Co-Chair within three months of the date of the letter confirming their election or appointment.
- D. Term: Attendance: Vacancy: Each RTOC representative will serve a two-year term. If an RTOC representative misses three meetings within a two-year period (without sending an alternate), s/he will automatically step down. A position

vacated for this reason or otherwise (i.e., resignation) will then be filled, at or before the next RTOC meeting, as follows: (1) by the person's designated alternate, or if there is no alternate or the alternate is unable or unwilling to serve, (2) by the person from the same geographic area who received the second highest number of votes in the last election, or (3) by a person elected by the tribes in the geographic area represented by the vacant position, with assistance from EPA or RTOC if requested. The new representative will serve out the remainder of the term, and be subject to the same rules as any other elected representative, including attendance and naming an alternate. If the vacancy occurs within 90 days of the next regular election, the position may remain vacant until filled through the regular election process. Any special election will follow the same rules as outlined in Section 11(B).

- E. NTOC Representatives: Tribal RTOC representatives will select from among themselves (state by state) Region 9 representatives. *(and their alternates to the NTOC. Alternate NTOC representatives need not be elected RTOC representatives)*. . The NTOC Charter states that all regions will be allowed one alternate, the alternate for Region 9 will be the RTOC Tribal Co – Chair.
  
- F. Tribal Co-Chair: Tribal RTOC representatives shall select from among themselves, in accordance with section G below, the Tribal Co-Chair of the RTOC, whose term of office shall run concurrently with his or her term as a representative.
  
- G. Election Process; Timeline: (for use in election years)
  - 1. November 10 - EPA to send letter to Tribal leaders asking for nominations (attach nomination forms with RTOC representative duties and responsibilities).
  
  - 2. December 15 - Nominations must be postmarked by this date. All nominees to be asked if they are willing to serve a 2-year term.
  
  - 3. January 20 - EPA to send out cover letter and formal ballots.
  
  - 4. February 24 - Votes must be postmarked by this date.
  
  - 5. March 18 - Ballots to be counted and elected representatives to be notified and sent Congratulatory letters by EPA Tribal Section, Land Division. The Tribal Section will send announcement of newly elected RTOC representatives to all tribal leaders and environmental directors. Letters will include notification that the new Tribal Co-Chair and NTOC representatives will be selected at the April meeting, and request that nominations be directed to the sitting Tribal Co-Chair prior to or at that meeting.
  
  - 6. April RTOC Meeting - RTOC Co-Chair, NTOC delegates and alternates to be selected by newly elected RTOC representatives during the Tribal Caucus in San Francisco. Selections to be verbally announced at the RTOC meeting in San Francisco.

7. May - Co-Chair elect submits grant application to EPA.

8. April & July RTOC Meetings - Co-Chair elect attends meetings and learns duties from existing Co-Chair. Existing Co-Chair serves out term until September 30.

9. October 1 - Co-Chair begins 2-year term and EPA awards new grant.

### **III. Subcommittees**

As a working committee, the RTOC may appoint subcommittees or workgroups, composed of EPA personnel and Tribal designees, as needed, to develop issues or accomplish tasks. Each workgroup shall have a Tribal lead and an EPA lead, if appropriate, and shall function in accordance with RTOC Workgroup Operating Procedures.

### **Meetings**

At a minimum, the Committee will meet four times a year. Additional meetings will be scheduled if necessary, contingent upon available funds. Meetings will be conducted by the co-chairs, including facilitation and management of the agenda

RTOC members should make every effort to attend meetings. If they are absent, they will abide by the decisions made in their absence. If they cannot attend, members have the responsibility of presenting their opinions through their alternates or other means (e.g. letter). Recommendations and actions will be made by RTOC representatives and will reflect the spirit of consensus to the extent possible.

Meetings will be open to EPA employees, and all Tribal members and staff. Tribal leaders are invited to attend. Persons other than EPA staff or Tribal members and staff may be invited to attend at the discretion of the Committee.

### **Administration**

EPA will staff the RTOC. EPA will arrange RTOC meetings; distribute information, agenda & minutes to members; provide support for particular projects or tasks. Tribal representatives on the RTOC will be compensated for their participation to the fullest extent possible.

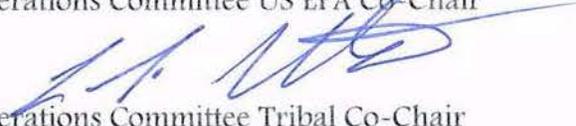
### **Charter Amendment and Review**

As the RTOC's role and responsibilities evolve, it may amend this document as necessary. This charter will be reviewed at least annually; any proposed amendments shall be developed by the Tribal Caucus or Charter Workgroup, disseminated for review and input by all the Tribes in Region 9, and voted upon at the next RTOC meeting.

**MEMORANDUM**

**SUBJECT:** 2015 Certification of Regional Tribal Operations Committee Strategic Plan

**FROM:** Jeff Scott   
Regional Tribal Operations Committee US EPA Co-Chair

Cornelius Antone   
Regional Tribal Operations Committee Tribal Co-Chair

**TO:** Region 9 Regional Tribal Operations Committee

The Region 9 Tribal Operations Committee (RTOC) is a working committee composed of Region 9 EPA personnel and Region 9 tribal representatives. The RTOC has developed this Strategic Plan to address the issues the RTOC has identified and the activities the RTOC intends to carry out between October 1, 2015 and September 30, 2017.

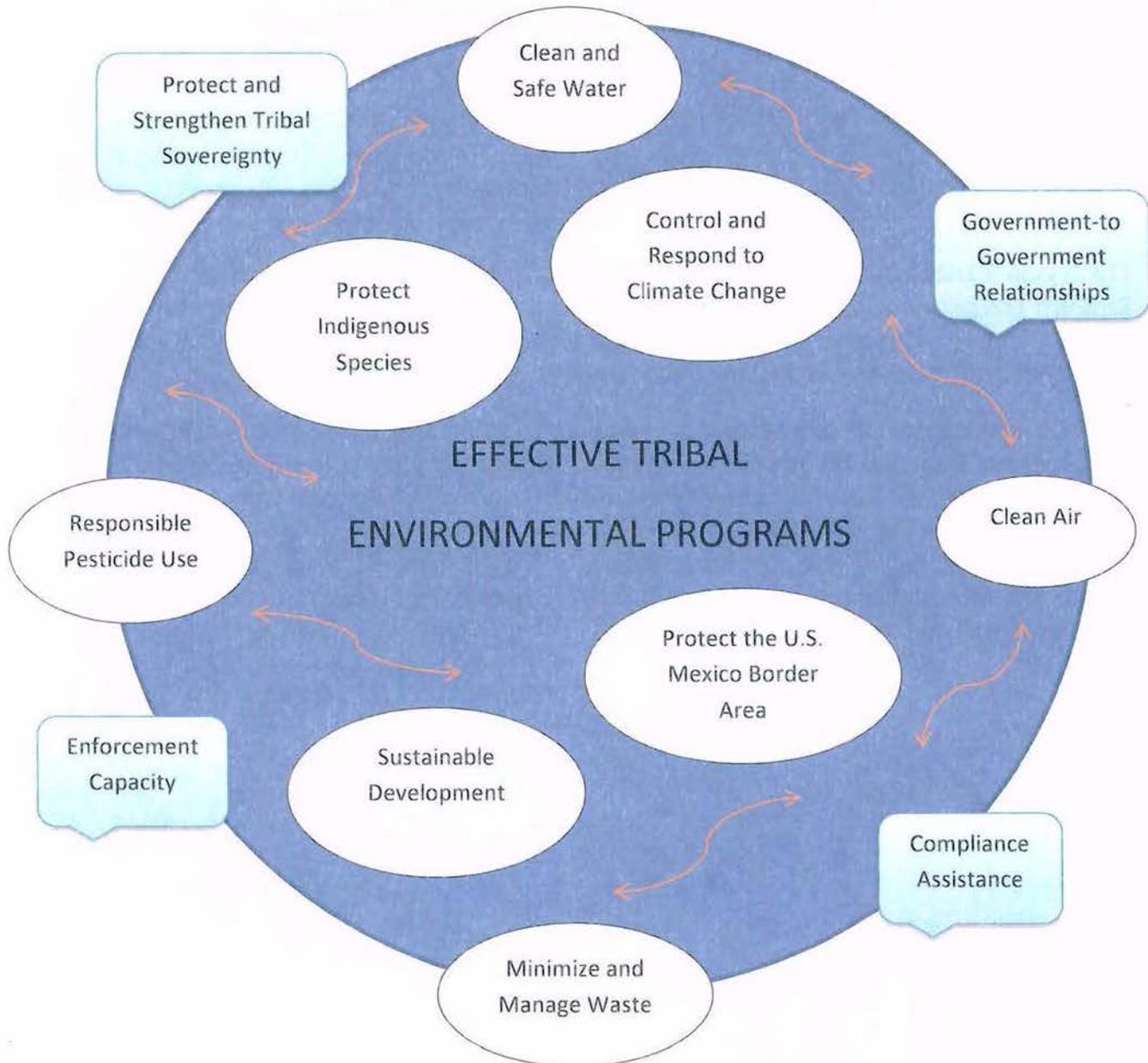
The Plan consolidates into one document a summary of RTOC operations, overarching strategic directions and proposed key actions; the objectives, strategies and tasks identified by and/or assigned by the RTOC to various workgroups to address media-specific and cross-media issues as developed by the Region 9 Tribal Caucus; and other important information to guide the work of the RTOC and ensure its continued success. The RTOC intends to use this Strategic Plan as a working document, to review it annually, and update it biannually or more often as priorities, needs and circumstances change.

REGION 9 TRIBAL OPERATIONS COMMITTEE

STRATEGIC PLAN

(October 1, 2014 – September 30, 2016)

STRATEGIES FOR MAINTAINING AND ENHANCING THE TRADITIONAL RELATIONSHIP  
BETWEEN TRIBAL COMMUNITIES AND THE ENVIRONMENT



## **INTRODUCTION**

The Regional Tribal Operations Committee (RTOC) is a working committee of EPA and Tribal personnel co-chaired by an EPA representative and a Tribal representative. The RTOC has developed this Strategic Plan to provide a comprehensive guide to issues the RTOC intends to address and activities the RTOC intends to implement between October 1, 2014 and September 30, 2016 to achieve its goals consistent with the RTOC Charter. The Plan consolidates into one document a summary of RTOC operations, overarching Strategic Directions and proposed Key Actions; the objectives, strategies and tasks identified by and/or assigned by the RTOC to various workgroups to address media-specific and cross-media issues; and other fundamental information to guide the work of the RTOC and ensure its continued success. The RTOC intends to use this Plan as a working document, to review it annually and update it biannually or more often as priorities, needs and circumstances change. This document and subsequent updates will be adopted by consensus of the RTOC at a regularly scheduled meeting.

## **ABOUT THE TRIBES IN REGION 9**

Of the nation's 572 federally recognized Indian tribes, 148 are located in the states of Arizona, California and Nevada. The areas over which the Region 9 tribes have jurisdiction and primary management authority comprise over 27 million acres, more than 10% of the land in the Region. The population, land base, government structure, history, and culture of Region 9 tribes varies widely, as do tribal environmental issues, needs and priorities reflecting the Region's ecological diversity. Underlying these variations, the tribes share a unique and significant relationship with the environment, as their histories, traditions and cultures are deeply rooted in the natural world and they face similar challenges in their efforts to protect the health of their people and the environment.

Tribal communities continue to experience significant disparity in economic, health and environmental conditions compared with the rest of the nation as a whole: nearly one-third of tribal homes remain at or below the poverty level; well over 10% of tribal homes lack access to safe drinking water or basic sanitation facilities; which can cause increase prevalence of environmentally-based illnesses.

Lacking an ability to raise independent revenue via taxation, most tribal governments are dependent on Federal assistance to support core government services, including support for environmental and community health protection efforts. See Table 1 for Funding Information for each EPA Tribal Program. Funding limitations present one of the most significant barriers to the establishment and maintenance of effective tribal environmental programs.

## **ABOUT EPA**

EPA's fundamental objective in carrying out its responsibilities in Indian country is to protect human health and the environment. EPA works directly with federally recognized tribes as sovereign entities with primary authority and responsibility for each tribe's land and membership, and not as political subdivisions of states or other governmental units.

EPA recognizes the federal government's trust responsibility, which derives from the historical relationship between the federal government and Indian tribes as expressed in certain treaties and federal Indian law. EPA ensures the close involvement of tribal governments and gives special

consideration to their interests whenever EPA's actions may affect Indian country as a whole or the interests of specific tribes.

## **ABOUT THE RTOC**

Originally established in or about 1995, the Region 9 Tribal Operations Committee is composed of EPA management and staff as well as tribal representatives selected by tribal leaders from eight (8) geographic areas within the Region.

The RTOC serves as a forum to identify policy and action that maximizes the effectiveness of EPA's tribal programs and protection of tribal environmental priorities, interests and needs. Consistent with its Charter, the RTOC's role is to discuss general positions, views, beliefs and concerns of the tribes in Region 9 and EPA's programs, policies, and approaches in Indian Country, as well as to facilitate the provision of technical assistance to tribes by EPA, other agencies and entities, including other tribes; the RTOC is not intended to replace government-to-government relationships between tribes and the federal government or to represent the interests of any specific tribe to the Agency.

As described in its Charter, the RTOC's mission includes assisting EPA to meet its trust responsibility to tribes; providing support for tribal programs in Region 9; strengthening tribal environmental and public health programs; enhancing responsiveness to tribal needs; and facilitating communication and information exchange among tribes, the National Tribal Operations Committee, and EPA.

The Charter defines the goals of the RTOC to include enhancing the government-to-government relationship between EPA and all tribes; promoting and strengthening tribal efforts to manage environmental and public health programs; assisting EPA to meet the principles set forth in its 1984 Indian Policy; and fostering and encouraging partnerships between EPA and tribes.

The scope of RTOC activities identified in the Charter focus on three key areas: (1) policy and management of EPA's tribal programs; (2) coordination and communication among Tribes, EPA and other agencies; and (3) education.

For the last several years, RTOC meetings have been held quarterly, and generally include a day-long Tribal Caucus, various breakout sessions on specific issues, and a full day plenary session. While the body as a whole focuses on advancing its overarching priorities, the RTOC utilizes both standing and ad-hoc workgroups to focus on specific issues. The workgroups convene as needed between RTOC meetings to review, discuss and draft documents, and perform other assignments. Workgroup activities are reported out at RTOC meetings.

Through workgroup efforts and strategic focus of the larger group, the RTOC has been able to advance several of its goals on both the national and regional levels. For example, its role in providing comments on EPA's national consultation policy which was finalized in 2012 was essential. RTOC briefings and coordination with other tribal organizations strongly encouraged the President's stimulus package to ensure funding for tribal projects. RTOC work also encouraged the reinvigoration of the National Infrastructure Task force to address critical tribal drinking water and wastewater needs, and the ongoing participation by RTOC representatives in this and other national level organizations, such as the National Tribal Water Council, have ensured that the work of those organizations takes into account the concerns and perspectives, and appropriately addresses the needs, of Region 9 tribes. More locally, RTOC workgroups have assisted EPA in developing regional policies and guidance documents, such as a FOIA guidance governing public requests for tribal

information; dispute resolution procedures for tribal grantees; drinking water infrastructure funding guidance; and guidance regarding enforcement actions against off-reservation activities that impact tribal lands and resources.

## **RTOC PRIORITIES ~ STRATEGIC DIRECTIONS AND KEY ACTIONS**

Over the last several years, the RTOC has engaged in an annual exercise to define and clarify priority environmental issues for action by the RTOC and/or its workgroups. While numerous important issues have been brought to the RTOC, at the highest level the RTOC as a whole is focused on the following Strategic Directions:

- Ensuring EPA actions and policies reflect tribal priorities and EPA's trust responsibilities and consultation obligations;
- Promoting the protection, sustenance and enhancement of tribal program funding, technical assistance and other resources to support tribal environmental protection efforts.
- Facilitating coordination between tribes, EPA and other government agencies to comprehensively identify, assess and address tribal environmental protection needs; and
- Providing a forum to gather and share information and assist EPA and tribes to document achievements

To advance these Strategic Directions during the next two years, the RTOC intends to focus its efforts on one or more Key Actions, by identifying and implementing tasks to achieve the following objectives:

- Protect core tribal environmental program funding;
- Protect tribal water program funding;
- Reinvigorate support for tribal multi-media implementation funding;
- Ensure all Region 9 tribes have access to technical assistance for their drinking water and wastewater facilities; and
- Protect and enhance solid waste program funding and ensure agency policy reflects tribal solid waste management and implementation needs.

## **WORKGROUP FOCUS AREAS**

The RTOC has identified nine (9) media-specific and cross-media areas of focus:

- Facilitate the development and maintenance of effective core tribal environmental programs;
- Protect and enhance water quality in Indian Country;
- Ensure tribal access to safe drinking water and basic sanitation in parity with non-tribal communities;

- Support programs to effectively minimize and manage solid and hazardous wastes in Indian country;
- Protect and improve air quality;
- Support the capacity of tribal communities to mitigate and adapt to impacts of climate change;
- Protect tribal environments and community health in the U.S./Mexico border area;
- Facilitate access to resources that support the development of sustainable infrastructure in tribal communities; and
- Ensure other cross-media issues, such as pesticides and invasive species, are considered and addressed.

While the RTOC focuses on advancing its Strategic Directions through the Key Actions identified above, RTOC workgroups intend to continue their work on a wide variety of specific tasks to address these and other issues, as reflected in the attached in the appendices are Focus Area Workplans.

## **GUIDING PRINCIPLES**

All work undertaken by or on behalf of the RTOC will be guided by the following overarching principles:

All Things Are Related. The RTOC recognizes the interrelationship between and among its priority issues, and acknowledges that no issue can be defined and effectively addressed in a vacuum. The RTOC should strive to identify all aspects of each priority issue and ensure that its efforts to address issues are undertaken in the broadest, most inclusive possible manner.

The Link Between Environmental Values and Culture. The RTOC recognizes the fundamental cultural values that define each Tribe's relationship with the natural world and inform Tribal environmental priorities and protection efforts. The RTOC should always acknowledge, honor and seek to ensure the consideration of these values.

The Protection of Tribal Sovereignty. The RTOC recognizes the importance of protecting and advancing Tribal sovereignty in all of its efforts to address environmental issues.

The Importance of the Government-to-Government Relationship. The RTOC recognizes that meaningful government-to-government relationships between Tribes and EPA (as well as other federal, state and local agencies) are critical to effective environmental protection, and shall strive to facilitate and strengthen these relationships for the benefit of the tribes in Region 9.

## **SPECIAL UNDERSTANDINGS**

As required by the Antideficiency Act, 31 U.S.C. 1341 and 1342, all commitments made by EPA in this Plan are subject to the availability of appropriated funds. Nothing in this Plan, in and of itself, obligates EPA to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations that would be inconsistent with Agency budget priorities. The parties agree not to submit a claim for compensation for services rendered to

EPA in connection with any activities it carries out in furtherance of this Plan. This Plan does not exempt the parties from EPA policies governing competition for assistance agreements. Any transaction involving reimbursement or contribution of funds between the parties to this Plan will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

This Plan does not create any exemptions from federal policies and/or regulations relating to public involvement, employment, and competition for grants and contracts. Nothing in this Plan exempts the parties from complying with any applicable federal, state, or local law or regulations.

If the parties find that an activity undertaken pursuant to this agreement may result in the creation of intellectual property or may require the sharing of proprietary information, the parties agree to negotiate separate agreements to address those matters. None of the parties shall construe any part of this Plan as an endorsement of the products or services of the other. Nothing in this Plan shall be construed as an endorsement of the fundraising activities of any of the parties. None of the parties shall make statements pursuant to this Plan that imply such endorsements.

The parties acknowledge that under 5 § C.F.R. 2635.702(c), EPA may not endorse the purchase or sale of commercial products and services provide by tribal participants. The Parties agree to ensure that promotional material describing or resulting from this Plan do not contain statements implying that EPA endorses any of the products or services of the participants. This includes statements to the public in news releases, publications on web sites or any other media. The Parties agree not to initiate or distribute any press releases, publicity matters or other promotional materials related or referencing the subject matter of this Plan without prior approval of the other parties.

This Plan is not intended to result in any legal obligations on the part of either EPA or any of the parties. This Plan does not create any right or benefit, enforceable by law or equity, against the parties, their officers or employees, or any other person. The parties agree that this Plan is entered into on a non-preferential basis, and either party may undertake similar Plans with other entities on a non-preferential basis. This Plan does not direct or apply to any person or entity outside of the parties to this Plan.

To carry out the joint activities described in the Plan, the some Parties may need to disclose proprietary information to EPA. Proprietary information is defined as information that an affected business claims to be confidential and is not otherwise available to the public. The Parties agrees to clearly identify confidential business information disclosed to EPA in writing; and to clearly memorialize in writing, within a reasonable time, any confidential information initially disclosed orally. EPA agrees not to disclose, copy, reproduce or otherwise make available in any form whatsoever to any other person, firm, corporation, partnership, association or other entity information designated as proprietary or confidential information without consent of the Parties except as such information may be subject to disclosure under the Freedom of Information Act (5 U.S.C. 552), and EPA's regulations at 40 C.F.R. Part 2, or as otherwise authorized by law.

# TABLE 1

# Table 1: FY15 Funding for Region 9 Tribes

Program	# of Tribes & Consortia Receiving Funding	FY15
General Assistance Program	158	\$16,415,000
Drinking Water Tribal Set-Aside	8	\$6,581,000
Clean Water Indian Set-Aside	13	\$10,737,422
Clean Water Act 106	89	\$8,669,000
Clean Water Act 319	77	\$2,560,000
Clean Air Act	30	\$2,910,663
Clean Water Act 104(b)3 (Wetlands)	5	\$1,575,875
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (OECA & OPP)	10	\$900,326
Brownfields (Superfund) – 128(a)	10	\$1,761,949

## APPENDIX #1

### GAP Workgroup

#### Facilitate the Development and Maintenance of Effective Core Tribal Environmental Programs

##### Background

- An effective core environmental program is a fundamental need of every tribe that undertakes environmental protection efforts
- Requires adequate resources to establish the program, undertake capacity building activities, and maintain the program over the long-term
- Adequate resources are also needed for implementation activities, such as the development and implementation of enforcement mechanisms
- The General Assistance Program (GAP) has traditionally been the primary, if not sole, source of funding for these purposes
- Limited funding of the GAP, coupled with multiple demands on it from other programs, has resulted in less than adequate funding to support tribal core program needs
- Limitations on allowable uses of GAP funds have also hampered tribal efforts to implement program activities and to develop and sustain enforcement capacity

To address these issues, the RTOC has identified the following objectives:

- A. Achieve adequate funding of the Indian Environmental General Assistance Program (GAP) to provide ongoing support for tribal environmental programs;
- B. Achieve greater flexibility in the use of GAP and other funds to address tribally identified priorities, including implementation;
- C. Identify opportunities to leverage funds to address priority needs in Indian Country;
- D. Ensure allowable uses of GAP and other funds honor and protect the traditional relationship between tribal communities and the environment;  
and
- E. Promote longevity of Tribal Environmental programs and capacity.

## **Relevant Provisions in EPA strategic planning and other documents**

### **EPA's 1984 Indian Policy**

#### **EPA Strategic Plan 2011-2015**

Objective 3.4: Strengthen Human Health and Environmental Protection in Indian Country. Support federally-recognized tribes to build environmental management capacity, assess environmental conditions and measure results, and implement environmental programs in Indian Country.

- By 2015, increase the percent of tribes implementing federal regulatory environmental programs in Indian Country to 18 percent (FY 2009 baseline: 13 percent of 572 tribes)
- By 2015, increase the percent of tribes conducting EPA-approved environmental monitoring and assessment activities in Indian Country to 50 percent (FY 2009 baseline: 40 percent of 572 tribes).

<http://www.epa.gov/planandbudget/strategicplan.html>

#### **Region 9 Strategic Plan (2011-2014)**

Geographic Area of Focus: Tribal Partnerships

The United States has a trust responsibility to federally recognized Indian tribes. We work on a government-to-government basis with all 147 tribes in Region 9. Region 9 tribal lands comprise half of all Indian land in the country, and more than 80% of the tribes in the Region have an environmental presence. Economically disadvantaged populations in Indian Country still suffer from critical environmental and health problems. We will protect the environment in Indian Country by focusing on the following priorities:

Building Tribal Environmental Capacity through the General Assistance Program

- Work collaboratively with tribes to build and maintain environmental programs to protect 27 million acres of land and the health of more than 300,000 reservation residents
- Each year, award approximately 130 grants totaling more than \$15 million and technical support to over 125 tribes and inter-tribal consortia to build environmental protection programs.

<http://epa.gov/region9/strategicplan>

#### **Key Past Activities and Accomplishments of the RTOC**

TBA

**Recommended Activities**

**Short-Term Activities (Within 1-3 Years)**

- Review, share information, receive input and comment on Revise Draft Guidebook for Building Tribal Environmental Capacity (due to be released 10/4/12 with a 90-day consultation and comment period)
- Continue to gather specific information regarding tribal needs; why funding is important and how it has made a difference; and disparity between tribes and states for use in budget and other advocacy
- Identify tribal compliance assistance needs
- Identify tribal enforcement capacity barriers and ways to address them for tribes with different levels of development

**Long-Term Activities (Within 3-5 Years)**

- Continue to advocate for funding to support implementation activities, through the President’s proposed multi-media program or otherwise.

<b>Strategies</b>	<b>Tasks</b>	<b>Time Frames</b>	<b>Leads</b>
Advocate for appropriate budget	Tribal Caucus develops regional budget request	Annually – for presentation at “Spring RTOC”	Budget Workgroup
	Provide input into NTC budget development	Annually – before July budget meetings	Budget Workgroup
	Gather specific info re need; why funding is important and how it has made a difference; and disparity between tribes and states for use in these efforts	Ongoing	Budget Workgroup
	Coordinate with other organizations, e.g. NCAI	Ongoing	RTOC / NTOC Reps
Advocate for appropriate allowable uses / limitations	Prepare briefings, correspondence, comments to decision-makers as appropriate	As needed	To be assigned
	Review and comment on Guide Book for Developing Environmental Capacity	Pending as of January 2012	Guide Book Working Group

	On implementing Guidebook – Develop a recommendation from RTOC for the writing and implementation of TEAs	Pending	To be assigned, with NTOC
Leveraging	Peer Matching – develop sample language to add to grants notifications (across media) on Peer Matching. Note Peer Matching can be anywhere from sharing information to on-site technical assistance	TBD	Grants Workgroup
	Explore how or if EPA funds can be used as a match for any other Federal funds – can indirect costs be a match?	TBD	Grants Workgroup
Longevity	Develop a template to prompt staff at Tribes to think about operations plans and succession planning across media programs	TBD	TBD
Facilitate Support for Tribal Enforcement Capacity	Explore avenues to leverage enforcement authorities under “alternate” statutes/programs to address environmental problems that fall under “regulatory gaps,” such as enforcement for illegal solid waste dumps that don’t contain hazardous materials and therefore aren’t addressed under RCRA C, or are located in Indian Country but on privately held lands		
	Identify ways that enforcement activities can help tribes in the Border are to address migrant waste (e.g., MOU with Homeland Security?)		
	Facilitate environmental trainings for tribal leaders, police and judiciary to build awareness of issues/impacts related to environmental violations, the importance of using all aspects of tribal authorities to address noncompliance		
	Explore opportunities for joint enforcement actions (under which authorities can tribes share penalties resulting from joint enforcement actions as states do?)		
	Identify needs and opportunities for inspector training, sharing resources		

	for federal inspector credentials and inspections		
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## APPENDIX #2

### Water Quality Workgroup

#### Facilitate the Development and Maintenance of Effective Tribal Surface and Groundwater Programs

##### Background

The fluctuation and decline of EPA funding for tribal water programs remains a significant obstacle for tribal governments as they strive to preserve, protect and restore the waters on their lands. Tribes require sustainable funding to provide program continuity and to allow tribal governments to engage in long-term program planning. As part of this requirement, Tribes call for the establishment of annual baseline funding levels for fundamental programs and funding targets for mature tribal water programs. This request would help support the long-term operations of tribal water programs. One method of achieving sustainable funding is to establish parity between tribal and state funding. Thus allowing Tribes to receive set funding allocations / targets on an annual basis for their water programs as states and territories currently have.

Another area of concern for tribes is the removal of barriers to the attainment of flexibility in water programs. The lack of flexibility works against the tribes' need to maintain water programs that are closely aligned with fluctuating environmental conditions on their reservations. Particularly, amongst these barriers are the statutory funding caps for the CWA NPS, SDWA SRF, CWA SRF tribal programs. Eliminating these caps and other regulatory barriers would improve funding in Tribal environmental programs.

Tribes have developed water programs tailored to meet the unique challenges of environmental protection on their lands. These programs have lead to significant improvements to the environment on tribal lands in the past decade, thus demonstrating the effectiveness of the EPA/Tribal partnership....a partnership built on the foundation of Tribal sovereignty and the Federal government's trust responsibility. Under this partnership, Tribes expect Federal support for tribal water programs into the foreseeable future.

##### Relevant Provisions in EPA's Strategic Planning Documents

EPA's 2011-2015 Strategic Plan: The plan calls for protecting and restoring America's Waters by ensuring that both human health, and watersheds and aquatic ecosystems are protected. Through 2015, EPA hopes to ensure that the condition of the nation's streams and lakes does not degrade beyond 2006 baseline levels; and that water quality in Indian country will improve at 50 or more baseline monitoring stations in tribal waters (cumulative) (i.e., show improvement in one or more of seven key parameters: dissolved oxygen, pH, temperature, total nitrogen, total phosphorus, pathogen indicators, and turbidity) and identify monitoring stations that are showing no degradation in water quality (meaning the waters are meeting uses).

[http://water.epa.gov/aboutow/goals\\_objectives/goals.cfm](http://water.epa.gov/aboutow/goals_objectives/goals.cfm) (Water elements of EPA's Strategic Plan, 2011-2015)

2) EPA Region 9's 2011-2014 Strategic Plan – EPA Region 9's strategic plan describes a two-fold approach to protecting water quality which is to 1) Use the the Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA) as regulatory tools to develop effective permits and enforce compliance; and 2) Coordinate and leverage resources by providing financial and technical assistance towards specific goals that restore water quality. The Region expects to address its efforts in several areas including the Klamath River and Lake Tahoe, among other areas, home to several Region 9 tribes. Some of the efforts will include TMDL development and financial assistance. The Region has also included developing a sustainable water infrastructure for homes, industry and communities, including tribes. This is expected to be accomplished via funded infrastructure projects and tribal capacity building through contract circuit riders to assist tribal governments to endure SDWA compliance and providing safe water. <http://www.epa.gov/region9/strategicplan/StrategicPlan2011-14.pdf> (Region 9 Strategic Plan, 2011-2014)

### **Key Past Activities & Accomplishments of the Region 9 RTOC**

#### **Data collection and Education to support RTOC advocacy of increased funding for CWA programs:**

- Region 9 Regional Tribal Operations Committee (RTOC) initiated a CWA 106 needs assessment survey in May 2011 to help determine how much CWA 106 funding is needed to run a basic CWA 106 environmental program. Tribes are continuing to complete these to support future advocacy.
- The RTOC CWA Workgroup oversaw the development of the Water Quality Assessment Report (WQAR) template that provided a picture of water quality in Region 9 Indian Country. As a result, 80% of tribes receiving CWA 106 funds submitted completed WQARs in 2012.
- The RTOC CWA Workgroup provided education at RTOC meetings in 2010, 2011 and 2012 regarding completion of CWA 106 Water Quality Assessment Reports, that illustrate tribal water quality needs in Region 9. Information from these WQARs was used in the RTOC's FY2014 budget presentation to EPA at the May 2012 RTOC.

#### **Accomplishments of Region 9 tribes to further their water quality programs:**

- Number of eligible Region 9 tribes who achieved Treatment as a State under CWA programs:

CWA 106: Water Pollution Control Program – 104 tribes

- CWA 319: Nonpoint Source Pollution Prevention – 89 tribes
- CWA 303: Water Quality Standards – 11 tribes
- EPA approved Water Quality Standards – 8 tribes

- Number of Region 9 tribes completing CWA 106 Reporting Requirements:

- Monitoring Strategies – 86 tribes
- Submitting STORET-compatible Data – 75 tribes
- Water quality Assessment Report – 77 tribes

### **Recommended Activities**

**Short-Term Activities (Within 1-3 years)**

Provide advocacy through the budget process on a regional and national level for flexibility in allocation of CWA funding to tribes.

Advocate at Regional and national level for continued water quality training for tribes.

Advocate for meaningful inclusion of tribes during NPDES actions affecting tribal lands.

**Long-Term Activities (Within 3-5 years)**

Same as above plus:

Advocate for simplification of the Treatment as a State under the Water Quality Standards Program process using legal tools.

<b>Goals &amp; Strategies</b>	<b>Specific Tasks</b>	<b>Time Frames</b>	<b>Leads</b>
Advocacy through budget process on the regional and national level	Regional budget request	Annually	Budget Workgroup / Clean Water Workgroup
	Advocate for flexibility in allocation of funding (Achieving TAS means being treated like States). Issues include:  1) Recertified funding should be reprogrammed to other entities (i.e., State recertified funds should be given to Tribal Governments; 2) Raise Tribal CWA 106 allocation from 12.4% back up to 15.49%. 3) Support NTOC request for 20% or \$38 million.	Ongoing	NTOC/RTOC
	Provide input into NTC budget	Annually	Budget Workgroup / Clean Water Workgroup

	Coordinate with other organizations (i.e., NCAI, NTWC)	Annually	RTOC/NTOC reps
	Gather info re need; achievements; disparity between tribes and states	Ongoing	Budget Workgroup / Clean Water Workgroup
Provide input re EPA strategic plan, other documents & proposed actions	Prepare other briefings, correspondence, comments to decision-makers as appropriate	As needed	Clean Water Workgroup
Advocacy through RTOC, NTOC, NTWC	Advocate that tribes have meaningful voice during NPDES actions affecting tribal lands (i.e., State of California);  - Obtain list of off-reservation permits affecting tribal waters in R9	Ongoing	RTOC, NTOC, NTWC reps; Clean Water Workgroup
	Advocate that EPA reinterpret CWA TAS provision as a delegation of authority to streamline WQS TAS application .  Gather information/legal tools to simplify the approval process for the Treatment as a State under the Water Quality Standards program	Ongoing	RTOC, NTOC, NTWC reps;  RTOC, NTOC, NTWC reps; CW Workgroup
Ensure continuous and accessible water quality training	Provide circuit riders Develop framework for peer matching/training	Annually	Clean Water Workgroup
Ensure continuous and accessible Water Quality Training	Work with EPA to find solutions to provide one-on-one water quality assistance for R9 tribes:  Explore resources for Circuit Riders  Develop Framework for Peer Matching/Training	Annually	Clean Water Workgroup

Continue to find ways to address non-native species	Identify how the RTOC or Workgroup can address this issue (e.g., information gathering as a first step)	Ongoing / long term	CWA Workgroup
Develop a strategy to incorporate flow into Water Quality Standards to connect Water Quality and Water Quantity issues	Identify how the RTOC or Workgroup can address this issue (e.g., information gathering as a first step)	Ongoing / long term	CWA Workgroup

## APPENDIX #3

### Drinking Water / Wastewater Workgroup

#### Improve Tribal Access to Safe Drinking Water and Basic Sanitation

##### Background

Tribal communities continue to experience a significant disparity in access to safe drinking water and basic sanitation: although progress has been made, particularly with ARRA funding, 18% of the Tribal homes in R9 lack access compared to 1% of non-Indian homes. This is a fundamental environmental and public health issue that requires both physical infrastructure and operations & maintenance (O&M) needs be addressed

The US committed at Johannesburg Summit on Sustainable Development to reduce by half, by 2015, population lacking access to safe drinking water and basic sanitation (Access Goal). This Goal has been captured in EPA's Strategic Plan as a specific commitment in Indian Country, and represents one step toward Congressional policy of ensuring all Tribal homes have access to safe drinking water and basic sanitation as soon as possible (25 USC §1632(a)(5))

Funding for new infrastructure, as well as for repairs, rehabilitation and upgrades to existing infrastructure is provided by several federal agencies including EPA, IHS, USDA-RD and HUD. Last year's increase on the CWA and SDWA Tribal Set Asides to 2%, along with ARRA funding, contributed to increased access in Indian Country, but significantly more is needed. According to HIS's marginal cost analysis, \$1 BILLION is required to address all Tribal drinking water and wastewater infrastructure needs in Region 9, including \$300 MILLION to provide access for 18,990 homes. Due to expected cuts in the SDWA and CWA SRF, a Tribal funding floor at FY10 levels with adjustments for inflation should replace the percentage-based Tribal Set Asides

Operation & Maintenance funding is also critical to ensure delivery of safe drinking water and the sanitary operation of wastewater disposal facilities, as well as to protect the federal investment in infrastructure over long term. For many Tribal communities, it is not possible to cover O&M costs through rate structures due to small system size, high poverty levels and lack of income sources; however, THERE CONTINUES TO BE NO FEDERAL FUNDING TO SUPPORT O&M FOR TRIBAL FACILITIES. This represents a significant gap in resources necessary to address this critical public health and safety issue.

The overall objectives of the Region 9 RTOC are to take steps to achieve the following:

- A. Protect and enhance infrastructure funding
- B. Identify / facilitate the establishment of funding to support asset protection (O&M)

C. Increase tribal technical, financial & managerial capacity to operate and maintain drinking water and wastewater facilities

D. Maintain/increase funding to support technical assistance providers (such as RCAC) to ensure all Tribes in Region 9 have access to technical assistance for both drinking water and wastewater-related needs

#### **Relevant Provisions in EPA's Strategic Planning Documents**

EPA National Program Measures to Implement Strategic Plan 2.1.1:

SDW-18.N11 Increase number of American Indian and Alaskan Native homes provided access to safe drinking water in coordination with other federal agencies, to 119,000

SDW-SP3.N11 Increase percent of population in Indian country served by community water systems that meet receive drinking water meeting all applicable health-based drinking water standards

WQ-24.N11 Increase number of American Indian and Alaskan Native homes provided access to basic sanitation, in coordination with other federal agencies, to 67,600

#### **Key Past Activities and Accomplishments of the Region 9 RTOC**

- Advocacy with supporting briefings led to reinvigoration of national level multi-agency task force to address Tribal drinking water and sanitation needs
- Participation by RTOC Representatives on the National Infrastructure Task Force ensured Tribal priorities and interests were included in its work, including its report of barriers and recommendations to overcome them
- Facilitation and support for development and completion of Region 9 Tribal Baseline Needs Assessment
- Advocacy regarding Tribal O&M needs led to the development of criteria for funding O&M pilot projects under GAP
- Advocacy to address deficiencies in California criteria for certifying wastewater operators ensured that time spent working at Tribal utilities is included as eligible experience under new state regulations (currently in public review and comment period)
- Facilitation and hosting of Regional Multi-Agency Workgroup, which has resulted in
  - Resource matrix
  - Support for collaborative projects to address Tribal operational and maintenance needs

#### **Recommended Activities**

##### **Short-Term Activities (Within 1-3 Years)**

- Support proposed revised regulations for the California Wastewater Operator Certification program
- Continue to participate in the National Infrastructure Task Force and O&M Study Workgroup
- Monitor, perform outreach, and coordination, and provide input on anticipated revisions to the Clean Water and Drinking Water Tribal Set-Aside guidance documents
- Identify tribes in Region 9 that do not have access to technical assistance to address their utilities' needs
- Host Resource Fair for Nevada tribes
- Host Regional Inter-Agency Workgroup meeting

**Long-Term Activities (Within 3-5 Years)**

- Continue to advocate for a adequate infrastructure funding
- Continue to advocate for sources of O&M funding
- Advocate to ensure technical assistance is available for all tribal drinking water and wastewater utilities

<b>Goals &amp; Strategies</b>	<b>Tasks</b>	<b>Time Frames</b>	<b>Leads</b>
Advocate for the inclusion of tribal needs and projects in upcoming federal legislation (i.e., stimulus funding, jobs bills)	Draft briefing papers and comment letters as necessary	As needed	DW/WW Workgroup / Budget Workgroup
Advocate for a funding floor for SDWA & CWA tribal set asides at FY2010 (or at a minimum at FY2011) dollar levels if overall SRF funding is reduced	Annual budget request	Annually	DW/WW Workgroup / Budget Workgroup
Continue to participate in national activities and to coordinate with national organizations to ensure tribal input and consistency of message	Ongoing participation in Infrastructure Task Force	Ongoing	RTOC / NTOC reps
Continue to initiate and participate in regional activities to facilitate tribal access to funding and other resources	Sustainable infrastructure resource	Annually	DW/WW Workgroup / Sustainable Infrastructure Workgroup / Solid Waste Workgroup
Engage other federal agencies to promote tribal needs and priorities	Infrastructure Task Force; Sustainable Infrastructure Resource Fairs	Ongoing	RTOC / NTOC reps; DW/WW, SI & SW Workgroups



## APPENDIX #4

### Solid Waste Workgroup

#### Minimize and Manage Solid Waste

Ensure the safe and effective management of solid waste and promote sustainable and culturally appropriate solutions to address solid waste challenges. More than 2,000 open dumps exist on tribal lands in Region 9. In partnership with tribes, EPA is identifying sites posing the greatest threat, closing them, and preventing their recurrence. The adoption of Tribal Integrated Solid Waste Management Plans promotes long-term planning for safe solid waste disposal. To achieve this goal, the workgroup will:

- Promote an increase in the number of tribes with integrated solid waste management plans
- Advocate for the environmentally responsible closure of solid waste dumps on tribal lands
- Promote sustainable waste collection, recycling, reuse, and composting programs through training, technical assistance, and outreach

Barriers for achieving these goals include:

- Limited financial resources available to implement the tasks highlighted below
- Limited personnel resources for both EPA and tribes to address the goals
- Limited recycling options in AZ and NV
- Lack of support from IHS in cleaning up open dumps
- RCRA does not allow for delegation of authority to tribes
- Paucity of baseline data for existing waste management infrastructure and capacity across Tribal communities in the region thus constraining planning and coordinated decision making

#### **Links to current strategic planning documents of EPA and other federal agencies as appropriate**

FY 2011-2015 EPA Strategic Plan

- Goal 3: Cleaning Up Communities and Advancing Sustainable Development. Objective 3.2: Preserve Land - By 2015, close, clean up, or upgrade 281 open dumps in Indian country and on other tribal lands compared to FY 2009. (At the end of FY2009, 412 open dumps were closed, cleaned up, or upgraded. As of April 2010, 3464 open dumps were listed.)
- Cross-Cutting Fundamental Strategies. Strengthening State, Tribal, and International Partnerships. With Tribes – Focus on increasing tribal capacity to establish and implement

environmental programs while ensuring that our national programs are as effective in Indian country as they are throughout the rest of the nation.

#### Region 9 Strategic Plan, 2011-2014 – Tribal Solid Waste Management

- Close, clean up, or upgrade at least 35 open dumps during 2012, and improve tribal solid waste management.
- Increase by two each year the number of tribes that will have an Integrated Solid Waste Management Plan in place, for a total of 39 plans region-wide by October 2012.

#### **Key past activities & accomplishments**

Between FY09-FY12, tribes within Region 9 have closed or cleaned up 265 open dumps. During this same period, the ability to address open dump clean ups with EPA funding was, and continues to be increasingly scrutinized. RTOC has played a key role in informing tribes of increased challenges to addressing open dumps, and has strongly advocated for tribes to have the support needed to achieve environmentally responsible closure of solid waste dumps.

Between FY09-FY12, 15 tribes within Region 9 adopted Integrated Solid Waste Management Plans (ISWMPs). During this same period, RTOC was instrumental in informed EPA on how to assist tribes, through trainings and outreach, in support of the development and adoption of ISWMPs. EPA has determined that ISWMPs that effectively address a tribe's solid waste management needs will ensure the greatest opportunity for success. EPA has also provided information on elements to be considered when developing ISWMPs. RTOC has served to identify what information tribes want and need to successfully develop ISWMPs. RTOC has also coordinated various solid waste trainings towards this end. Examples of these trainings include:

- Waste Characterization Audits
- Greening Tribal Casinos
- How to Operate and Maintain a Transfer Station
- How to Write and ISWMP

#### **Overall objectives moving forward (i.e., measures of success)**

- Develop a list of common issues (we may be able to garner the top priorities to address within 1-3 years and 3-5 years)
- Promote availability and use of tools (e.g., Sustainable Evaluation Tool) for assessing and measuring improvement of Waste Management Programs
- Advocate for funding

**Commented [RR1]:** This will be pulled out and inserted into the body of the Strategic Plan rather than being in this Focus Area section

Goals (desired results) & Strategies (pathways to get there)	Specific Tasks	Time Frames	Leads
Reduce the number of open dumps in Indian country (Clean up 20 dumps in FY14).	<ul style="list-style-type: none"> <li>- Determine how RTOC will assist in prioritizing clean up of open dump sites.</li> <li>- Create training opportunities for tribes to learn to maintain their open dump inventory and prioritize/rank their importance/need for closure.</li> <li>- Foster increased collaboration between EPA and IHS for open dump cleanup.</li> </ul>	<p>1-3 Years</p> <p>1-3 Years</p> <p>1-3 Years</p>	
Ensure that every tribe that wants one has an approved Integrated Solid Waste Management Plan and is implementing that Plan (2-5 new ISWMPs in FY14).	<ul style="list-style-type: none"> <li>- Determine how RTOC will plan a role in advancing this annual goal/measure.</li> <li>- Determine ways that RTOC can promote ISWMP development.</li> </ul> <p>Work with ITEP to have at least 1 ISWMP training in R9 in FY14.</p> <p>Work with the R9 EFC to provide assistance to tribes who desire to draft an ISWMP.</p>	<p>1-3 Years</p> <p>1-3 Years</p> <p>1-3 Years</p> <p>1-3 Years</p>	
Review the Agency Wide Plan for opportunities or barriers to solid waste management	<ul style="list-style-type: none"> <li>- Provide comments on the final Plan</li> </ul>	<p>1-3 Years</p>	
Conduct training on specific waste management issues.	<ul style="list-style-type: none"> <li>- Determine which tribes are willing and able to host or present trainings on the following potential topics: <ul style="list-style-type: none"> <li>• Design and Operation of Transfer Stations</li> <li>• Business plan development</li> <li>• Conducting Waste Characterization Audits</li> <li>• Greening Tribal Casino Operations</li> <li>• Refrigerant Removal</li> <li>• Solid Waste Business Planning and Management</li> <li>• Pay-As-You-Throw</li> <li>• Source Reduction</li> <li>• Developing Composting and Recycling Programs (Zero Waste)</li> </ul> </li> </ul>	<p>3-5 Years</p>	

	<ul style="list-style-type: none"> <li>• IWMP Development Training</li> <li>• Biodiesel Feasibility Training</li> </ul>		
Conduct outreach on specific waste management issues.	<p>- Work with EPA to provide outreach on the following topics:</p> <ul style="list-style-type: none"> <li>• Guide for Design and Operation of Transfer Stations</li> <li>• Construction waste recycling</li> <li>• Illegal Dumping Enforcement Website *</li> <li>• Tribal Green Building Guide (web-based)</li> <li>• Climate change impacts</li> <li>• Source Reduction</li> <li>• Developing Composting and Recycling Programs (Zero Waste)</li> <li>• Waste Sort Guide for web publishing</li> <li>• Tire Removal/Management</li> <li>• Guide for Managing Dumpsites After Cleanup.</li> <li>• Guide for Haz Waste clean up <ul style="list-style-type: none"> <li>○ Drug labs</li> <li>○ Marijuana grows</li> <li>○ One/Two page factsheet</li> <li>○ What to look for, who to contact, what to do, and what not to do</li> </ul> </li> </ul> <p>- Determine which tribes would be willing to share examples of success.</p> <p>- Develop a resource guide to include the following:</p> <ul style="list-style-type: none"> <li>• Technical assistance providers <ul style="list-style-type: none"> <li>○ ITEP</li> <li>○ NAEPC</li> <li>○ RCAC</li> <li>○ Circuit Riders</li> <li>○ EPA</li> <li>○ Other Federal agencies</li> <li>○ Are they funded by EPA, and will it continue?</li> <li>○ Can we expand?</li> </ul> </li> <li>• By topic area <ul style="list-style-type: none"> <li>○ Development of a landfill</li> <li>○ Development of a transfer station</li> </ul> </li> </ul>	3-5 Years	
		1-3 Years	
		3-5 Years	

	<ul style="list-style-type: none"> <li>○ Long term financial sustainability and business planning</li> <li>● Develop a matrix that includes <ul style="list-style-type: none"> <li>○ Grant funding and allowable costs</li> <li>○ Resources that aren't just funding <ul style="list-style-type: none"> <li>▪ Include peer match initiative</li> </ul> </li> </ul> </li> </ul>		
Focus on capacity building activities	<ul style="list-style-type: none"> <li>- Determine the tribal waste capacity assistance needs: <ul style="list-style-type: none"> <li>● Integrated Solid Waste Management Plans</li> <li>● Technical training</li> <li>● Long term financial sustainability (no grant funding)</li> <li>● Developing SW Program into a sustainable, revenue-generating program</li> <li>● Business planning</li> </ul> </li> </ul>	1-3 Years	
Improve relationships with other federal, state, and local agencies.	<ul style="list-style-type: none"> <li>- Promote increased dialogue between EPA and Department of Homeland Security regarding UDM waste.</li> <li>- Facilitate more collaboration among tribes, with federal and state agencies, with counties and locals, and with foundations, etc. e.g. new California diversion rate (75%) with state and counties, equipment and expertise with other tribes.</li> </ul>	3-5 Years  3-5 Years	
Advocate for grants, increased cooperation between the R9 Tribal Solid Waste Team and the R9 TPO, as well as partnerships between EPA and other federal agencies to support open dump clean-up in Indian Country	<ul style="list-style-type: none"> <li>- Assist with preparation of annual budget request.</li> </ul>	1-3 Years	

**APPENDIX #5**

**Air Workgroup**

**Protect and Enhance Air Quality**

**Background**

The following information gives a brief summary of the air programs in Region 9, keeping in mind that there are 147 Tribes within the Region:

From the Draft RTOC Barriers Document 2005:

Tribal communities are more greatly impacted by air pollution than non-Tribal communities as a result of subsistence lifestyles and location nearer to sources than urban populations. Thus, regulatory schemes deemed adequate to protect the public at large do not necessarily address Tribal health and welfare concerns. Many Reservations are located in non-attainment areas for criteria pollutants (pm & ozone in particular in Region 9), or otherwise subject to unhealthful air quality from toxic/hazardous air pollutants, despite the fact that most sources of air pollution affecting Tribal communities are located off-Reservation. As a result, Tribes must perform air program activities such as assessing ambient air quality, conducting emissions inventories, monitoring and tracking changes, and regulating on-Reservation sources, as well as participating in off-Reservation and regional air quality control efforts, so they can take appropriate steps to protect the health of their communities. EPA's goal of reducing the number of people whose health is affected by air pollution must take these circumstances into account.

From the FY2014 Tribal Air Quality Budget Analysis Document developed by NTAA:

According to the OAQPS Report supplemented with data from Region 9 EPA the following numbers were reported for the region:

*Air Monitoring*

Monitoring shows fluctuations in the number of Tribal monitoring sites from 2005 to 2011. During this time eleven (11) Tribes submitted monitoring data in 2005 and twenty-two (22) Tribes submitted data in 2011. Tribal air monitoring sites have shown increases from seventeen (17) sites in 2005 to thirty-one (31) Tribal monitoring sites in 2012.

Air Monitoring	Diesel	Emissions	Grants	Permits	Regulations	TAS
31	0	27	28	21	3	3

*Diesel Work*

In FY 2011 Tribes in Region 9 had two (2) diesel projects with fifteen (15) retrofits completed. In FY 2012 there are no current programs in Region 9.

*Emissions*

In Region 9 there are twenty-seven (27) completed emission inventories. 23 Twelve (12) Tribes have completed emission inventories with submissions to the NEI24.

### *Grants*

As of 01/19/2012 Region 9 reported two (2) Local Showcase grants. According to EPA data, Region 9 has twenty-three (23) 103 air grants and three (3) 105 air grants.

### *Permits*

Currently there are twenty-one (21) permits identified in Region 9 Indian Country. These permits are: Title V: Major permits.

### *Regulations*

Regulatory programs can be developed by a tribe as they see fit and the types of regulations include TIP's, rules or permitting regulations. In Region 9, one (1) Tribe has submitted a regulation report, one (1) Tribe has regional approval and one (1) Tribe has a final rule.

### *TAS*

Under the TAR and Section 301(d) of the Clean Air Act, eligible Tribes can be "treated in a manner similar to states". In Region 9 ten (10) Tribes have submitted TAS applications, one (1) Tribe has regional determination and one (1) Tribe has the decision document signed.

### *Non-attainment or Maintenance Areas*

In Region 9, Tribal lands in non-attainment or maintenance areas are as follows: Fifty-one (51) non-attainment areas for 8-hr ozone standard (1997 std), seventeen (17) in non-attainment for PM-2.5 (2006 std), fourteen (14) in non-attainment for PM-2.5 (1997 std), twenty-seven (27) in non attainment for PM-10 (1990 std), one (1) in non-attainment for SO<sub>2</sub> (1978 std) nine (9) are in a maintenance area for PM-10 (1990 std), twenty-nine (29) in maintenance for CO (1990 std), and three (3) in a maintenance area for SO<sub>2</sub> (1978 std).

### *Program Delegations*

In Region 9, one (1) Tribe has submitted a FIP and one (1) Tribe has been approved for a FIP. One Tribe has delegation of Title V (Part 71) operating permit program.

Information still needed for this section: How many Tribes received grants for FY2012/2013, How many Tribes applied, How many more Tribes would apply if there was funding available?

### **Relevant Provisions in EPA's strategic planning documents**

#### **Region 9 Strategic Plan Geographic Area of Focus**

The United States has a trust responsibility to federally recognized Indian tribes. We work on a government-to-government basis with all 147 tribes in Region 9. Region 9 tribal lands comprise half of all Indian land in the country, and more than 80% of the tribes in the Region have an environmental presence. Economically disadvantaged populations in Indian country still suffer from critical environmental and health problems. We will protect the environment in Indian country by focusing on the following priorities

#### Tribal Clean Air

- Support tribes in building capacity and protecting air quality through \$2.5 million in 2012 grant funds for training, education and outreach, monitoring, emission inventory development, and rule development.
- Provide technical support to 25 tribes for emission inventories and air monitoring during 2012.

#### **National EPA FY 2011-2015 Strategic Plan**

The Strategic Plan provides a blueprint for advancing Administrator [Lisa Jackson's seven priorities](#) and EPA's mission to protect human health and the environment. EPA submitted the Plan on September 30, 2010 to the Congress and to the Office of Management and Budget.

The Plan identifies the measurable environmental and human health outcomes the public can expect over the next five years and describes how we intend to achieve those results. The Plan represents a commitment to our core values of science, transparency, and the rule of law in managing our programs.

The Plan also introduces the following five cross-cutting fundamental strategies which set clear expectations for changing the way EPA does business in achieving its results.

#### **Goal 1: Taking Action on Climate Change and Improving Air Quality**

##### **Objectives**

- Address Climate Change. Reduce the threats posed by climate change by reducing greenhouse gas emissions and taking actions that help communities and ecosystems become more resilient to the effects of climate change.
- **Improve Air Quality.** Achieve and maintain health-based air pollution standards and reduce risk from toxic air pollutants and indoor air contaminants.
- Restore the Ozone Layer. Restore the earth's stratospheric ozone layer and protect the public from the harmful effects of ultraviolet (UV) radiation.
- Reduce Unnecessary Exposure to Radiation. Minimize unnecessary releases of radiation and be prepared to minimize impacts should unwanted releases occur. (pg 6)

Reduce GHG Emissions and Develop Adaptation Strategies to Address Climate Change (only one strategy listed that specifically mentions tribes):

EPA's strategies to address climate change support the President's GHG emissions reduction goals. EPA and its partners will reduce GHG emissions domestically and internationally through cost-effective, voluntary programs while pursuing additional regulatory actions as needed. Our efforts include:

- Collaborating with state, local, and tribal governments on regulatory and policy initiatives, technical assistance, and voluntary programs related to climate change mitigation and adaption. (pg 7)

EPA must adapt and plan for future changes in climate, work with state, tribal, and local partners, and continue to collaborate with the U.S. Global Change Research Program and the Interagency Task Force on Climate Change Adaptation... (pg 7)

##### **Improve Air Quality**

Over the next five years, we will work with states and tribes to develop and implement plans to achieve and maintain these standards. Our research provides the tools and information necessary for EPA, states, and tribes to implement air quality standards and controls... (pg 8)

EPA can substantially reduce the resources needed to develop standards; provide more certainty and lower cost for industry; simplify implementation for states, local, and tribal agencies; and, enhance cost-effective regulatory approaches.

Along with these regulatory efforts, EPA has a wide range of voluntary efforts to reduce emissions, including programs to reduce multi-media and cumulative risks. Through data from our national toxics monitoring network and from national and local assessments, we are able to better characterize risks and assess priorities. We work with state and local agencies, tribes, schools, and community groups to identify communities where air toxics pollution is occurring at unsafe levels and aggressively take action to reduce air toxics pollution within those areas.

Often the people most exposed to air pollutants are those most susceptible to the effects—the young, the elderly, and the chronically ill. To improve indoor air quality, EPA deploys programs that educate the public about indoor air quality concerns, including radon, and promotes public action to reduce potential risks in homes, schools, and workplaces. EPA also collaborates with state and tribal organizations, environmental and public health officials, housing and building organizations, school personnel who manage school environments, and health care providers, who treat children prone to or suffering disproportionately from asthma. The focus of these efforts is to support communities' efforts to address indoor air quality health risks; We also provide policy and technical support and financially assist states and tribes in developing and implementing effective radon programs. (pg 9)

#### **Key Past Activities & Accomplishments of the Region 9 RTOC**

- Work with the RTOC Budget W needs workgroup and National Tribal organizations to communicate consistent budgetary needs for Tribes in the region
- Work on Barriers document
- Work on Strategic planning strategies and tasks

#### **Recommended Activities**

##### **Short-Term Activities (Within 1-3 years)**

- Develop list of common issues (may be geographical. Include priorities or top 3 issues with summary of each
- Coordination of NSR by EPA and Tribes – How many Tribes have to deal with technical compliance assistance? This rule affects economic development and sovereignty. What is EPA's role? What will be permitted? Need a Blanket Permit for small generators. Need Compliance Assistance training, more communication strategy...
- GHG permitting streamlining, need more information

- Continue to advocate for more funding
- See attached table below

**Long-Term Activities (Within 3-5 years)**

- Continue to advocate for more funding

Goals (desired results) & Strategies (pathways to get there)	Specific Tasks	Time Frames	Leads
Advocate for the appropriate budget (e.g.: funding for mature programs, indoor air, radon analysis, regional planning organizations)	Yearly – as needed	On-going	Budget Workgroup/Air Workgroup
Share Best Management Practices with each other	Encourage networking between Tribes	On-going	Tribes
Advocate for flexibility in specific situations (e.g. exceptional events, boundary determinations)	Continue the dialogue	On-going	Tribal Governments/USEPA (Air Workgroup as needed)
EPA staff must be well versed in Tribal needs and issues, TAR, TAS, exceptional events, designation process, consultation policies, etc.	Training		USEPA/Air Workgroup/R9 Air

Insist on meaningful and effective consultation as government-to-government	Clarify what consultation is (ie: conference calls, webinars?)	On-going	Tribal Governments/USEPA (Air Workgroup as needed)
Coordinate with other Air organizations	Networking/communication	On-going	Air workgroup
Consistent recognition of Tribal Authority Rule	Training		Tribes/Air Workgroup/USEPA/R9 Air
Consistent relationships between Tribes, EPA R9, and Headquarters Air Division	Training		Tribes/Air Workgroup/USEPA/R9 Air
Training, tools and resources for Tribes	Communicate needs		Air Workgroup/Tribes/USEPA
Tribal Air Programs for all Tribes who want them	Access needs		Budget Workgroup/Air Workgroup/USEPA
Advocate for Climate Change as its own media with its own funding	As needed		Budget Workgroup/Air Workgroup
Develop list of common issues (may be geographical). Include priorities or top 3 issues with a summary of each	Networking communication	On-going	Tribes/Air Workgroup

## APPENDIX #6

### Tribal Science Workgroup

#### Support Tribal Capacity to Mitigate and Adapt to Impacts of Climate Change

##### **Background**

Climate change affects almost everything in our environment and communities, including Tribal communities. Climate change not only poses threats to the health of our environment and the ecological health of the biological population, it also poses threats to the health of our community, especially to our elders and children who are more sensitive to adverse impacts than the general population. Tribes are disproportionately impacted by climate change. Tribes and Native Alaskans have a deep-rooted connection to the environment in direct correlation to their culture.

Traditional lifeways are drastically affected by environmental changes. Climate change has altered many of traditional ways of life. Tribes have been observing various changes in their environment, such as the reduction of natural ecosystems and biodiversity. Seasons are changing. In some part of the country, the rainy season has shifted to later in the year. Gathering periods for native plants and animal migration patterns also have been altered. Moreover, heavy winter rain storms resulted in storm damage. Parts of the southwest Tribes experienced prolonged drought and enhanced threat from wildfires.

Native plants and habitats are also affected. Tribal elders and communities still gather their food according to the traditional knowledge with respect to seasons. Climate change is adversely impacting the health of these communities and altering traditional way of life by shortening and/or eliminating growing seasons for native plants and damaging habitats. Tribes in California have noticed production of native food sources, such as acorns, has been significantly lower for several years in a row. Native plants seem less available, and trees, such as Tan Oaks, are suffering from sudden oak death. Lastly, populations of wild animals, such as deer, northern spotted owl, and quail are significantly reduced and less prevalent on Tribal lands. Other concerns include the indirect impacts on drinking water supplies caused by rising sea levels, and new migration patterns of animals traditionally hunted and harvested for foods.

##### **Relevant Provisions in EPA's strategic planning documents**

- Consequences of Global Change for Water Quality (USEPA, 2008)  
[http://epa.gov/ncer/rfa/2008/2008\\_star\\_gcwq.html](http://epa.gov/ncer/rfa/2008/2008_star_gcwq.html)
- USEPA Climate Change Adaptation Plan – Draft (USEPA, June, 2012)  
<http://www.epa.gov/climatechange/impacts-adaptation/>  
<http://www.epa.gov/climatechange/impacts-adaptation/adapt-tools.html>
- USEPA FY 2011-2015 Strategic Plan Goal 1: Taking Action on Climate Change and Improving Air Quality  
<http://www.epa.gov/planandbudget/strategicplan.html>

- National Tribal Science Priority (2011)

**Key Past Activities & Accomplishments of the Region 9 RTOC**

- Region IX RTOC Position Regarding Global Climate Change (2007)
- Region IX RTOC Climate Change Tribal Perspective Questionnaire (2006)
  - Note: Received 14 responses to the questionnaire.
- Region IX RTOC Annual Conference Climate Change Tribal Presentation (2009, 2010, 2011 )
- Presentation at the National Tribal Science Forum (2010)
- Region IX RTOC Priority (2010)
- National Tribal Operations Committee (NTOC, 2011)
- National Tribal Science Priority (2011)
  - <http://www.epa.gov/osp/tribes/who.htm>

**Recommended Activities**

- Achieve adequate funding to support climate change programs for all Tribes
- Promote Tribal understanding of the climate change impacts on traditional ways of life and natural ecosystems
- Ensure Tribal readiness to address and adequately manage climate change impacts through the development and implementation of tribal specific climate change mitigation and/or adaptation programs

**Short—Term Activities (Within 1-3 Years)**

**\*\***Establish and facilitate the work of a committee of Tribal & EPA representatives to develop a regional implementation plan for EPA's national Climate Change Adaptation Plan.

Participate with USEPA Region 9 to develop a regional Climate Change Adaptation Implementation Plan.

Continue to gather information and document impacts of climate change on Tribal communities.

Facilitate the inclusion of Tribal representation in local, state, and federal multi-agency working groups addressing climate change issues.

Identify and advocate for tribal access to funding sources to support resource management and mitigation strategies to address impacts of climate change on tribal communities.

Provide information to Tribal representatives and facilitate Tribal input on any climate change regulations that may impact Tribal communities.

Advocate for the inclusion of Tribal access to resources in any regulations, policy and/or guidance documents issue by EPA, and other federal agencies.

**Long Term Activities (Within 3-5 Years)**

Provide information to Tribal representatives and facilitate Tribal input on any climate change regulations that may impact Tribal communities.

Advocate for the inclusion of Tribal access to resources in any regulations, policy and/or guidance documents issue by EPA, and other federal agencies.

Goals (desired results) & Strategies (pathways to get there)	Specific Tasks	Time Frames	Leads
Advocacy Tribal needs through budget process on regional and national levels	Provide input into NTC budget and regional budget request	Annually	Budget Workgroup / SI, Air, Tribal Science Workgroups
Document climate change impacts from R9 Tribes	Continue gathering climate change impacts from R9 Tribes (by filming of Tribal climate change stories such as: <ul style="list-style-type: none"> <li>• Adaptive gardening and landscaping by Bridgeport Indian Colony</li> <li>• Sustainable Housing by Pinoleville Rancheria</li> <li>• Climate Change and Water Loss by Big Pine Tribe</li> </ul>	Ongoing	Tribal Science Workgroup / others TBA
	Document climate change impacts on habitats, culturally sensitive plants needed to support traditional lifeways (Traditional Ecological Knowledge)	Ongoing	Tribal Science Workgroup / others TBA
	Advocate for more comprehensive multi-agency discussions, and adequate tribal	Ongoing	TBA

Collaborate with all appropriate agencies to promote and ensure Tribal involvement in climate change policy development and decision-making as well as their implementations	consultation, prior to policy development and decision-making		
	Coordinate with other organizations (i.e., NCAI, NTSC)		
	Obtain tribal seats at Intergovernmental Panel on Climate Change, other national and regional organizations		
	Promote the recognition of federally recognized Tribes as “Domestic Dependent Nations” and equivalency to “Developing Nations” status for trading of carbon offset credits in the global markets per Kyoto Protocols. Tribes can use these generated incomes to finance climate change mitigation and adaptation activities such as purchasing degraded forest lands for carbon storage and natural resource improvement projects.		
Facilitate tribal access to resources that support mitigation and adaptation planning	Continue to communicate and discuss climate change issues at RTOC breakout sessions and workshops at EPA conferences	Ongoing	Tribal Science Workgroup / others TBA
	Sponsor and/or facilitate Tribal specific events such as Tribal climate change workshop, sustainable infrastructure resource fair (locally such as San Diego, Santa Rosa)		
	Create collaborative understandings of climate change with: <ul style="list-style-type: none"> <li>• Traditional Ecological Knowledge (TEK),</li> <li>• Permaculture</li> <li>• Sustainable infrastructure (e.g. straw bale house, solar &amp; wind energy in arid southwest region)</li> </ul>		

**APPENDIX #7**

**Border Workgroup**

**Protect the Tribal Environment in the U.S. Mexico Border Area**

- OBJECTIVES:**
- A. Ensure Border Tribes have access to adequate funding to address their environmental protection needs
  - B. Achieve greater flexibility in the use of existing funding to ensure Tribal environmental priorities can be addressed
  - C. Ensure Border programs, plans and policies reflect Tribal input and incorporate Tribal environmental priorities and needs

<b>Strategies</b>	<b>Tasks</b>	<b>Time Frames</b>	<b>Leads</b>
Advocate for adequate funding from EPA, BECC and other sources, as well as flexibility regarding allowable uses	Regional budget requests	Annually	
	Input into national budget requests	Annually	
	Coordination with other tribal organizations that advocate for tribal environmental funding	Annually	
	Gather info re need; achievements; disparity between tribes and non-tribal communities	Ongoing	
Identify and work to remove barriers that limit or prevent Border Tribes from accessing funding	Assess funding criteria and scope Border Tribes to gather info regarding barriers		
	Identify future tasks to remove barriers based on results of assessment and scoping		
Education and outreach to resource providers and policy-makers regarding tribal needs, including advocating for greater focus on funding environmental needs and results, rather than academic research	Sponsor multi-agency meetings		
	Prepare briefings, comment letters, correspondence to decision-makers as appropriate	As needed	

Education and outreach to border tribes regarding available resources	Sponsor multi-agency meetings		
	Prepare and regularly update resource matrix		

## APPENDIX #8

### Sustainable Development Workgroup

#### Improve Tribal Access to Resources that Support the Development of Sustainable Infrastructure in Tribal Communities

##### Background

In 1996, Congress passed the Native American Housing and Self Determination Act (NAHASDA). From this Act, tribes gained the authority to manage their building programs and adopt building codes; however, they were not given sufficient resources or technical assistance toward program development nor to develop or adopt codes. One consequence of this has been that the majority of tribes have not incorporated sustainable building practices into their infrastructure development projects, nor have adopted building or energy codes. Consequently, homes on tribal lands continue to be built poorly, especially in terms of energy efficiency and healthy indoor air quality.

##### OBJECTIVES:

- A. Maintain communication between EPA, Tribes & other federal agencies
- B. Increase the number of tribal homes that are weatherized and/or powered by renewable energy
- C. Increase the number of tribes covered by tribally developed sustainable building codes.  
*Known Barrier: Tribal housing departments often face housing shortages and are reluctant to incorporate more sustainable building practices due to perceived and/or actual increases in cost.*
- D. Work from the existing Resources Fair model that is used by HUD and EPA to develop a Tribally-controlled Resources Fair in each state within Region 9.

##### Relevant provisions in EPA's strategic planning documents

TBD

##### Key past activities & accomplishments of the Region 9 RTOC

- 1) In February 2009, a Green Building Strategy was completed. This Strategy was drafted by US EPA and guided by input from RTOC representatives. The Strategy outlines EPA's role in assisting tribes as they pursue sustainable infrastructure development. This is a living document and will be reviewed throughout each year to ensure it reflects the development goals of tribes and appropriately outlines the role of US EPA and the RTOC Sustainable Infrastructure workgroup.
- 2) In response to guidance from the SI workgroup, EPA compiled a list of funding opportunities for tribes. This included federal and state resources, and non-profit organizations. These resources are on the EPA website at [Funding Resources for Green Building](#)

<http://www.epa.gov/region9/greenbuilding/funding.html>)

- 3) Two draft tribal green building codes have been developed and circulated for comment, and a workshop on code development has been held (see below).
- 4) to be inclusive of tribes and created a new webpage [Green Building: Building and Energy Codes](http://www.epa.gov/region9/greenbuilding/building-codes.html) (<http://www.epa.gov/region9/greenbuilding/building-codes.html>) that lists and describes greener building and energy codes.
- 5) In FY11, EPA, tribes and contractors began developing a model code template to provide technical assistance to tribes that are adopting green building codes. This has become a national effort including tribes, federal agencies and organizations from across the country. To date, 2 tribes receiving direct technical assistance have adopted green building codes (Pinoleville Pomo Nation and Kayenta Township within Navajo Nation). The codes template will be published on the web in late summer, 2012.
- 6) In FY11, members of this workgroup started the National Tribal Green Building Code Workgroup which includes several tribes, federal agencies and non-profit, private sector organizations that work on sustainable building. **The goal of this national workgroup is to advance tribal goals in developing, implementing and enforcing culturally relevant green building codes, policies and programs leading to healthier, more sustainable communities.**
- 7) In late 2011, the Tribal Green Building Codes Workgroup webpage was also made available online and will be continuously updated with codes resources for tribes. (<http://www.epa.gov/region9/greenbuilding/tribal-workgroup.html>)

**Renewable Energy Efforts**

- 8) Since early 2009, EPA, and tribes in the region coordinated with DOE which conducted 4 3-day workshops in Region 9. The first workshop was held in Mendocino County and included participation from 6 tribes in the region. The second workshop was January 2010 at the Tohono O’odham Nation and included participation from tribes in Arizona. The third workshop was February 2010 at the Bishop Paiute Reservation and included participation from 6 tribes. The fourth workshop was held in Nevada and included participation from 9 tribes.
  - a. Networking through the workgroup has helped several tribes access Grid Alternatives, a non-profit organization that assists low-income homeowners, leading to installations of roughly 3 kW systems on dozens of homes and counting.

**Resource Fair**

- 9) In April 2011, the Sustainable Infrastructure workgroup submitted a FY13 budget proposal through RTOC to support tribal staff needed to achieve this objective.

**Recommended Activities**

Goals (desired results) & Strategies (pathways to get there)	Tasks	Time Frames	Leads
Advocate for funding	Annual budget request		TBD

Increase partnerships with other federal agencies	Annual sustainable infrastructure resource fair		Michelle, Rob Roy,
Increase awareness of tribes' interest and efforts in green building. Increase tribal networks.	Participate on National Tribal Green Building Code Workgroup	Ongoing	EPA
Provide information and outreach to tribes	Template green building codes	Summer 2012	EPA
	Web resources for funding green building, energy efficiency and renewable energy		EPA
	Presentations at RTOC meetings, EPA conferences		TBD
	Annual sustainable infrastructure resource fair		TBD

**Long-Term Activities (Within 3-5 years)**

TBD

Goals (desired results) & Strategies (pathways to get there)	Tasks	Time Frames	Leads

## FOCUS AREA #9

### Other Cross-Media Issues

#### A. PESTICIDES WORKGROUP

##### Background

- Coordinating outreach and/or efforts in reducing risks to health and the environmental in Indian Country from pesticides;
- Increase tribes' ability and capacity to manage pesticide issues and concerns that impact Indian Country;
- Advance tribes' understanding of the pesticide program;
- Provide information about **Integrated Pest Management (IPM)** and promote mechanisms that enable tribes to adopt IPM in Schools programs;
- Advocate for tribal participation in pesticides issues at a regional and national level; and,
- Promote health care providers' awareness of potential pesticide poisoning **and/or pesticide related illnesses.**

##### Relevant Provisions in EPA'S Strategic Planning Documents

- EPA Strategic Goal 4: \*Ensuring the Safety of Chemicals and Preventing Pollution
- OCSPP Strategic Goal 3: Increase Tribal Program Coverage. Objective 2: Fund innovative approaches for delivering various OCSPP program services to interested tribes.
- OCSPP Strategic Goal 4: \*Ensuring the Safety of Chemicals and Preventing Pollution
- Goal 3: Increase Tribal Program Coverage.  
Objective 1: Reduce Tribal Risks from Pesticides  
Objective 2: Strengthen Integrated Pest Management (IPM) Practices  
Objective 4: Leverage other funding mechanisms and sources and simplify administrative requirements associated with various programmatic activities.
- OCSPP Strategic Goal 5: Improve Tribal Partnership, Outreach, Communication and Consultation  
Objective 3. Empower tribal organizations through information sharing, training and outreach.
- OCSPP Cross Cutting Fundamental Strategy 4: Strengthening State, Tribal, and International Partnerships.
- Administrator Jackson Priority 7: Building Strong State and Tribal Partnerships.

#### **Key Past Activities & Accomplishments of the Region 9 RTOC:**

- Pesticide Assessment conducted by Pesticide Workgroup
- Maps showing Region 9 tribes and impairments to water from pesticides (R9)
- Webinars and presentations on pesticide issues (NPDES permits, C & T) and increased feedback from tribes to OPP regarding these issues
- Region 9 Tribal Pesticide Inspector Workshop, with attendance by tribes without pesticide inspection and enforcement programs (2011 and 2012)

#### **Recommended Activities**

##### **Short-Term Activities (Within 1-3 years)**

- Identify and support development of IPM in Schools programs for tribes (The R9 Pesticides Office has selected a contractor to provide IPM in Schools Training for tribes in FY13. IPM in Schools template will be developed and provided to tribes (at training and via EPA website).
- Improve communication and cooperation between tribes, states, counties and EPA. (In FY13, the R9 Pesticides Office is sponsoring Working Effectively with Tribal Governments for DPR and CalEPA.) Cooperation between tribes, states, counties and EPA will improve.
- Facilitate communication among tribes so that tribes that want copies of existing tribal pesticide ordinances can get them. Awareness of tribal regulatory schemes for pesticides will improve.
- Increase tribes' understanding of pesticide issues and FIFRA by providing outreach to tribes that don't have tribal pesticide programs. Identify topic and provide 1-2 focused outreach webinars to tribes on pesticide issues.
- Provide Tribal Pesticide Inspector Training in FY13 (funded by EPA and organized by ITCA).
- Increase awareness of and make available EPA's [Recognition and Management of Pesticide Poisonings](#) to tribes and health care providers for tribes. Identify and share information about similar additional resources (such as information available from state programs).

##### **Long-Term Activities (Within 3-5 years)**

- Continue to provide outreach and education to tribes so that tribes can better protect their communities from risks associated with pesticides.
- Increase tribes' knowledge and awareness of pesticide issues by working with individual tribes, as requested.
- Increase tribal program coverage where possible by leveraging or providing funding and/or technical support.

- Provide training to health care providers in Indian country on recognizing potential pesticide poisoning and or pesticide related illnesses.

Goals (desired results) & Strategies (pathways to get there)	Specific Tasks	Time Frames	Leads
Increased number of IPM programs for tribes, including support for School IPM	<ul style="list-style-type: none"> <li>- Provide IPM in Schools training</li> <li>- Provide IPM in Schools template</li> </ul>	1-5 years	R9 Pesticides Office; RTOC Pesticide Workgroup
Reduce risks to health and the environment from pesticides, including reducing exposure at collection sites	<ul style="list-style-type: none"> <li>- Provide focused outreach to tribes (including community members and health care providers) that can be used to protect the health of kids and communities from pesticides</li> <li>- Provide Recognition and Management of Pesticide Poisonings to tribes and health care providers</li> <li>- Provide training to health care providers in Indian country</li> </ul>	1-5 years	R9 Pesticides Office ; RTOC Pesticides Workgroup
Improve tribal participation and communication on pesticide issues	<ul style="list-style-type: none"> <li>- Increase outreach and education to all R9 tribes dealing with pesticide issues</li> <li>- Provide tribal access to resources, information, outreach materials, webinars and training</li> </ul>	Ongoing and as requested	R9 Pesticides Office; RTOC Pesticides Workgroup
Support tribal capacity to minimize and manage pesticides and prevent pesticide exposure	<ul style="list-style-type: none"> <li>- Provide copies of existing Pesticide Ordinances and Pesticide Plans to interested tribes.</li> <li>- Help tribes develop their own templates (including Pesticide Plan templates)</li> </ul>	<ul style="list-style-type: none"> <li>-As requested</li> <li>- IPM in Schools template (FY13)</li> </ul>	- R9 Pesticides Office; RTOC Pesticides Workgroup
Increase cooperation and communication with EPA and other agencies/entities (such as IHS), including states.	<ul style="list-style-type: none"> <li>- Work with tribal and state contacts to increase awareness of issues, including jurisdiction.</li> <li>- Inform tribes of opportunities for participation and feedback on pesticide issues</li> <li>- Look for and participate in national dialogue with other groups on pesticide issues.</li> </ul>	<ul style="list-style-type: none"> <li>- At present – 5 years</li> <li>- Ongoing</li> <li>- Ongoing</li> </ul>	- R9 Pesticides Office; RTOC Pesticides Workgroup

Identify and overcome barriers to increasing pesticide program capacity and coverage in Indian country	<ul style="list-style-type: none"> <li>- Provide feedback to EPA HQ's on tribes' funding needs</li> <li>- ID available grant funding from EPA (including GAP) and other potential sources (such as HUD, BIA, IHS, APHIS, USDA, Western IPM) to support pesticide objectives</li> </ul>		<ul style="list-style-type: none"> <li>- R9 Pesticides Office; RTOC Pesticides Workgroup</li> </ul>
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# INDIAN ENVIRONMENTAL GENERAL ASSISTANCE PROGRAM

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## Guidance on the Award and Management of General Assistance Agreements for Tribes and Intertribal Consortia



May 15, 2013

**U.S. Environmental Protection Agency  
Office of International and Tribal Affairs  
American Indian Environmental Office**

This Guidance identifies Agency policies and recommended procedures for coordinating activities related to assistance agreements awarded under the Indian Environmental General Assistance Program (GAP). The statutory provisions, EPA regulations, and other legally binding documents described in this Guidance contain legally binding requirements that govern the use and management of GAP resources. This Guidance document does not substitute for other binding requirements and it does not expressly or implicitly create, expand, or limit any legal rights, obligations, responsibilities, expectations, or benefits to any person. In the event of a conflict between the discussion in this Guidance and any legally binding requirement, this Guidance document would not be controlling.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
OFFICE OF INTERNATIONAL AND TRIBAL AFFAIRS  
1200 PENNSYLVANIA AVENUE NW  
WASHINGTON, DC 20460

REPLY TO THE ATTENTION OF: 2610R

May 15, 2013

**SUBJECT:** Final Guidance on the Award and Management of General Assistance Agreements for Tribes and Intertribal Consortia

**FROM:** Michelle DePass, Assistant Administrator 

**TO:** Tribal Leaders  
Regional Administrators  
Assistant Administrators

The U.S. Environmental Protection Agency (EPA) is pleased to release new guidance for the Indian Environmental General Assistance Program (GAP) and to acknowledge the input and collaboration we received from our tribal government partners in the guidance development process. Since the program began in 1993, GAP resources have enabled tribes to achieve significant progress in establishing their environmental programs and have facilitated productive government-to-government partnerships for tribes and EPA. GAP has made it possible for most tribes to establish baseline technical, administrative, and legal capacity for tribal environmental protection programs that respond to environmental issues affecting tribal lands.

GAP resources have allowed tribes to strengthen or increase their involvement in environmental management decisions, design projects and programs that respond to environmental threats, and to access other funding sources. This guidance enhances the successful EPA-tribal partnership by identifying a means for joint strategic planning, documenting mutual responsibilities for program development and implementation, targeting resources to build tribal environmental program capacities that are aligned with the tribe's long-term goals, and measuring environmental program development progress over time. Implementing this guidance will enable EPA and tribes to allocate GAP resources to the most pressing program development priorities and improve our ability to demonstrate progress as we establish and grow successful tribal environmental protection programs with GAP for more than 520 tribal governments.

Historically, EPA has not provided a nationally consistent approach for building tribal environmental protection program capacity under GAP or a mechanism to measure the progress tribes are making toward their defined program development goals. This led EPA's Office of Inspector General (OIG) to conclude that the Agency had "not provided a framework for tribes to follow or adapt as they develop their capacity to implement environmental programs" and that "it is

not clear whether GAP funding will result in tribes being able to operate their own environmental programs.”<sup>1</sup> The OIG recommended that EPA:

- (1) Require the American Indian Environmental Office to develop and implement an overall framework for achieving capacity, including valid performance measures for each type of tribal entity, and provide assistance to the regions for incorporating the framework into the IGAP work plans.
- (2) Require regions to (a) negotiate with tribes to develop environmental plans that reflect intermediate and long-term goals, (b) link those plans to annual IGAP work plans, and (c) measure tribal progress in meeting plans and goals.
- (3) Revise how IGAP funding is distributed to tribes to place more emphasis on tribes’ prior progress, environmental capacity needs, and long-term goals.

EPA concurred with all OIG recommendations and noted in the Agency’s response: “The critical importance of relating GAP funding to long-term and interim goals against which progress can be measured is a shared concern that we plan to address. The negotiation of goals by tribes and EPA, the measurement and assessment of progress against those goals, and EPA’s evaluation of funding requests are all inextricably linked.”<sup>2</sup> Through this new GAP Guidance, we have established a framework that links these important components of building tribal environmental program capacity.

In the development of this GAP Guidance, EPA first consulted and coordinated with dozens of tribes on the “Guidebook for Building Tribal Environmental Capacity” (Guidebook) between August 1, 2011 and January 30, 2012. In addition to participating in numerous meetings, we received extensive written comments from 52 tribes and 10 tribal organizations. As a result, EPA made significant revisions to the Guidebook, and we conducted a second consultation and coordination process with tribes on the Guidebook, as part of the new GAP Guidance, between November 16, 2012 and February 22, 2013. During this second round, EPA participated in numerous meetings with tribal leaders and received written comments from 23 tribes and 6 tribal organizations.

The robust discussions with tribes substantially improved the new GAP Guidance. Importantly, tribes requested that the guidance contain sufficient flexibility for GAP resources to be tailored to the needs of individual tribes, and to avoid unnecessary additional procedures. We have structured this final Guidance to provide maximum flexibility within a consistent national framework for building tribal capacity that assures continued improvement and efficiencies in the management of GAP resources.

GAP assistance agreements have played a major role in the successful development of tribal environmental protection programs. We look forward to building on that success and working with tribes and tribal organizations to implement this new GAP Guidance. EPA will provide tribes and intertribal consortia with training and technical assistance as we implement the new GAP Guidance. Thank you in advance for your active participation in this important effort as together, we continue to protect human health and the environment through the GAP program.

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<sup>1</sup> U.S. EPA Office of Inspector General, “Framework for Developing Tribal Capacity Needed in the Indian General Assistance Program,” Report No. 08-P-0083, 02/19/2008.

<sup>2</sup> EPA Assistant Administrator Benjamin H. Grumbles to EPA’s Deputy Inspector General Bill A. Roderick, January 15, 2008. Subject: Response to the Office of Inspector General Draft Report “Framework for Developing Tribal Capacity Needed in Indian General Assistance Program” (Assignment No. 2007-539)

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# INDIAN ENVIRONMENTAL GENERAL ASSISTANCE PROGRAM

## Guidance on the Award and Management of General Assistance Agreements for Tribes and Intertribal Consortia

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# INDIAN ENVIRONMENTAL GENERAL ASSISTANCE PROGRAM

## Guidance on the Award and Management of General Assistance Agreements for Tribes and Intertribal Consortia

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### 1.0 Introduction

This Guidance on the Award and Management of General Assistance Agreements (Guidance) describes how the U.S. Environmental Protection Agency (EPA or Agency) administers the Indian Environmental General Assistance Program (GAP) Act of 1992 (42 U.S.C. §4368b). In conjunction with the information provided in Appendix I, “Guidebook for Building Tribal Environmental Program Capacity,” this Guidance provides a consistent national framework for building tribal environmental program capacity under GAP and is designed to improve the management of GAP resources.

This document provides criteria for the award and administration of GAP grants. It reflects statutory and policy guidelines and contains binding requirements that govern the management and use of GAP funds. This Guidance applies to the work plans and budgets for GAP assistance agreements – as such, EPA regional offices and applicants are expected to follow this Guidance and refer to this document during the development of application materials.

This Guidance supersedes previous guidance issued March 9, 2000 and February 24, 2006.

### 1.1 Program Background

The GAP was created to assist federally recognized tribes and intertribal consortia to plan, develop, and establish the capacity to implement programs administered by the EPA and to assist in the development and implementation of solid and hazardous waste programs for Indian lands.<sup>3</sup> In addition, the GAP was created to provide technical assistance from EPA to tribal governments and intertribal consortia in the development of multimedia programs to address environmental issues.<sup>4</sup>

EPA recognizes tribal governments as the primary parties for setting standards, making environmental policy decisions, and managing programs for reservations, consistent with Agency standards and regulations [“EPA Policy for the Administration of Environmental Programs on Indian Reservations<sup>5</sup>” (Indian Policy)]. As a result, EPA is committed to using

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<sup>3</sup> The Indian Environmental General Assistance Act of 1992, 42 U.S.C. § 4368b.

<sup>4</sup> Id.

<sup>5</sup> U.S. Environmental Protection Agency. 1984. *EPA Policy for the Administration of Environmental Programs on Indian Reservations*. (<http://www.epa.gov/tribalportal/pdf/indian-policy-84.pdf>).

the GAP to build tribal capacity to administer environmental protection programs consistent with the federal laws the EPA is charged with implementing. Through the GAP, the EPA also provides technical assistance to build environmental protection program capacity for tribes that are not implementing federally authorized regulatory programs or that may wish to go beyond federal requirements. GAP helps tribes have opportunities to meaningfully participate in policy making, standard setting, and direct implementation activities potentially affecting tribal environmental protection interests. The program also provides resources for tribal governments to cooperate with and, when appropriate, enter into intergovernmental agreements with federal, state, or local governments in an informed manner.

In keeping with the federal trust responsibility, the Agency works with tribes to ensure that EPA's environmental protection programs are implemented throughout the country. Depending on the particular federal statute, the Agency has a number of options to ensure that regulated entities<sup>6</sup> are in compliance with federal requirements. For example, the Agency can directly administer a federal program, approve eligible tribes to administer the program, or work cooperatively with tribes on a government-to-government basis to protect human health and the environment. No matter which mechanism EPA employs in carrying out its mission, the Agency strives to work closely with tribal governments, consider tribal interests, and encourage tribal governments' to develop their own environmental protection programs.

## 1.2 Program Priorities

Funding is provided under GAP for the purposes of planning, developing, and establishing tribal environmental protection programs consistent with programs and authorities administered by the EPA. This Guidance recognizes that there is a broad spectrum among tribes with respect to population, culture, income, geography, economic development, and environmental program management expertise and training. GAP assistance may be tailored to the needs of each tribe, and regions are responsible for working with tribes to establish assistance agreement work plans that are a proper fit.

As further detailed in Appendix I, GAP resources should support:

- Developing and maintaining core environmental program capacities (administrative, financial management, information management, environmental baseline needs assessment, public education/communication, legal, and technical/analytical);
- Engaging with the EPA to negotiate joint EPA-Tribal Environmental Plans (ETEPs, discussed in Section 4) that reflect intermediate and long-term goals for developing, establishing, and implementing environmental protection programs;
- Linking GAP-funded assistance agreement work plans to the ETEPs;
- Developing baseline capacities for media-specific environmental protection programs that are related to the needs of the recipient and to EPA statutory programs (e.g.,

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<sup>6</sup> Throughout this document, "entities" can include sites, facilities, and/or activities subject to federal environmental regulatory compliance requirements.

- ambient and indoor air quality; water quality; managing wastes; managing asbestos, lead-based paint, pesticides, toxics, and pollution prevention programs); and
- Implementing waste management programs (see Appendix I, “Guidebook for Building Tribal Environmental Program Capacity,” Section E).

### 1.3 EPA Program Roles and Responsibilities

American Indian Environmental Office (AIEO): Among other duties, AIEO is the National Program Manager for the GAP. As the National Program Manager, AIEO is responsible for: establishing guidance to administer the program; periodically evaluating the effectiveness and efficiency of the program; annually distributing funding allocations to regional offices; maintaining a GAP performance reporting system; gathering regional data and reporting results achieved through the GAP; and providing technical assistance to regional offices regarding the administration of GAP resources and the joint EPA-tribal environmental planning activities.

Regional Offices: Regional offices are responsible for: implementing in partnership with tribes a joint EPA-tribal environmental planning framework; negotiating GAP assistance agreement work plans that are linked to the joint EPA-tribal environmental plans; processing GAP applications; making award decisions consistent with this Guidance and applicable grant requirements; collecting data and information from award recipients that demonstrate outputs and outcomes achieved through the GAP; inputting information into GAP performance reporting system(s) (e.g., GAP Online); and conducting post-award management. Regional offices serve as the direct contact for applicants and recipients. Any supplemental guidance, policy, or criteria regional offices propose to apply to GAP grants awarded after the effective date of this Guidance should be provided to the AIEO Director for review and concurrence before being finalized to ensure consistency in how this national Guidance is being interpreted and applied.

Regional office personnel will serve as project officers for GAP assistance agreements and will work with applicants to finalize project work plans and budgets. Each Regional Administrator, or their designee, will review completed GAP applications and either approve, conditionally approve, or disapprove those applications within 60 days of receipt.<sup>7</sup> Once a GAP application is approved, the regional office will formally notify the applicant.

### 1.4 Allowable Activities and Restrictions under GAP

The GAP statute, applicable grant regulations, and this Guidance should be consulted where a region is not certain as to whether a proposed activity is eligible for funding under GAP. AIEO is also available to advise regional offices on specific questions of eligibility.

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<sup>7</sup> 40 C.F.R. § 35.510.

This subsection provides some general guidelines regarding eligible and ineligible activities, however it is not practicable to provide an exhaustive list of activities given the diversity of tribes and tribal environmental protection programs being developed across the country. The following list of allowable activities and general restrictions is not comprehensive, but illustrate the most common scenarios that arise under the GAP.

When identifying fundable GAP activities, the program capacity building indicators in Appendix I of this Guidance are a helpful resource because they provide specific examples of milestones that GAP-funded activities, or a combination of activities, could support toward building environmental program capacity, consistent with EPA's environmental protection programs. The indicators offer a non-exclusive menu of choices organized by category of environmental program development; they need not all be selected.

#### Examples of Allowable Activities

- Activities related to planning, developing and establishing tribal capacities for implementing environmental protection programs administered by the EPA are allowable, including the administrative, technical, legal, communications, outreach, compliance assurance, and enforcement components of a program.
  - As described in Section B.5 of Appendix I, activities to establish baseline environmental conditions are essential to developing a tribal environmental protection program and are allowable under GAP, including assessing environmental conditions for land a tribe is planning to acquire.
  - Establishing an environmental protection program may include performing a “test drive” of the program to determine whether the tribe is ready to move into the program implementation phase. “Test drives” of capacity to implement are for evaluating the effectiveness of a program and may be funded for up to four years under GAP. Work plans containing “test drive” activities should contain activities to collect information about program design and effectiveness and describe how this information will be used to identify options for improving the program, including but not limited to: new or revised environmental protection policies and procedures; more stringent standards and/or requirements; and additional capacity development needs.
- Tribes with limited jurisdiction to implement environmental regulatory programs may use GAP funds to develop program capacities for purposes consistent with the extent of their authorities, such as: evaluating environmental conditions; developing voluntary or partial environmental protection programs; participating in environmental policy making; coordinating with EPA or other federal agencies on the implementation of federal environmental protection programs; and entering into joint environmental protection programs with neighboring tribal, state, or local environmental agencies.
- Activities related to establishing environmental protection programs not administered by EPA, but that are consistent with those provisions of law for which Congress has given EPA authority, are allowable. For example a tribe could use GAP funds to develop a climate change adaptation plan or to establish environmental protection programs that compliment non-environmental protection programs (such as identifying ambient water

and/or air quality parameters that influence exotic plant species threatening the ecosystems or influence the reestablishment of culturally significant native plants).

- Activities related to establishing education, outreach, public participation, compliance assistance, and coordination programs for tribal environmental staff to work effectively with regulated entities are allowable. Examples of these programs include: (1) capacity to provide compliance assistance to ensure that facilities are aware of and complying with federal and/or tribal environmental program requirements; (2) capacity to work jointly with other jurisdictions on certain environmental planning projects such as source water protection plans, solid waste management plans, standard setting initiatives, federal policy making activities, and other issues appropriate for a tribe's participation in intergovernmental agreements; and (3) capacity to provide training to promote best management practices or compliance with federal and/or tribal environmental program requirements.
- The purchase of supplies (items that cost less than \$5,000) necessary to administer tribal environmental protection programs is allowable. Supplies may be repaired, upgraded, and/or replaced as required if included in the approved work plan budget. Examples include: (1) office supplies; (2) computers, printers, and related peripherals; and (3) software.
- Initial purchases of equipment (purchases equal to or greater than \$5,000) necessary to administer tribal environmental protection programs are allowable as direct costs.<sup>8</sup> Examples include: (1) GIS survey instruments and related equipment; (2) vehicles for environmental program operations; (3) sampling, measurement, analysis, and other related equipment; and (4) source separation, waste minimization, and waste management equipment. For information on what happens to equipment that was paid for with GAP funds following completion of the grant, see 40 C.F.R. §31.32.
- Notwithstanding the general prohibition on the use of GAP funds for construction as described below, certain construction activities necessary for building environmental protection program capacity may be permissible. For example, for a tribe to develop a core tribal environmental protection program it is necessary for the tribe to have a place for staff to conduct their work. If rental space is not available, it may be necessary to construct office space or buy a modular building and move it to an appropriate location. Similarly, as discussed in Appendix I Section E, the construction of facilities that are part of a tribe's source separation project are also allowable. For example, the construction of transfer stations, recycling centers, compost facilities, used oil collection stations, and other similar facilities may be funded under GAP. Any construction activities funded under GAP must meet the requirements of 2 C.F.R. §225, Appendix B(15). For information on what happens to the title of a building that was paid for with GAP funds following completion of the grant, see 40 C.F.R. §31.31.

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<sup>8</sup> 2 C.F.R. §225, Appendix B(15): "Cost Principles for State, Local, and Indian Tribal Governments".

EPA will evaluate proposed construction activities on a case-by-case basis to determine whether the proposed construction activity is necessary to plan, develop, or establish a tribal environmental protection program. Requests from applicants for construction activities will be evaluated by the Regional Office and referred to the AIEO Director with full justification for recommended approval or non-approval of the request, including provisions regarding compliance with the National Environmental Policy Act. AIEO will make the determination on the proposal within 30 days and in consultation with the appropriate EPA program office and the Office of General Counsel.

- Activities related to establishing the capacity indicators contained in Appendix I are allowable.
- Activities to implement solid and hazardous waste programs consistent with Appendix 1, Section E are allowable.

### Restrictions

- GAP funds cannot be used to fund activities not closely related to planning, developing, and establishing tribal environmental protection program capacity consistent with programs administered by EPA.<sup>9</sup> Examples include:
  - Animal husbandry, community gardens, the repatriation of Native American cultural items, and feral animal control.
  - Implementing environmental protection programs once established, except for solid and hazardous waste programs as discussed in Appendix I, Section E.
  - Conducting Natural Resource Damage Assessments are deemed to be part of program implementation under Agency policy and should not be funded under GAP.
  - Planning, developing, or establishing programs that primarily support ongoing litigation, for profit enterprises, or any commercial purposes (e.g., utility company, gas station, gaming enterprise).
  - Planning, developing, or establishing natural resource management programs that are generally not administered by EPA. Examples of these types of unallowable activities include: silviculture projects (e.g., tree farming); beaver dam control programs; programs to manage invasive species; and fishery operations.
  - Repairing, upgrading, and/or replacing facilities and equipment are typically deemed to be implementation costs and are generally unallowable under the GAP, except for source separation facilities and equipment as discussed in Appendix I Section E. Regional offices are to evaluate requests for GAP funds to repair, upgrade, or replace facilities and equipment on a case-by-case basis to determine whether they are restricted costs (implementation) or are allowable because they are necessary to plan, develop, or establish a tribal environmental protection program. These requests must meet the requirements of 2 C.F.R. §225, Appendix B(15).
  - Corrective actions – or other actions responding to an enforcement order – at regulated entities are implementation and are therefore unallowable under the GAP.

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<sup>9</sup> The Indian Environmental General Assistance Act of 1992, 42 U.S.C. § 4368b(f).

- Activities that are the inherent responsibility of a state or local government, or that primarily benefit state or local governments or any other entity ineligible to receive GAP resources.
- Salaries and expenses of a tribe’s chief executive, tribal council, or of the judiciary branch of a tribal government are unallowable. However, the portion of salaries and expenses directly attributable to managing and operating federal environmental protection programs by a tribe’s chief executive and his staff are allowable.<sup>10</sup>
- General costs of government services normally provided to the general public, such as fire and police, are unallowable.<sup>11</sup> Under GAP, this restriction includes trash collection, transportation, backhaul, and disposal services which are generally outside the scope of programs administered by the EPA.<sup>12</sup> Section E of Appendix I describes a number of solid and hazardous waste program implementation activities that are allowable under the GAP.
- Goods or services for personal use are unallowable, regardless of whether the cost is reported as taxable income to the employees.<sup>13</sup>
- Planning, designing, constructing, and operating a specific facility is an implementation activity; therefore, such costs are not eligible for funding under GAP.<sup>14</sup> Examples of construction activities not allowed include, but are not limited to: landfill construction; wastewater treatment facility construction; drinking water system construction; construction related to implementation of best management practices for nonpoint source pollution control; and purchase of construction equipment such as trucks or graders. The feasibility studies and NEPA reviews associated with such facility construction, including environmental impact studies and assessments, are part of the planning phase of facility construction; therefore, they are also implementation activities not eligible for funding under GAP.<sup>15</sup>

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<sup>10</sup> 2 C.F.R. §225, Appendix B(19): “Cost Principles for State, Local, and Indian Tribal Governments”.

<sup>11</sup> *Id.*

<sup>12</sup> “Any general assistance under this section shall be expended for the purpose of planning, developing, and establishing the capability to implement programs administered by the Environmental Protection Agency and specified in the assistance agreement. Purposes and programs authorized under this section shall include the development and implementation of solid and hazardous waste programs for Indian lands. [...] Such programs and general assistance shall be carried out in accordance with the purposes and requirements of applicable provisions of law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).” Indian Environmental General Assistance Act of 1992, 42 U.S.C. § 4368b(f).

<sup>13</sup> 2 C.F.R. §225, Appendix B(20): “Cost Principles for State, Local, and Indian Tribal Governments”.

<sup>14</sup> Except for solid waste source separation facilities as described in Section E.4(c) of Appendix I.

<sup>15</sup> These activities may be eligible for funding under other EPA programs and programs administered by other federal agencies.

## 2.0 Award Information

The Catalog of Federal Domestic Assistance number for the Indian Environmental General Assistance Program is 66.926.

### 2.1 General Information

- Congress provides GAP funding to EPA as part of the annual budget appropriations process, through the State and Tribal Assistance Grants (STAG) Appropriation.<sup>16</sup> OITA allocates GAP funds to regional offices annually and notifies regions via a decision memorandum. If a region is interested in moving STAG funds into or out of their GAP account, modifying the national allocation of STAG funds, regions must follow the process described in OITA's annual decision memorandum. The annual decision memorandum describes the procedures regional offices must follow when initiating a process to reprogram funds affecting the GAP that assures compliance with Congressional guidelines.
- Consistent with the GAP authorizing statute, each initial GAP assistance agreement shall be for at least \$75,000.<sup>17</sup> No single award may exceed ten percent of the total annual funds appropriated for the GAP.<sup>18</sup>
- EPA may elect to partially fund proposals by funding discrete portions or phases of proposed projects.
- EPA may elect to set aside a portion of GAP resources to support specific tribal or intertribal consortia projects. These projects should have national or region-wide application, address a national or regional program priority, or seek to demonstrate the applicability of novel program activities to a broader set of eligible recipients.

### 2.2 Types of Assistance

Assistance agreements funded under GAP may be issued in various forms. The project application should state the form of assistance preferred by the applicant.

Grant or Cooperative Agreement – Grants represent direct funding to a recipient to support an identified project with defined environmental results. Unlike a grant, a cooperative agreement anticipates substantial involvement from EPA, in collaboration with the recipient, to achieve project results after the award has been made. If EPA expects to have substantial

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<sup>16</sup> The total amount of GAP money Congress provides to EPA can change from year-to-year.

<sup>17</sup> The Indian Environmental General Assistance Act of 1992, 42 U.S.C. § 4368b(d)(2).

<sup>18</sup> Id.

involvement, EPA will issue the assistance agreement as a cooperative agreement. If no substantial involvement by EPA is expected, EPA will issue a grant.<sup>19</sup>

Performance Partnership Grant (PPG)<sup>20</sup> – A PPG is a grant awarded from two or more categorical grant programs. A tribe can combine funds from two or more eligible grant programs into one PPG.<sup>21</sup> Recipients may then use PPGs to fund activities that are allowable under any of the eligible PPG grant programs. An applicant whose organization has an existing PPG or who is eligible to form a new PPG with EPA may request that GAP funding be included in a PPG. The flexibility of a PPG can allow for improved environmental performance, increased programmatic flexibility, and administrative savings. However, the need for flexibility should be balanced with the Agency’s goals of establishing sustainable tribal environmental program capacities. For more information, please see the, “Best Practices Guide for Performance Partnership Grants with Tribes” (<http://www.epa.gov/ocir/nepps/pdf/ppg-guide-for-tribes.pdf>). Absent a request from the applicant for inclusion in a PPG, EPA will award the funding as a stand-alone assistance agreement.

### 2.3 Eligibility Information

The following are eligible to receive financial assistance: Indian tribal governments and intertribal consortium or consortia.<sup>22</sup>

The term *Indian tribal government (tribe)* means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is recognized as eligible by the U.S. Department of the Interior (DOI) for the special services provided by the United States to Indians because of their status as Indians.<sup>23</sup>

The term *intertribal consortium or consortia* means a partnership between two or more tribes that is authorized by the governing bodies of those tribes to apply for and receive assistance under this program.<sup>24</sup>

Tribes that form consortia may be able to use their resources more efficiently and address environmental issues more effectively than they could if each tribe individually developed and maintained separate environmental protection programs. Consortia are advised to describe how grant proposals respond to the program development needs of their eligible member tribes as documented by the process described in Section 4 below.

Under EPA’s tribal grant regulations, an intertribal consortium is eligible to receive a GAP award if the consortium demonstrates that: (1) a majority of its members are eligible to

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<sup>19</sup> EPA Order 5700.1, *Policy for Distinguishing Between Assistance and Acquisition* (March 22, 1994).

<sup>20</sup> More information on the PPG funding authority is at 40 C.F.R. § 35.530-538.

<sup>21</sup> PPG eligible programs are listed at 40 C.F.R § 35.501.

<sup>22</sup> 40 C.F.R. § 35.543.

<sup>23</sup> 40 C.F.R. § 35.502.

<sup>24</sup> Id.

receive GAP grants; (2) all members that meet GAP eligibility requirements authorize the consortium to apply for and receive the award<sup>25</sup>; and (3) adequate accounting controls are in place to ensure that only members that meet the eligibility requirements will benefit directly from the award and the consortium agrees to an award condition to that effect.<sup>26</sup> This means that a consortium may receive a GAP grant even if the consortium includes groups that are not federally recognized as tribes so long as the consortium meets the three regulatory requirements specified above. With each GAP grant application, an intertribal consortium must provide EPA with “adequate documentation” of: (1) the existence of the partnership between eligible tribal governments; and (2) the authorization of the consortium by all GAP-eligible member tribes to apply for and receive the grant.<sup>27</sup> Typically, tribal authorization by the GAP-eligible tribes is provided by a tribal leader letter or a tribal council resolution from each GAP-eligible member of the consortia. The Office of Regional Counsel for the region receiving the grant application should evaluate applications to determine whether the documents submitted for a particular grant meet the regulatory standard. Where additional documentation is required, EPA will work with the consortia to clarify what additional documentation is needed. Applications that do not contain adequate documentation from GAP-eligible tribes should be deemed incomplete.

## 2.4 Cost-Sharing or Matching Requirement

No cost-sharing or match is required from applicants.

## 2.5 Length of the Award

The term of a GAP award may exceed one year, but may not exceed four years.<sup>28</sup> The term is determined at the time of the award and documented in the work plan.

## 2.6 Intergovernmental Review

This funding opportunity is not subject to Executive Order (EO) 12372, “Intergovernmental Review of Federal Programs.”

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<sup>25</sup> Note the clear distinction between (1) and (2): an intertribal consortia is eligible to apply for a GAP grant where a **majority** of the consortia members are GAP-eligible; however, authorization of the consortia to apply for and receive a GAP grant is required from **all** GAP-eligible member tribes. All eligible members must authorize the grant application, given that those grant dollars would otherwise be available to the individual tribes under GAP.

<sup>26</sup> 40 C.F.R. § 35.504(b).

<sup>27</sup> 40 C.F.R. § 35.504(c) .

<sup>28</sup> 42 U.S.C. § 4368b (d)(3).

## 2.7 Competition Policy Exemption

This assistance agreement program is exempt from competition under EPA Order 5700.5A1, Policy for Competition of Assistance Agreements, Section 6(c)(2).<sup>29</sup> In any funding materials distributed, EPA should refrain from using the following terms or others like them that may create the impression that the GAP funds are being awarded “competitively”: request for proposals; solicitations; ranking criteria.

Regions should not use any allocation factors which have the effect of measuring the relative quality or merit of one work plan against the other.

## 2.8 Environmental Results Supported by Assistance Activities

Pursuant to EPA Order 5700.7, “Environmental Results under EPA Assistance,” EPA must link proposed work plan activities in funded assistance agreements to the Agency’s Strategic Plan. This is a previously established requirement binding the Agency, which governs all assistance agreements EPA awards. While the Order requires a link to the Agency’s Strategic Plan, EPA also acknowledges that work plan activities should also be linked to tribal program priorities, reflecting EPA’s commitment to supporting tribally defined outputs and outcomes that are consistent with the federal laws the EPA is charged with implementing. Under the Order, EPA requires assistance agreement recipients to define environmental outputs and environmental outcomes to be achieved under the award. Outputs and outcomes are defined as follows:

1. Outputs: The term “output” refers to an environmental activity, effort, and/or associated work products related to an environmental goal or objective that will be produced or provided over a period of time or by a specified date. Outputs may be quantitative or qualitative but must be measurable during the project period. Examples of outputs under GAP include: solid waste management plan; air emissions inventory; surface water sampling plan; and lead-based paint public education campaign. For each proposed work plan activity, applicants are expected to identify a measurable output.
2. Outcomes: The term “outcome” refers to the result, or consequence that will occur from carrying out the activities under the award. Outcomes may be environmental, behavioral, health-related, or programmatic; must be quantitative; and may not necessarily be achievable during the project period. Examples of outcomes under GAP include: level of reduction in unauthorized discharges to the air, water, or land; size of population benefiting from a reduction in pollution; changes in knowledge and understanding; and changes in behavior. Applicants are expected to identify an outcome for each program component funded under GAP.

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<sup>29</sup> The Order reads, in part: “The requirements of this Order do not apply to... programs available by statute, appropriation act, or regulation only to Indian tribes and Intertribal Consortia.”

## **2.9 Applicable Agency Guidance, Regulations, and OMB Circulars**

GAP awards are subject to the following regulations and requirements. Regions should be aware of these requirements when awarding and managing GAP assistance agreements:

- 2 C.F.R. Part 225 “Cost Principles for State, Local, and Indian Tribal Governments”
- 40 C.F.R. Part 31 “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments”
- 40 C.F.R. Part 35, Subpart B “Environmental Program Grants for Tribes”
- OMB Circular A-133 “Audits of States, Local Governments, and Non-Profit Organizations”
- 2 C.F.R. Part 1536 "Requirements for Drug-Free Workplace (Financial Assistance)"
- 40 C.F.R. Part 33 "Participation by Disadvantaged Business Enterprises in United States Environmental Protection Agency Programs" - see specifically 40 C.F.R. § 33.304 ("Must a Native American (either as an individual, organization, Tribe, or Tribal Government) recipient or prime contractor follow the six good faith efforts?")

## **3.0 Performance Reporting: Indicators of Tribal Environmental Program Capacity**

Tribal governments have tribe-specific priorities. Tribes will identify program areas to focus on with respect to building environmental protection program capacity. In addition, each tribal government determines how far down the path of program development it wants to proceed (e.g., all the way to program implementation or in between core program capacity and development of some of the media-specific program capacities). There is not just one pathway to follow for building environmental program capacity, and as such there are many indicators that can be used to assess and measure progress in the capacity building process.

One indicator that is far down the path of program capacity building is when a tribe assumes a lead regulatory or co-regulatory role for implementing federal program requirements (i.e., in lieu of direct implementation by the EPA). Where programmatically available, this is measured by a tribe obtaining treatment in a manner similar to a state (TAS) status to implement a particular regulatory program instead of EPA implementing it. A tribe can also build sufficient programmatic capacities to support EPA implementation activities under a Direct Implementation Tribal Cooperative Agreement (DITCA) or work share Memorandum of Understanding (MOU).

Tribes that are not seeking TAS status may wish to establish other meaningful and important levels of environmental program capacity directly in support of the environmental statutes the

EPA implements, or for tribal environmental protection programs that are consistent with EPA's programs. Seeking TAS status is not a requirement for receiving funding under this program.

The indicators in Appendix I are designed to help identify and measure the status of tribal environmental program capacity. The indicators are tools to help tribes as they plan for program capacity development under the GAP. These indicators provide examples of "road-maps" for building a tribal environmental program and will help tribes and EPA identify both short-term and long-term goals and activities. The indicators in Appendix I offer a non-exclusive menu of choices, organized by category of environmental program development; they need not all be selected. Other indicators of capacity may be identified in GAP assistance agreement work plans and in long-term planning agreements as described in Section 4 of this guidance on a tribe-by-tribe basis, reflecting the unique priorities and program development plans of a particular recipient. There are often many activities that must occur to establish a single indicator and EPA can provide specific program guidance and technical assistance tools and resources to help identify and plan for those specific activities.

As described further in Section A.3 of Appendix I, EPA acknowledges that developing, establishing, and maintaining environmental protection program capacity is a continuing programmatic need. Tribes may need to re-establish capacities due to staff turnover, land acquisition, or other changing circumstances and may need to revise projected program development goals. GAP resources provide a significant foundation for maintaining tribal environmental program capacities over time and tribes can continue to receive GAP funding to expand, enhance, or evolve their capacity in light of specific tribal needs.

Where a tribe is using GAP grant resources to plan, develop, and establish environmental protection program capacities in one of the areas listed in Appendix I, GAP assistance agreement work plans should incorporate indicators from Appendix I, as appropriate based on the activities planned, and link those capacity indicators to long-term program development goals described in the EPA-Tribal Environmental Plan (ETEP) described in Section 4 of this guidance. Where capacities are being developed in areas not described in Appendix I, the work plan must adequately identify and describe the applicable indicators of capacity. Tribes and EPA will rely on the capacity indicators that have been identified in work plans and the long-term goals in ETEPs to assess and report on progress in the development of tribal environmental program capacities under the GAP program.

## **4.0 Developing EPA-Tribal Environmental Plans (ETEPs)**

### **4.1 Background**

EPA has long recognized the value of establishing intergovernmental planning agreements with states and tribes to define mutual roles and responsibilities for program

implementation.<sup>30</sup> Tribes have also promoted the idea of a joint EPA-tribal planning process to address tribal environmental priorities and ensure that federal programs are fully implemented. For example, EPA, in partnership with the National Tribal Operations Committee's National Tribal Caucus (NTC), first adopted a cooperative EPA-tribal program planning strategy in 1994. This approach included "the tribes' plans to manage authorized environmental programs and/or their need for federal technical assistance, education and implementation and management of environmental protection."<sup>31</sup> The approach also ensured that each Regional Administrator had flexibility to "determine, in consultation with tribes, the most appropriate way to develop these workplans."<sup>32</sup> The NTC has consistently endorsed the joint EPA-tribal planning process concept.<sup>33</sup>

In 2008, the EPA Office of Inspector General (OIG) issued an Audit Report on the GAP program.<sup>34</sup> The OIG found that some tribes did not have long-term plans in place for building environmental capacity, and that for those tribes that did have plans with long-term goals (usually in the form of the Tribal Environmental Agreement [TEA]), EPA was not tracking the tribe's GAP work plan progress against those long term goals. Therefore, the OIG concluded, it was unclear just how well GAP was helping tribes be able to operate their own environmental programs. EPA agreed to take several actions in response to the OIG's recommendations resulting from the Audit. Specifically, EPA agreed to standardize a computer-based, online work plan process to improve the Agency's ability to document the good work being done under GAP. That process was fully implemented in 2010 through GAP Online. In addition, EPA agreed to provide a framework for tribes and EPA to follow or adapt as tribes develop their environmental program capacities. That framework is embodied in this Guidance, but most importantly in Appendix I,<sup>35</sup> which contains the specific capacity building indicators that can be used as milestones, or measures, along the pathway toward building specific core and programmatic capacities. EPA also agreed to ensure that this framework provided a means for linking the GAP-funded work described in the annual work plans back to the long-term goals for program capacity building. To accomplish this, EPA is committed to working with our tribal partners to ensure the following:

- EPA Regional offices discuss and develop ETEPs with tribes that seek GAP funding, to reflect the intermediate and long-term goals of the tribe for building environmental program capacities;

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<sup>30</sup> U.S. EPA Memorandum, "Final EPA/Tribal Agreements Template," March 20, 1995; visit <http://www.epa.gov/ocir/nepps/> for information on EPA-state partnerships through the National Environmental Performance Partnership System (NEPPS).

<sup>31</sup> U.S. EPA Memorandum, "Announcement of Actions for Strengthening EPA's Tribal Operations," July 14, 1994.

<sup>32</sup> *Id.*

<sup>33</sup> July 2012 Addendum to the "National Tribal Caucus Environmental Protection for Indian Country, Environmental Resource Needs & Recommendations," Fiscal Year 2014 Update.

<sup>34</sup> "Framework for Developing Tribal Capacity Needed in the Indian General Assistance Program," February 19, 2008, Report No. 08-P-0083.

<sup>35</sup> A different version of Appendix I was previously discussed with tribes as a stand-alone "Guidebook for Building Tribal Environmental Program Capacity" through a consultation and coordination process that ran from August 2011 through January 2012. Based on feedback, the Guidebook was modified substantially and incorporated into the GAP Guidance.

- Approved GAP work plans contain capacity indicators that are related to accomplishing the goals identified in the ETEPs; and
- EPA and the tribe are able to measure progress under the GAP work plan and the progress being made toward accomplishing the long-term goals in the ETEPs.

Through the development of these ETEPs, or strategic planning documents, and with improved alignment of the specific activities in the GAP work plans with the long-term goals and priorities identified in those planning documents, EPA and tribes will be better positioned to ensure that GAP is being used effectively to build tribal environmental program capacity.<sup>36</sup> EPA recognizes that in some instances the prior use of long-term planning tools, usually in the form of a TEA, did not benefit tribes or the Agency. In addressing some of those weaknesses, EPA has developed this streamlined approach for a long-term planning tool that can be modified as needed. The ETEPs are intended to be living, usable documents for both tribes and EPA as environmental partners to use in planning and guiding our work.

#### **4.2 Purpose and Format for ETEPs**

To accomplish the three goals listed above in the context of the GAP program, Regions and tribes are expected to develop an ETEP that contains the following components: (1) identification of tribal environmental program priorities, including capacity building and program implementation goals; (2) identification of EPA program priorities and management requirements; (3) an inventory of regulated entities; and (4) identification of mutual roles and responsibilities. The purpose of the ETEP is to develop the complete picture of the particular environmental issues facing the tribe, establish a shared understanding of the issues the tribe will be working on, and a shared understanding of those issues that EPA will address consistent with its responsibility to protect human health and the environment. By having these elements of a plan in place, EPA should be able to ensure that GAP work plans are developed to support the long-term priorities and goals of the tribe and that funds are directed toward building environmental program capacities. EPA considers this jointly-developed plan an important component of effective GAP resource management.

The specific format and approach to developing ETEPs may vary from tribe to tribe and region to region. Maximum flexibility is provided as to how the ETEPs are developed. For example, a tribe and region may decide to develop a streamlined document that succinctly addresses the four components of an ETEP listed above (described in more detail below). As another example, TEAs may be developed, or modified if necessary, to ensure the four components are addressed. As another example, tribes and regions may update existing documents, to the extent they are useful and still relevant, to ensure they address the four ETEP components, and memorialize in a written memo or through specific correspondence, the shared understanding of how those documents comprise the ETEP (examples of some

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<sup>36</sup> While ETEPs do not necessarily apply to intertribal consortia, EPA regional offices should refer to the individual ETEPs of a consortium's member tribes when negotiating work plans with a consortium to ensure that the proposal responds to their member tribes' program development needs.

existing documents include Tribal Environmental Plans, Tribal Environmental Agreements (TEAs), Tribal Strategic Environmental Plans, etc.).

In recognition that there is great variation not only in the size of tribal governments, but also in the range of environmental issues and program capacities across the nation, it is expected that the length and level of detail for the ETEPs will also be greatly varied. For example, for a small Alaska Native Village, an ETEP may only need to address one or two program areas and as a result the ETEP itself may only be a few pages long. As another example, for a tribe that has program implementation authority under a federal statute (i.e., TAS approval), and is building capacities in other areas, a more comprehensive ETEP will likely be appropriate.

The remainder of this section describes the four components of an ETEP. It is recommended that these agreements cover no more than a 5 year time-period to achieve specific capacity development milestones. GAP-funded activities, along with other activities prioritized by the tribe and the Agency, should be reflected in the ETEP.

### **4.3 Components of an ETEP**

#### **(1) Tribal Programs and Priorities**

Many tribal governments have already developed programs to address human health and environmental threats facing their communities. Other tribes may have yet to develop programs, but have conducted needs assessments or community surveys, or have used a comprehensive planning process (for example, development of a baseline needs assessment, tribal Integrated Resource Management Plan, or other comparable document) to identify and prioritize environmental concerns for their communities. These priorities will be an important factor in how a particular tribe will want to partner with the Agency to meet short- and long-term program development milestones for building capacity. ETEPs may also contain specific technical assistance and training the tribe may need from EPA.

Tribal governments should include environmental program priorities for their community in this section of the ETEP. For each priority, the following detail should be included: (1) short description of the priority; (2) the tribe's long-term environmental program development goals that help to address or support the priority; (3) intermediate program development milestones the tribal government would like to meet during the time period of the ETEP; (4) the tribe's plans to manage authorized environmental programs; and (5) any type of assistance (training, technical assistance, EPA direct implementation actions, financial, etc.) that may be needed. This information should be discussed between the tribe and EPA regional office staff to identify any connections between the tribe's priorities and the implementation of the federal environmental programs, and to identify potential EPA assistance that could be provided to help the tribe accomplish the proposed actions.

#### **(2) EPA Programs and Priorities**

As the EPA Indian Policy underscores, until tribal governments assume responsibility for managing programs authorized, approved, or delegated by the Agency, EPA retains

responsibility for human health and environmental protection by managing federal statutory environmental programs. Reviewing federal environmental programs that EPA implements in each tribal area can provide important background information useful for developing an ETEP. This can include, for example, documenting which programs the tribe is implementing with TAS status; documenting which program the tribe is not planning to develop; and identifying programs that are not relevant currently because there are no applicable regulated entities in the tribal area (e.g., no underground storage tanks in the area, no facility requiring an air discharge permit, etc.).

EPA's regional offices should review the implementation of federal environmental statutory programs in each tribal area and document these programs in the ETEP.<sup>37</sup> This review could include, as appropriate, ongoing or anticipated program implementation activities such as permitting, compliance assurance and enforcement, developing inventories of regulated entities, issuing identification numbers for regulated entities, issuing certifications, and other activities.

These reviews should be done in coordination with the appropriate tribal governments and with EPA headquarters, as necessary. Because an ETEP should be developed as a joint work-sharing document, it is important that there is mutual understanding of what is required to implement the environmental protection programs; the time frames for this work; the government (federal or tribal) that will conduct which portion of that work; and the expected results.

### (3) Inventories of Regulated Entities

In general, the presence of regulated entities determines which federal environmental statutes are applicable. The Agency maintains many program-specific databases of regulated entities and data query tools to help identify regulated entities that may affect tribal interests, including the Facility Registry System (FRS) – a centrally managed database that identifies facilities, sites, or places subject to environmental regulations or of environmental interest. Tribal and state government programs may also contain regulatory program information. As part of an ETEP, the tribe and EPA regional office should have a complete listing of regulated entities of interest. As part of the regular review of the ETEP, the inventory should be updated as appropriate, to reflect operating status changes, new facilities, etc.

### (4) Mutual Roles and Responsibilities for Tribal Program Development Milestones and Environmental Program Implementation

The information on program priorities and regulated entities discussed above will provide the basis for discussion between regional EPA staff and tribal staff on joint work planning and

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<sup>37</sup> Clean Air Act (CAA); Clean Water Act (CWA); Safe Drinking Water Act (SDWA); Resource Recovery and Conservation Act (RCRA); Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); Emergency Planning and Community Right-to-Know Act (EPCRA); Brownfields; Asbestos Hazard Emergency Response Act (AHERA); Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); Toxic Substances Control Act (TSCA), and Pollution Prevention Act.

partnering to ensure environmental protection. The ETEP should define the actual activities that the tribe and EPA anticipates conducting during the time period of the agreement, including activities that tribal staff will perform to support EPA direct implementation of federal environmental programs, activities EPA will perform to support tribal program development and implementation, and activities that tribes will undertake to either apply for program approval/delegation, and/or build capacities to partner with EPA to implement applicable federal programs. ETEPs should indicate which environmental protection program capacity indicators a tribe intends to establish and a general time line for establishing them. GAP work plans should contain these indicators and the activities designed to help the tribe achieve them.

#### **4.4 Development, Use and Management of the ETEP**

The ETEP should be a living document that is actively used as a management tool by both EPA and the tribe to ensure work is being done in support of agreed upon priorities and that progress is being made over time. ETEPs do not need to be complex and long to serve their intended purpose; however developing ETEPs involves coordination among EPA's regional and headquarters media offices, and between EPA and tribal governments. The ETEP should have the support of senior officials in both EPA and the tribal government, as they will be used to help prioritize the work that is funded under GAP and the work that EPA is conducting in the tribal area.

EPA acknowledges that various factors may impede a tribe's progress toward establishing environmental protection program capacity indicators. These factors include staff turnover and adjustments in a tribe's priorities based on unanticipated changing conditions, such as potential impacts to human health and the environment from unanticipated resource extraction projects, changes in land uses, proposed development projects with potential pollution sources, etc. Capacity development indicators and completion dates should be revised as appropriate when a tribe's needs and priorities change.

The ETEP should be reviewed jointly by tribes and EPA at least annually, and updated as appropriate.

- ETEPs should contain completion dates for tribal and EPA activities to allow progress to be measured;
- ETEPs should indicate how the tribe and EPA will monitor progress being made toward the goals described in the document;
- As part of the required annual work plan joint evaluation, regions should not only assess the tribe's performance and progress, but also summarize EPA's activities related to that tribe to inform subsequent work and longer-term priorities in the ETEP;
- EPA and tribes should ensure that GAP grant work plans reflect the tribal program priorities and mutual roles and responsibilities identified in the ETEPs.

By September 30, 2013, each region will submit a proposed schedule to AIEO for establishing ETEPs with the tribes in their region that receive GAP funding. Each region will subsequently submit final schedules for establishing ETEPs to AIEO by January 1, 2014.

## **5.0 Assistance Agreement Work Plan and Reporting**

All award recipients must negotiate an assistance agreement work plan with EPA in accordance with 40 C.F.R. § 35.507. In addition, work plans should be linked to the intermediate and long-term program development goals identified in an ETEP. For tribes that have not yet established a plan with EPA that satisfies the four components of an ETEP described in Section 4.3, GAP work plans should contain a component to develop one when it is consistent with the applicable regional schedule to do so (see Appendix III for a sample work plan component).

To improve the Agency's ability to track work plan progress and performance, as well as overall program performance reporting, EPA will use national program management systems to collect and report specific information from work plans (currently, the Agency uses GAP Online as the national program management system).

## **6.0 Application Submission, Review, and Award Process**

### **6.1 Submission Schedule and Requirements**

Regional Offices are responsible for establishing the time frame for application submission, negotiation of work plans and budgets, and award decisions. Regional Offices should provide early notice to each eligible tribe and intertribal consortium of the availability of GAP funds, program requirements, and submission process.

### **6.2 Application Review**

EPA Regional Offices are responsible for reviewing application materials. Proposals should include all information requested in the funding announcement, including: the applicant's portion of an ETEP, or plans to develop ETEPs, as described in Section 4 of this Guidance; adequate description of proposed eligible GAP activities; description of how proposed activities support the priority areas described in Section 1.2 of this Guidance; and a description of how the proposed activities support achieving the applicant's intermediate or long-term program development goals.

Applications will be reviewed to determine:

- 1. The extent to which the proposed activities in the work plan support the purpose of the GAP** (i.e., development of tribal environmental protection program capacities, consistent with EPA statutory programs). Proposed activities should focus on developing

core environmental protection program capacities, environmental planning activities with EPA, and/or developing baseline capacities for media-specific environmental protection programs that either directly builds toward implementing a federal program or developing a tribal program that is consistent with EPA statutory programs. Work plans should include measurable indicators of capacity-building; applicants should consult Appendix I, Guidebook for Building Tribal Environmental Program Capacity, for further information on indicators.

2. **The feasibility and likely effectiveness of the proposed activities.** The work plan should provide detail sufficient to demonstrate that the applicant has a comprehensive, well thought-out plan (identifying proposed activities, responsible persons, milestones, and timelines/due dates for tasks/deliverables) that is reasonably likely to achieve the purpose of the project within the proposed project time and budget. The focus here is on the feasibility and effectiveness of proposed activities rather than adequacy of budget and personnel resources identified for the project.
3. **The extent to which the budget, resources, and requested funds for key personnel are reasonable and sufficient to accomplish the proposed project.** The proposals will be evaluated to determine whether the amount requested is adequate to support the proposed activities, the allocations within object classes are appropriate for the proposed work, and whether the applicant has the personnel and program resources to accomplish the project. The focus here is on budget, personnel, and other resources rather than the feasibility and effectiveness of the proposed activities themselves.
4. **The degree to which the work plan identifies the expected environmental results of the proposed project.** The work plan will be evaluated on the detail provided regarding the likely outcomes and outputs of the proposed project. Outputs and outcomes should be linked to the proposed activities and resulting improvements to environmental and/or human health conditions. These outputs and outcomes should be measurable and achievable.
5. **The degree to which the proposed activities in the work plan support achieving the long-term goals identified in the EPA-Tribal Environmental Plans.** The work plan should indicate how the proposed activities relate to: identified tribal priorities and specific environmental and human health threats/issues within the context of EPA's authorities; developing tribal capacity to request and assume delegable federal authorities; developing tribal environmental protection programs under tribal authority; and/or building tribal environmental program capacity to assist EPA in implementing EPA's statutory programs.
6. **Prior performance.** Generally, work plan components and commitments should not duplicate prior efforts; they should demonstrate clear progress over time toward achieving the longer term goals, or specify new focus areas. Duplicates of prior year work plan activities may be rejected and EPA will take into consideration prior year performance when evaluating new work plans associated with similar previously funded work.

## **7.0 Award Administration**

### **7.1 Award Notices**

A funding award notice, signed by an EPA grant officer, is the official document authorizing work to commence. EPA will provide funding award notification to recipients.

### **7.2 Reporting Requirements**

The applicant and the Regional Office will develop a process for jointly evaluating and reporting progress and accomplishments under the work plan. A description of the evaluation process and reporting schedule must be included in the work plan. Recipients must report at least annually and satisfy the requirements for progress reporting under 40 C.F.R. § 31.40(b).

The evaluation process must provide for:<sup>38</sup>

- A discussion of accomplishments as measured against work plan commitments;
- A discussion of the cumulative effectiveness of the work performed under all work plan commitments;
- A discussion of existing and potential problem areas; and
- Suggestions for improvement, including, where feasible, schedules for making improvements.

Regions should also work with recipients to evaluate status of tribal capacity as defined by the indicators of tribal capacity found in Appendix I of this Guidance or other clearly defined indicators that may be identified in the work plan.

In addition to performance reports, GAP recipients and their EPA project officer should have frequent contact (no less than quarterly) to keep EPA informed of progress and to resolve any problems that may arise.

### **7.3 Quality Assurance Documentation**

GAP recipients are subject to EPA's quality assurance requirements as found in 40 C.F.R. §31.45. If a recipient's project involves environmentally related measurements or data generation, the recipient shall develop and implement quality assurance practices consisting of policies, procedures, specifications, standards, and documentation sufficient to produce data of quality adequate to meet project objectives and to minimize loss of data due to out-of-control conditions or malfunctions. Approved plans must be in place before environmental

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<sup>38</sup> 40 C.F.R. § 35.515.

data collection, production, or use can occur. More information is available online at: <http://www.epa.gov/ogd/grants/assurance.htm>.

#### **7.4 Disputes**

Disputes related to this program will be resolved in accordance with 40 C.F.R. §31.70.

## **Appendix I**

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# **Guidebook for Building Tribal Environmental Program Capacity**

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May 15, 2013

**U.S. Environmental Protection Agency  
Office of International and Tribal Affairs  
American Indian Environmental Office**

## **Guidebook for Building Tribal Environmental Program Capacity**

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## **Guidebook for Building Tribal Environmental Program Capacity**

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### **A: Introduction**

#### **A.1 Purpose: Enhancing the EPA/Tribal Partnership for Environmental Protection and Measuring Tribal Program Development Progress**

The Indian Environmental General Assistance Program (GAP) was created to assist tribes with developing the capacity to manage their own environmental protection programs. Therefore, GAP resources are targeted to those activities designed to build a tribe's capacity to administer environmental protection programs that address tribal priorities supporting the objectives of EPA's programs.

Historically, EPA has not provided a clear pathway under GAP to help tribes and intertribal consortia develop environmental protection program capacities. The indicators contained in this Guidebook provide a pathway for defining and tracking tribal capacity building progress under GAP, including when GAP funds are combined with other Agency resources through Performance Partnership Grants.

The Guidebook begins with a discussion of the core program capacities that each tribal environmental program should consider establishing with GAP funding. The remainder of the document provides additional indicators for developing tribal capacity to administer media-specific environmental protection programs that tribes can pursue using GAP funding. There are often many activities that must occur to support achieving a single indicator. EPA has specific program guidance and technical assistance tools and resources available to help identify and plan for those specific activities; key resources are highlighted in each section.

It is important to note that while this Guidebook outlines key indicators for developing capacities for the major environmental protection programs, it should not be interpreted as a prescription for all tribal environmental protection programs. As noted in the Guidance, where indicators provided here are not appropriate or applicable, the grantee should work with the EPA to identify appropriate capacity building indicators for inclusion in the work plan and EPA-Tribal Environmental Plan (ETEP) and to link funded activities to the program capacity being developed. Each tribe should define the scope and content of its particular environmental program based on its priorities, environmental conditions, jurisdictional situation, or other factors.

Where there are connections between tribal environmental priorities and the federal environmental statutes, this Guidebook provides a menu of applicable capacity building indicators that will assist in planning capacity building activities and measuring progress in development of those capacities. Tribes are not required to pursue each capacity

indicator listed in this Guidebook – only those applicable to the recipients’ specific circumstances and program development goals described in an ETEP (as described in GAP Guidance Section 4.0). For tribal program activities that are outside the scope of EPA authority, and in keeping with the Agency’s 1984 Indian Policy, EPA will encourage cooperation between tribes and other appropriate federal agencies, state and local governments, and non-governmental organizations to resolve environmental problems of mutual concern where appropriate.

## **A.2 Capacity Development for Tribes with Limited Environmental Program Jurisdiction**

Some tribes may not be able to demonstrate exclusive environmental regulatory jurisdiction over facilities, activities, or sites. However, the Agency recognizes that these tribal governments should still be afforded the opportunity to develop environmental protection programs that support their meaningful involvement in the protection of human health and natural resources. Tribes with limited jurisdiction to implement environmental regulatory programs may use GAP funds to develop program capacities for purposes consistent with the extent of their authorities, such as: evaluating environmental conditions; developing voluntary or partial environmental protection programs; participating in environmental policy making; coordinating with EPA or other federal agencies on the implementation of federal environmental protection programs; and entering into joint environmental protection programs with neighboring tribal, state, or local environmental agencies.

## **A.3 Capacity Development is a Continuing Programmatic Need**

Ultimately, establishing core program capacities should result in tribes being able to meaningfully participate in the national system of environmental protection, in accordance with the desired capacity level and authorities of each tribe. Developing, establishing, and maintaining environmental program capacities is an on-going effort requiring capacities to evolve as the tribal environmental program itself expands and undertakes additional challenges. EPA also recognizes that GAP resources provide a significant foundation for maintaining tribal environmental program capacities over time.

Tribes that have successfully developed capacity in a given area can continue to receive GAP funding to expand, enhance, or evolve their capacity. For example, a tribe with a community education program may continue to receive GAP funds to expand the program by adding new features, such as outreach strategies for vulnerable groups (i.e., children, the elderly, people in poor health, and expectant mothers) or identifying new media outlets to reach target audiences. Similarly, a tribe with basic water program capacity may continue to receive GAP funds to expand their water program by adding new baseline data to their existing program, developing additional laboratory analysis quality assurance plans, or adding capacity to share additional water quality data across multiple data platforms.

GAP Guidance establishes a mechanism (ETEPs) for tribes to use with their respective regional offices to document the tribe's program development goals. Tribes should re-evaluate their program capacity development goals on a regular basis to ensure that their systems, procedures, and policies are still appropriate for the current stage of the environmental protection program and to determine if additional capacities are needed to support media-specific environmental programs.

#### **A.4 GAP: A Foundation for Tribal Program Implementation**

The 566 federally recognized tribes<sup>39</sup> (ranging from the Northern slope of Alaska to the southern tip of Florida) and intertribal consortia face an expansive number of environmental issues, concerns, and priorities. As a result, it is not practicable to list all activities fundable under GAP in this Guidance; general guidelines regarding allowable activities under GAP are provided in Section 1.4 of this Guidance.

This Guidebook presents a nationally consistent approach for defining and measuring a tribe's environmental program capacity development. This approach is optimized to position a tribe to expand into and administer media-specific environmental protection programs consistent with the purposes and requirements of applicable provisions of law. By establishing the capacity milestones identified in this Guidebook, a tribe or intertribal consortia should be well positioned to continue to develop and implement tribal environmental protection programs and address almost any environmental issue. A tribe or intertribal consortia may also be able to continue to develop and implement tribal programs that are only related to EPA's programs, but are not designed to build toward implementing EPA programs. This approach preserves maximum flexibility for tribes to use GAP resources effectively in response to a wide range of tribal priorities while providing EPA with a nationally consistent approach for defining and measuring the development of tribal environmental program capacity under GAP.

Ultimately, for many tribes, environmental protection program capacities are being built so that the tribe may become the lead government agency for implementation of a federal environmental program. EPA has identified three primary types of implementation pathways related to EPA programs that tribal governments could pursue individually or in some combination: (1) participate in EPA's direct implementation activities; (2) implement under tribal authority; (3) implement under an EPA-approved /delegated / authorized program. Appendix V provides a list of potential sources of EPA funding for tribes. Please note that certain funding programs listed in Appendix V are eligible to be combined in a Performance Partnership Grant [Catalog of Federal Domestic Assistance (CFDA) No. 66.605]. Funds available under these programs may vary from year-to-year.

For many other tribes, as noted earlier in this Guidance, program implementation is not a long-term goal. The capacity building activities are just as important and relevant to those tribes as to the tribes on the path to implementation. The specific pathway a tribe pursues

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<sup>39</sup> As of May, 2013.

**will depend on a number of factors; as such, the indicators of tribal capacity presented in this Guidebook cover a wide variety of approaches.**

## **B: Building Core Environmental Protection Program Capacities**

### **B.1 Purpose**

Many tribes receiving GAP financial assistance will operate a core multimedia<sup>40</sup> environmental program to identify tribal environmental priorities and maintain an environmental presence in regulatory activities affecting the tribe. Where active steps are taken to sustain a knowledge-base and support necessary institutional infrastructure, EPA views this environmental presence as essential to effective government-to-government partnerships with tribes seeking to actively and meaningfully participate in environmental protection, including tribes with limited jurisdiction to implement their own environmental regulatory programs.

After receiving GAP grant resources to build core program capacities, tribes may need continued funding to sustain their programs (i.e., ensure adequate program management capacity, processes, and resources are in place for future environmental program staff) while pursuing media specific grant resources. Adjacent jurisdictions may create situations that are outside the control of the tribe, but directly impact the tribal environment. Examples include, a mine opening on adjacent lands, a state implementing a watershed planning process, or other planning processes impacting a tribe. These events, and others like them, happen on a regular basis and tribal environmental staff should be prepared and available to take on new tasks as they arise. Where a tribe is ready and able to pursue assistance agreements under other EPA programs, continued GAP funding may be directed to activities that expand on existing capacity, or a tribe may determine it no longer needs capacity building resources in that specific area under GAP and would transition from GAP to other funding sources.

Indicators of core capacities are included below and EPA project officers should refer to these during GAP work plan negotiations.

The remainder of this section presents the core capacities that should be present for planning, developing, and establishing tribal environmental protection programs.

### **B.2 Establishing Core Administrative Capacities**

Establishing administrative core capacities includes assessing, modifying, or developing policies and guidance that will be used to manage an environmental program and recruiting, hiring, and retaining qualified staff to develop and manage these policies.

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<sup>40</sup> The term “media” used throughout this document refers to the EPA’s individual environmental program areas (air, land, water, waste, etc.). Programs designed to address multiple media areas, or that can apply to multiple programs, are referred to as “multimedia.” For example, the capacity to administer an underground storage tank program is single media while community involvement programs are typically “multimedia” because they tend to address a range of environmental topics.

Indicators of Capacity:

- B.2.1 Organizational system for the environmental program that defines staff roles and responsibilities, describes the relationship of the environmental program to tribal leadership and other departments, and includes supporting personnel management policies/procedures.
- B.2.2 Staff with appropriate skills, knowledge and experience to manage the environmental program.
- B.2.3 Training plan for staff that reflects the capacity-building priorities for the environmental program.
- B.2.4 Program evaluation system for use in determining whether program objectives are met, fiscal resources are appropriately managed, and assistance award requirements satisfied.
- B.2.5 Intergovernmental agreements (tribal, federal, state, local) necessary to implement the environmental program.
- B.2.6 Written procedures similar to the Administrative Procedure Act to ensure meaningful involvement and fair treatment in public participation.
- B.2.7 Organizational filing/records retention system and policies (paper and electronic).
- B.2.8 Policies and procedures to coordinate tribal environmental protection programs with other tribal government initiatives (e.g., transportation, housing, infrastructure, economic development, and natural resource management).

**B.3 Establishing Core Financial Management Capacities**

Establishing financial management core capacities includes assessing, modifying, or developing financial, procurement, equipment tracking, property management, and grants management procedures to ensure that the tribal systems are in compliance with federal requirements. Procedures should clearly delineate roles and responsibilities, describe recordkeeping activities, and define auditing and other evaluation methods that will be used to ensure fiscal accountability.

Indicators of Capacity:

- B.3.1 A statement by the appropriate tribal financial department demonstrating that the tribe's accounting system, internal controls, and financial reporting procedures adhere to the requirements found in 40 C.F.R. § 31 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"; 40 C.F.R. § 35 "Environmental Program Grants for Tribes"; 2 C.F.R., § 225 "Cost Principles for State, Local and Indian Tribal Governments" (formerly OMB Circular A-87); and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
- B.3.2 A statement by the appropriate tribal financial department demonstrating that the tribe has a procurement procedure that meets the minimum requirements for purchasing systems as outlined in 40 C.F.R. § 31.

- B.3.3 Written procedure for tracking (including final disposition) equipment and supplies acquired by the environmental program in compliance with 40 C.F.R. § 31.
- B.3.4 Written procedure that describes how the environmental program will coordinate with other tribal departments to satisfy grant terms and conditions and reporting requirements (for example, application development/review/approval, creation and submission of required reports, maintenance of official file, closeout of award).
- B.3.5 Current indirect cost rate agreement.
- B.3.6 Tribe demonstrates proficiency in processing financial payment requests, submits required annual Federal Financial Reports, and performs annual financial audits as required.

#### **B.4 Establishing Core Information Management Capacities**

Establishing information management core capacities includes assessing, modifying, or developing systems to maintain administrative records and files, useful reference material for the environmental protection program, and information on environmental and human health conditions that may impact human health or the environment. Information management systems should: clearly identify roles and responsibilities; prescribe a required format for materials and information tracked in the system(s); identify the physical (hard copy) location of materials and information entered into the system; identify any confidentiality issues pertaining to specific materials and information; and note whether materials and information must be legally maintained for a specific time period. Information management is also essential for measuring and tracking program performance over time, including data management on environmental indicators. Data collection, management, and reporting are key features of a core environmental protection program.

Key sources of information management information include:

- Environmental Information Exchange Network & Grant Program:  
<http://www.epa.gov/exchangenetwork/grants/index.html>
- EPA Quality Management System: Quality Management Tools - QA Project Plans:  
<http://www.epa.gov/quality/qapps.html>
- Doing Business with EPA: Quality Specifications for non-EPA Organizations:  
<http://www.epa.gov/quality/exmural.html>

##### Indicators of Capacity:

- B.4.1 Written procedure for establishing an official file for each assistance award that contains all documentation from application through final closeout and that requires record retention in compliance with 40 C.F.R. Part 31, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.”
- B.4.2 Written inventory of administrative and technical procedures, policies, regulations, or other guidelines developed to implement the environmental program.

- B.4.3 System to store and organize data and information collected or generated by the environmental program for future use in characterizing environmental and human health conditions, responding to information requests, developing environmental projects/initiatives, or other project management data systems.
- B.4.4 Exchanging and/or sharing data through the National Environmental Information Exchange Network.
- B.4.5 Written policies and procedures for protecting sensitive tribal environmental and human health data (e.g., traditional ecological knowledge and cultural resources).
- B.4.6 Environmental mapping (Geographic Information System) capabilities.

## **B.5 Establishing a Baseline Needs Assessment**

A baseline needs assessment is a primary step to determine the environmental resources needing protection and the environmental and human health issues facing a particular tribal community. Such an assessment can help a tribe to identify and prioritize a tribe's approach for undertaking protection and restoration efforts. While there are many approaches for conducting effective baseline needs assessments, including those that are informed by traditional ecological knowledge, information on conducting a baseline needs assessment can be found in Appendix II. Periodically, the baseline needs assessment should be updated in response to factors such as: new sources of pollution, changing environmental conditions, new development in the community, acquisition of lands, and changes to the environmental program. However, GAP funds should not support a baseline or other assessment that is principally for solving particular problems at particular places – such as an environmental assessment associated with a particular facility construction project – because they are considered program implementation (except those related to solid and hazardous waste programs as described in Section E, because solid and hazardous waste program implementation activities are eligible for GAP funding).

### Indicators of Capacity:

- B.5.1 A current baseline needs assessment or comparable planning document, such as a tribal Integrated Resource Management Plan, tribal environmental inventory, natural resource assessment that reflects: (1) environmental resources needing protection; (2) known information about existing/potential threats to human health and the environment within the tribe's area; (3) an evaluation of the potential impact of these threats to tribal members and resources (4) strategic plan with long term program development and implementation goals identified; and (5) prioritization of activities by the environmental program to address identified threats.

## **B.6 Establishing Core Public Participation, Community Involvement, Education, and Communication Capacities**

Establishing public participation, community involvement, education, and communication core capacities includes assessing, modifying, or developing systems to

ensure that the tribal environmental protection program can notify the general public of important events or information, publicize activities related to its projects and programs, engage community members to understand their environmental and public health concerns, educate the public on human health and environmental protection issues important to the tribe, and be responsive to concerns raised. These systems should identify the various routes or methods of disseminating information, and the time frame and particular audience that each method would reach.

#### Indicators of Capacity:

- B.6.1 Program to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of tribal programs, policies, and activities on minority populations and low-income populations within the tribe's area of program responsibility.
- B.6.2 Outreach methods that will be used to reach and solicit input from potentially affected communities and groups.
- B.6.3 Environmental Education/Outreach plans and (or) curricula.
- B.6.4 Format for public notices, press releases, and other types of communications.
- B.6.5 Methods that will be used to identify public concerns and respond to issues raised.
- B.6.6 Contact lists for other governmental entities and types of information that will be shared.
- B.6.7 Methods to conduct general public education, awareness, community engagement, and information exchange on issues related to human health and the environment.
- B.6.8 Methods for collaborating and sharing information with other tribal, federal, state, and local governments, or with other organizations.
- B.6.9 Tribal consultation policies and procedures.
- B.6.10 Development of tribal community-based advisory groups to assist with planning and implementation of the tribal environmental program.

### **B.7 Establishing Core Legal Capacities**

Establishing legal core capacities includes assessing, modifying, or enacting the tribal laws, codes, and regulations, Interagency Agreements, Memoranda of Understanding, and associated policies and guidance that are necessary to prevent environmental deterioration, abate pollution conditions, and manage or enforce specific regulatory programs. Tribes should determine what legal authorities it may use to regulate facilities and activities that may impact air, land, or water resources within its jurisdiction, including any compliance assurance and enforcement actions that may be appropriate. The tribe should determine and take steps if necessary to ensure that it has the legal authority and ability to establish and implement standards, permitting processes, certification requirements, and civil enforcement procedures.

Tribes may use GAP funds to develop a compliance monitoring program to determine compliance status and inform tribal decisions on when enforcement is necessary. A tribe's compliance monitoring program should include capacities for information gathering, data analysis, facility inspections, review of reports from regulated entities,

and addressing citizen complaints. To ensure effectiveness and consistency, tribes should train and provide appropriate credentials to authorized compliance monitoring personnel, develop and adopt standardized compliance monitoring and inspection procedures and practices, and manage the resulting information in computerized data management systems.

Tribes may use GAP funds to establish programs that require regulated entities to undertake self-monitoring, recordkeeping, and reporting as a means for tribes to monitor compliance. By requiring regulated entities to measure and report their performance, tribes are able to shift some of the burden for compliance monitoring to the regulated community. Through sanctions for false reporting or non-reporting, defined in regulations or permit requirements, a tribe can increase the accuracy of reports from regulated entities.

Tribes may use GAP funds to establish programs for the enforcement of environmental requirements. Enforcement is a fundamental element of any compliance assurance program. In designing enforcement programs under GAP, tribes should consider adopting and implementing a full suite of relevant enforcement mechanisms, including informal approaches (e.g., warnings and notices of violation); formal tribal administrative or judicial actions to compel compliance, assess penalties and/or impose other sanctions (e.g., shut down the facility); and criminal enforcement (e.g., fines and/or imprisonment) consistent with the tribe's authority. In responding to violations, tribes should act in a timely manner to correct noncompliance, deter future noncompliance and where possible redress environmental harm caused by noncompliance. Tribes may also use GAP funds to develop and maintain the capacity to work cooperatively with federal enforcement officials to address environmental violations that give rise to civil or criminal investigations.

Tribes may use GAP funds to establish programs that facilitate citizen access to compliance information, subject to confidentiality and preservation of privileged information. Providing the public with information on the compliance status of regulated entities gives surrounding communities information on possible risks they may be facing as a result of noncompliance and arms citizens with information they can use to put pressure on noncompliant facilities to come into compliance and on regulatory agencies to address noncompliance. Without prematurely revealing information on enforcement cases or compromising confidentiality and privileged information, tribes should strive to provide public access to information on the entities regulated by environmental requirements, their compliance status, and any history of formal and informal enforcement actions taken to address noncompliance. Tribes should establish procedures for citizens to request and receive specific information via all available media within a reasonable timeframe, subject to applicable laws and policies on confidentiality, the preservation of privileged information, and other limitations on sharing information.

Indicators of Legal Capacity:

- B.7.1 A statement by tribal legal counsel demonstrating that the tribe has authority to pass and enforce laws/ordinances to protect human health and the environment.
- B.7.2 A statement by tribal legal counsel demonstrating that tribal government authority provides the tribe with power to enjoin activities determined to be harmful to the health or welfare of persons or the environment.
- B.7.3 A dedicated section of the tribe's laws/codes/ordinances for environmental protection program activities that establish standards, permitting processes, certification requirements, compliance assurance, and enforcement procedures.
- B.7.4 A program to provide compliance assistance to regulated entities to promote an understanding of applicable environmental requirements and assist them in attaining and maintaining compliance.
- B. 7.5 Documentation supporting the tribe's claim of interests to usual and accustomed areas and to cultural resources potentially affected by environmental protection activities.
- B.7.6 Interagency Agreements or Memoranda of Understanding with other tribal, federal, state, or local governments regarding environmental protection.

Compliance Monitoring Program Indicators:

- B.7.7 Procedures and systems for maintaining an inventory of regulated entities or activities.
- B.7.8 Procedures to train and provide credentials to authorized compliance monitoring personnel.
- B.7.9 A program to require regulated entities to keep records, review records, and provide applicable records to the tribe.
- B.7.10 Incentives and voluntary reporting of noncompliance that encourages compliance and environmental stewardship.
- B.7.11 Procedures for receipt, evaluation, retention and investigation for possible enforcement of all notices and reports required of regulated entities.
- B.7.12 Procedures and resources to assure adequate coverage of regulated entities through compliance monitoring activities. Compliance monitoring activities, including inspections, should be conducted to: (a) determine compliance with applicable program requirements, including but not limited to permit conditions; (b) document noncompliance; (c) verify the accuracy of information required to be reported or maintained by the regulated entity; and (d) verify the adequacy of sampling, monitoring, and other methods used to develop the information submitted.
- B.7.13 A program to enter a site potentially subject to regulation – or in which records relevant to applicable program requirements are kept – in order to copy records, inspect, monitor emissions or take samples, or otherwise investigate compliance.

- B.7.14 Procedures to ensure that compliance monitoring activity is conducted in a manner (e.g., using “chain of custody” procedures for samples taken from a regulated entity) that will produce evidence admissible in enforcement proceedings or court.
- B.7.15 Procedures for encouraging public reporting of violations, including a mechanism for the public to submit such reports, and for ensuring proper consideration of citizen tips and complaints.

Enforcement Program Indicators:

- B.7.16 A program to immediately and effectively enjoin any activity that may present an imminent and substantial endangerment to public health or the environment.
- B.7.17 A program to restrain unauthorized activity, compel compliance with applicable requirements, and impose injunctive relief to remedy noncompliance.
- B.7.18 A program to compel regulated entities to submit reports and provide documents to the tribe for the purpose of assessing compliance with applicable requirements.
- B.7.19 A program to compel regulated entities to conduct monitoring or sampling and provide results to the tribe for the purpose of assessing compliance with applicable requirements.
- B.7.20 A program to assess or sue to recover civil penalties appropriate to the violation.
- B.7.21 A program to assess penalties for violations of applicable requirements, such as fines or imprisonment for environmental crimes.

## **B.8 Establishing Core Technical and Analytical Capacities**

Tribes may use GAP resources to build baseline environmental program capacities that will then be further developed and enhanced through media-specific EPA programs and other funding sources. GAP should be used to provide a foundation of technical and analytical skills, knowledge, and resources that will be valuable to tribes as they make decisions to pursue specific media projects and programs. GAP may support activities that establish the recipient’s capacity to manage projects involving data collection, including the establishment of a quality system conforming to the current edition American National Standard Institute ANSI/ASQ E4, “Quality Systems for Environmental Data and Technology Programs: Requirements with Guidance for Use.” Capacities include the ability to conduct direct measurements or generate data, model environmental conditions, compile data from literature or electronic media, and the ability to manage data supporting the design, construction, and operation of environmental technology. The collection and management of data associated with specific technologies is considered implementation and is not fundable under GAP. More information is available online at: <http://www.epa.gov/ogd/grants/assurance.htm>.

Indicators of Capacities:

- B.8.1 Quality assurance and management plans.
- B.8.2 Intergovernmental agreements with other jurisdictions related to environmental protection.
- B.8.3 Funding from other sources.
- B.8.4 Environmental monitoring/sampling programs.

## **C: Building Tribal Ambient and Indoor Air Quality Program Capacities**

### **C.1 EPA's Air Quality Programs**

Air quality is regulated primarily under the CAA. The CAA was first enacted in 1963 and underwent significant revisions in 1970 and 1990. The CAA focuses on three key areas: (1) reducing outdoor, or ambient, concentrations of air pollutants that cause smog, haze, acid rain, and other problems; (2) reducing emissions of toxic air pollutants that are known to, or are suspected to, cause cancer or other serious health effects; and (3) phasing out production and use of chemicals that destroy stratospheric ozone. For more information on the CAA, visit: <http://www.epa.gov/air/caa/>.

EPA takes on varying roles to ensure the CAA is implemented, including EPA authorization and oversight of state and tribal CAA programs and/or direct implementation by EPA, where applicable. Under the CAA, EPA implementation activities include: (1) designation of non-attainment areas for national ambient air quality standards; (2) development and promulgation of federal implementation plans (FIPs); (3) issuing pre-construction permits and operating permits for sources of air pollution; (4) compliance assurance (including inspections) and enforcement; (5) processing asbestos notifications for demolitions/renovations or regulated structures; and (6) ensuring risk management plans are submitted by regulated entities. The CAA Tribal Authority Rule (TAR) offers tribes the option to seek TAS eligibility to develop air quality management programs, write rules to reduce air pollution, and implement and enforce rules under the CAA that are appropriate for their communities.

The Emissions Inventory System (EIS) contains compliance and permit data for stationary sources of air pollution (such as electric power plants, steel mills, factories, and universities) regulated by EPA, tribes, states, and local air pollution agencies. The information in EIS is used to prepare Federal Implementation Plans or Tribal Implementation Plans (TIPs) and to track the compliance status of point sources under the CAA. EIS can be accessed at <http://www.epa.gov/ttn/chief/eiinformation.html>. Tribal staff may be aware of other facilities that may be subject to regulation under the CAA.

In addition to participating in the federal CAA scheme for managing air quality, tribes may use GAP funds to develop their own air quality management programs consistent with their own priorities and authorities. As a result, tribal program management TAS designations are only one indicator of successful tribal program capacity. This section includes a number of tribal program capacity indicators applicable to a wide range of tribes, including tribes that are not planning to pursue TAS status for program implementation.

Key sources of program guidance include:

- The Tribal Air Grants Framework: A Menu of Options. October 2007.  
[http://www.epa.gov/oar/tribal/pdfs/Tribal%20Air%20Grants%20Framework%20rev%202011\\_07.pdf](http://www.epa.gov/oar/tribal/pdfs/Tribal%20Air%20Grants%20Framework%20rev%202011_07.pdf)
- Tribal Air Program Resources. <http://www.epa.gov/air/tribal/airprogs.html>

- Radiation Publications: <http://www.epa.gov/radiation/pubs.html>
- Office of Air and Radiation National Program and Grant Guidance. <http://epa.gov/planandbudget/>
- Preparing for Climate Change: A Guidebook for Local, Regional, and State Governments: <http://www.icleiusa.org/action-center/planning/adaptation-guidebook>

## **C.2 Establishing Tribal Air Quality Programs**

This subsection provides a “road map” for tribes and outlines a non-exclusive list of tribal environmental protection program capacity indicators that EPA will use to evaluate progress under the GAP. In general, GAP funding should be used to build baseline environmental program capacities; once capacity is established, tribes may seek funding under EPA’s media-specific programs to support more complex program development and implementation while continuing to use GAP resources for ongoing capacity building activities.

The first stage in developing an air quality management program is to develop the necessary expertise and skills to identify, address, and manage air quality issues. Tribal capacity-building activities should focus on assigning staff, acquiring initial training, compiling relevant data on which the tribe can make program development decisions, engaging the tribal community on air quality issues, collecting and analyzing new air quality data, and using this information to make decisions on further development of an air quality management program.

After building fundamental program capacities related to the CAA and evaluating the type of air quality issues facing the community, tribes may consider undertaking efforts to establish air quality protection programs. Tribes and inter-tribal consortia are encouraged to seek funding support under EPA’s media-specific programs where appropriate.

## **C.3 Indicators of Air Quality Program Capacity**

- C.3.1 Tribe has established a staffing plan (position description and recruitment/retention/promotion plan) for who will serve as tribal air quality/indoor air quality program coordinator(s).
- C.3.2 Staff has completed appropriate training and acquired baseline knowledge and skills related to the CAA (become familiar with the major goals, programs, and requirements of the CAA; the national structure for implementing the CAA; and the EPA regional personnel and organization).
- C.3.3 Staff has completed appropriate indoor air quality training and acquired skills related to indoor air quality (e.g., Healthy Homes training).
- C.3.4 Tribe has established a program to meaningfully participate in air quality management programs administered by other tribal, federal, state, or local governments (including reviewing and commenting on air quality standards and facility permit actions).

- C.3.5 Tribe is receiving funding under the CAA or other related EPA media specific program.
- C.3.6 Tribe has completed an emissions inventory and submitted to the National Emissions Inventory Database.
- C.3.7 Tribe has developed an air monitoring strategy and associated quality assurance project plan.
- C.3.8 Tribe has established a program to collect and upload quality assured ambient air monitoring data into the Air Quality System (AQS) database.
- C.3.9 Tribe has completed a report analyzing air quality and radiation hazard issues impacting the tribe and evaluated air pollution control options (identifies air pollution sources and known levels of emissions, defines potential human health and environmental impacts of current air quality, and provides recommendations for action).
- C.3.10 Tribe has completed an indoor air quality assessment and report.
- C.3.11 Tribe has established a radon program that tests residential and other occupied structures for radon, identifies those above the EPA action level, and conducts outreach and education in the community.
- C.3.12 Tribe has prepared a report recommending actions to improve indoor air quality and reduce levels for radon, mold, moisture, and environmental pollutants.
- C.3.13 Tribe has incorporated indoor air quality improvements or features as part of building renovation programs (e.g., weatherization and rehabilitation) and new construction.
- C.3.14 Tribe has developed a climate change vulnerability/risk assessment.
- C.3.15 Tribe has developed a climate change preparedness/adaptation program (e.g., zoning rules and regulations; tax incentives; building codes/design standards; utility rates/fee setting; public safety rules and regulations; outreach and education; emergency management powers).
- C.3.16 Tribe has established a Diesel Emissions Reduction Program (identified diesel engine use; evaluated short- and long-term priorities for reduction of emissions; selected implementation options such as installing diesel retrofit devices with verified technologies on school buses, maintaining/repairing/rebuilding engines, replacing older vehicles/equipment with more efficient engines or engines that run on cleaner fuel, improve operational strategies).
- C.3.17 Tribe has established energy efficiency policies and program(s) (e.g., building design standards/codes, ENERGY STAR initiatives for government operations and tribal housing).
- C.3.18 Tribe has established an air toxics program (capacity to: monitor for acid and mercury deposition; sample subsistence food sources to measure the accumulation of toxics; partner with other jurisdictions on assessment projects; communicate potential threats to community members; implement actions to reduce sources of air toxics pollution).

- C.3.19 Tribe has established community outreach/education programs, including air quality advisory system (e.g., indoor air quality, radon, diesel emissions reduction, burn barrels, wood smoke, anti-idling, greenhouse gas and ozone-depleting substance reduction, climate change, and radiation hazards).
- C.3.20 Tribe has established intergovernmental partnerships with federal, state, local, and tribal governments to address air quality issues, including climate change, and radiation hazards (e.g., memoranda of understanding, interagency agreements).
- C.3.21 Tribe has established a program to comply with Federal Air Rules for Indian Reservations (FARR) requirements, where applicable.
- C.3.22 Tribe has developed and promulgated air quality standards.
- C.3.23 Tribe has developed a Tribal Implementation Plan (TIP) under CAA Section 301 to identify sources of air pollution and to determine what reductions are necessary to meet air quality standards.
- C.3.24 Tribe has developed/submitted request to redesignate a reservation as a CAA Class I area.
- C.3.25 Tribe has developed/submitted recommendations on designations for new National Ambient Air Quality Standards.
- C.3.26 Tribe has established program to assist EPA with implementing the federal CAA program (e.g., assisting the Agency to develop/update an inventory of regulated entities, compliance assistance activities for regulated entities, obtaining federal inspection credentials to inspect regulated entities, and assisting EPA to draft permits for regulated entities).
- C.3.27 Tribe has submitted application under the Tribal Authority Rule (TAR) requesting approval of specific CAA programs.
- C.3.28 Tribe has developed program to implement a Title V operating permit program for major sources of air pollution.
- C.3.29 Tribe has developed program to implement new source review permitting program for minor sources of air pollution.
- C.3.30 Tribe has enacted ambient air quality and/or radiation hazard laws, codes, and/or regulations with effective compliance assurance and enforcement provisions that are at least as stringent as the federal statutes.
- C 3.31 Tribe has enacted green building codes, guidelines and/or protocols that promote healthier indoor air quality and apply these practices to new and retrofitted buildings.
- C 3.32 Tribe has established a program to conduct indoor air quality outreach, education, and/or training for tribal government personnel and/or community members.
- C.3.33 Tribe has enacted indoor air quality laws, codes, and/or regulations with effective compliance assurance and enforcement provisions.
- C.3.34 Tribe has developed a program to provide compliance assurance (including inspections) and enforcement (e.g., work with regulated community system operators to determine if appropriate training and certification has been obtained, and, if not, assist with acquiring such training and/or certification).

## **D: Building Tribal Water Quality Program Capacities**

### **D.1 EPA's Clean Water and Safe Drinking Water Programs**

The Clean Water Act (CWA) is the primary federal law protecting the quality of surface water. The law was originally passed in 1972, and was amended in 1977 and 1987. The CWA establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating water quality standards for surface waters. In ensuring water quality to “restore and maintain the chemical, physical and biological integrity of the Nation’s waters,” the CWA includes provisions for addressing water pollution from point sources, diffuse sources of surface water runoff (nonpoint), protection of national estuaries and coastal waters, and dredge and fill actions (e.g., of wetlands) into waters of the United States. For more information on the CWA, visit <http://www.epa.gov/lawsregs/laws/cwa.html>.

EPA takes on varying roles to ensure the CWA is implemented, including EPA authorization and oversight of state and tribal CWA programs and/or direct implementation by EPA, where applicable. The primary program implementation activities include: (1) determining protection levels for waters of the United States by establishing Water Quality Standards; (2) assessing water quality to identify impaired waters (water quality monitoring); (3) defining and allocating control responsibilities to meet water quality standards; (4) issuing CWA Section 402 surface water discharge permits; (5) providing assistance to address nonpoint source pollution; (6) providing compliance assurance (including inspections) and enforcement; (7) issuing water quality certifications; and (8) reviewing CWA Section 404 dredge and fill permit applications. In addition, under the CWA, EPA: (9) responds to releases of petroleum products to navigable waters; (10) ensures that regulated entities have spill prevention, control and counter-measures (SPCC) plans, and (11) provides financial and technical assistance for the construction of wastewater facilities.

The Safe Drinking Water Act (SDWA) is the legal framework under which the nation’s public drinking water supplies are regulated and applies to every public water system in the United States. It requires many actions, such as the setting of national drinking water standards or requiring ways to treat the water to remove contaminants to protect drinking water and its sources – rivers, lakes, reservoirs, springs, and ground water wells. The Underground Injection Control program, under the SDWA, is designed to prevent underground injections from endangering drinking water sources. The SDWA was originally passed in 1974, and it was amended in 1986 and 1996. For more information on the SDWA, visit <http://water.epa.gov/lawsregs/rulesregs/sdwa/index.cfm>.

EPA takes on varying roles to ensure the SDWA is implemented, including EPA authorization and oversight of state and tribal primacy programs and/or direct implementation by EPA, where applicable. The primary program implementation activities include: (1) conducting sanitary surveys; (2) providing technical assistance to managers and operators of facilities subject to compliance requirements; (3) permit actions for regulated entities; (4) maintaining a database to hold compliance information

of public water systems; (5) monitoring public water supplies and providing compliance assurance (including inspections); (6) compliance assurance (including inspections) at regulated Underground Injection Control (UIC) wells; and (7) conducting enforcement.

The Permit Compliance System (PCS) provides information on facilities that have been issued permits to discharge to surface water. The Safe Drinking Water Information System (SDWIS) contains information about public water systems that have been reported to EPA by state or tribal environmental agencies. To access PCS or SDWIS information, please visit <http://www.epa.gov/enviro/index.html>.

The Agency is currently developing a national information system for facilities regulated under the UIC Program. In the meantime, the EPA regional offices maintain separate databases of UIC injection well activities.

Tribal staff may be aware of other facilities that may be subject to regulation under the CWA and SDWA.

Tribes are not required to administer CWA programs, but may apply for TAS eligibility under CWA Section 518(e) to administer certain CWA programs. Tribes must apply for and receive EPA approval to be eligible for TAS for each program in which they are interested.<sup>41</sup> In addition to acquiring eligibility for certain water-related funding programs, tribes may also seek authorization to administer CWA water quality standards, water discharge permit programs, water quality certification programs, and dredge and fill permitting programs.

Similarly, EPA is the primary federal agency responsible for administering the SDWA, and directly implements the drinking water program and underground injection control program, except where states or tribes have primacy, which is the authority to implement SDWA within their jurisdictions. Under Section 1451 of the SDWA, tribes may apply for TAS and seek “primacy” to administer a public water supply supervision program and/or the requirements related to underground injection control wells.

In addition to participating in the federal CWA and SDWA scheme for managing water quality, tribes may use GAP funds to develop their own water quality management programs consistent with their own priorities and authorities. As a result, tribal program management TAS designations are only one indicator of successful tribal program capacity. This section includes a number of tribal program capacity indicators applicable to a wide range of tribes, including tribes that are not planning to pursue TAS status for program implementation.

In addition to pursuing program eligibility for delegation of EPA CWA programs, there are other opportunities for tribal governments to partner with EPA to implement CWA

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<sup>41</sup> Limitations in the CWA or other federal legal impediments prevent some tribes from obtaining TAS status. Excluded tribes include tribes that are not federally recognized, and tribes without formal reservations or tribal trust lands, such as most Alaska Native Villages.

provisions. As appropriate, EPA regional offices can utilize Direct Implementation Tribal Cooperative Agreements (DITCAs), memoranda of agreement, program funding, and other devices to provide for tribal participation in the implementation of the CWA. Please see Appendix IV, “EPA Water Program Reference Table: Framework for Tribal Water Program Strategic Planning and Development,” for more information on program activities associated with partnering with EPA on water program implementation, developing a tribal water program under tribal authority, and pursuing TAS for certain water programs.

Key sources of program guidance and information for developing programs under these statutes include:

- CWA –Information on activities and developing Water Quality programs:
  - “Final Guidance on Awards of Grants to Indian Tribes under Section 106 of the Clean Water Act,” EPA, 2007 (EPA 832-R-06-003).  
[http://water.epa.gov/grants\\_funding/cwsrf/upload/2006\\_10\\_20\\_cwfinance\\_final-tribal-guidance.pdf](http://water.epa.gov/grants_funding/cwsrf/upload/2006_10_20_cwfinance_final-tribal-guidance.pdf)
  - “Handbook for Developing and Managing Tribal Nonpoint Source Pollution Programs Under Section 319 of the Clean Water Act,” EPA, 2010.  
<http://water.epa.gov/polwaste/nps/tribal/index.cfm>
- SDWA – Information on activities and developing the Tribal PWSS Program:
  - Overview of PWSS: <http://www.epa.gov/indian/laws/tas.htm#pwss>
  - Tribal Drinking Water: <http://water.epa.gov/aboutow/ogwdw/tribal.cfm>
  - TAS for PWSS under the SDWA: [www.epa.gov/tribal/pdf/tas-strategy-attach-h.pdf](http://www.epa.gov/tribal/pdf/tas-strategy-attach-h.pdf); [www.epa.gov/tribal/pdf/tas-strategy-attach-i.pdf](http://www.epa.gov/tribal/pdf/tas-strategy-attach-i.pdf)

## **D.2 Establishing Tribal Water Quality Programs**

This subsection provides a “road map” for tribes and outlines a non-exclusive list of tribal environmental protection program capacity indicators that EPA will use to evaluate progress under the GAP. In general, GAP funding should be used to build baseline environmental program capacities; once capacity is established, tribes may seek funding under EPA’s media-specific programs to support more complex program development and implementation while continuing to use GAP funding for ongoing capacity building activities. When considering water program capacity-building activities, it may be beneficial for a tribe to align their capacity-building activities with EPA water program guidance early on. This can: (1) increase efficiency in a tribe’s use of both GAP and media program funding towards developing a program; (2) facilitate obtaining future EPA tribal water grant funding; and/or (3) facilitate obtaining EPA approval for a tribe to implement federal regulatory roles under the CWA or SDWA. Tribes developing water quality and drinking water protection programs should work directly with EPA water program staff and follow EPA Clean Water Act and Safe Drinking Water Act-related policies and guidance.

The first stage in developing a water quality management program is to develop the necessary expertise and skills to identify, address, and manage water quality issues. Tribal capacity-building activities should focus on: (1) assigning staff; (2) acquiring

initial training; (3) compiling relevant data on which the tribe can make program development decisions; and (4) engaging the tribal community on water quality issues.

After building fundamental program capacities related to the CWA and SDWA and evaluating the type of water quality issues facing the community, tribes may consider undertaking efforts to establish water quality protection programs. Tribes and inter-tribal consortia are encouraged to seek funding support under EPA's media-specific programs where appropriate. Please see Appendix IV to view water program planning and development activities in relation to water program implementation under the CWA and SDWA.

### **D.3 Indicators of Water Quality Program Capacity**

#### General Tribal Water Program Indicators

- D.3.1 Tribe has established a staffing plan (position description and recruitment/retention/promotion plan) for who will serve as tribal water quality program coordinator.
- D.3.2 Staff has completed training and acquired baseline knowledge and skills related to the CWA and SDWA (e.g., become familiar with the major goals, programs, and requirements of the CWA and SDWA; the national structure for implementing the CWA and SDWA; and the EPA regional personnel and organization).
- D.3.3 Tribe has established a program to meaningfully participate in water quality management programs administered by other tribal, federal, state, or local governments (including reviewing and commenting on technical water documents, water quality standards, and facility permit actions).
- D.3.4 Tribe is receiving funding under the CWA, SDWA, or other related EPA media specific program.
- D.3.5 Tribe has identified its water resources and associated environmental and human health issues (including: inventories of regulated entities; discharge points requiring NPDES permits; facilities requiring Spill Prevention, Control, and Countermeasure (SPCC) plans; sensitive ecosystems).
- D.3.6 Tribe has established community outreach/education programs related to water quality and/or protecting health through safe drinking water (e.g., fish consumption advisory system, water efficiency, nonpoint source pollution best management practices, infrastructure needs for water and wastewater utilities, and wetlands restoration activities).
- D.3.7 Tribe has established water efficiency policies and program(s) (e.g., building design standards/codes, WaterSense initiatives for government operations, water use restrictions).
- D.3.8 Tribe has established intergovernmental partnerships with federal, state, local, and tribal governments to address water quality or drinking water issues (e.g., memoranda of understanding, interagency agreements).

## Indicators Related to the Clean Water Act

### *Water Quality Monitoring Program Indicators*

- D.3.9 Tribe has completed a water quality assessment report that analyzes water quality issues impacting the tribe and evaluated water pollution control options (e.g., identifies dischargers and types/amounts of discharge, defines potential human health and environmental impacts of current water quality, provides recommendations for action, identifies water program financial needs, and identifies water quality program goals, objectives, and milestones).
- D.3.10 Tribe has developed a water quality monitoring strategy.
- D.3.11 Tribe has developed quality assurance project plan (QAPP) associated with the water quality monitoring strategy.
- D.3.12 Tribe has established data management functions for its water quality monitoring data, including a program to collect and upload all required quality assured surface monitoring data into WQX/STORET database where applicable.
- D.3.13 Tribe has developed a water quality monitoring program.
- D.3.14 Tribe has submitted complete TAS package for 106 grant eligibility.

### *Nonpoint Source (NPS) Program Indicators*

- D.3.15 Tribe has worked with other stakeholders in the watershed to develop a watershed based plan that identifies nonpoint source pollution problems and options for best management practices.
- D.3.16 Tribe has submitted an eligibility package for CWA Section 319, including a TAS package and a Nonpoint Source Assessment Report and Management Plan.

### *Wetlands Program Indicators*

- D.3.17 Tribe has developed a Wetlands Program Plan.
- D.3.18 Tribe has developed a wetlands protection program pursuing one or more of the core wetland program elements (Monitoring & Assessment, Regulation, Voluntary Restoration & Protection, and Water Quality Standards for Wetlands).

### *Water Quality Standards Indicators*

- D.3.19 Tribe has developed and promulgated tribal water quality standards, including designated uses for tribal waters.

*Indicators for Impaired Waters Identification/Listing and Total Maximum Daily Loads (TMDLs) Programs*

- D.3.20 Tribe has established a program to provide water quality-related data and information on geographically-relevant waters to EPA.
- D.3.21 Tribe has established a program to review and comment on water quality reports, TMDLs, and other watershed-based planning efforts undertaken by other government agencies (federal, state, local, or tribal).
- D.3.22 Tribe has established a program to assess water quality conditions, including comparing water quality monitoring information and data against applicable water quality standards.

*Water Quality Permitting, Compliance, and Enforcement Program Indicators*

- D.3.23 Tribe has established a program to assist EPA with implementing the federal CWA programs (e.g., compliance assurance activities for regulated entities, obtaining federal inspection credentials to inspect regulated entities, and assisting EPA to draft permits for regulated entities).
- D.3.24 Tribe has developed the funding structure and legal framework (e.g., laws, codes, and/or regulations with effective enforcement provisions that are at least as stringent as the CWA) to implement a permit program.
- D.3.25 Tribe has established a program to permit facilities discharging to tribal waters.
- D.3.26 Tribe has established a program to provide compliance assurance (including inspections) and enforcement for a tribal permit program.

*Indicators to pursue only if seeking EPA-approved CWA TAS authority*

- D.3.27 Tribe has developed and submitted a TAS package for EPA-approved WQS program.
- D.3.28 Tribe has developed and submitted a TAS package for EPA-approved NPDES program.
- D.3.29 Tribe has developed and submitted a TAS package for a CWA Section 401 certification program.
- D.3.30 Tribe has developed and submitted a TAS package for a CWA Section 404 dredge and fill permit program.
- D.3.31 Tribe has established a program (including modeling) to develop TMDLs and other water quality based planning efforts.
- D.3.32 EPA-approved Water Quality Standards are in place.
- D.3.33 Tribe has established program to monitor federally-approved surface and/or wetlands water quality standards and perform triennial review.

## Indicators Related to the Safe Drinking Water Act

### *Ground Water and Source Water Protection Program Indicators*

- D.3.34 Tribe has delineated source water protection areas.
- D.3.35 Tribe has developed source water assessment and protection plan/wellhead protection plans for community water supplies.

### *Drinking Water Permitting, Compliance, and Enforcement Program Indicators*

- D.3.36 Tribe has established a program to assist EPA with implementing the federal Public Water System Supervision (PWSS) program (e.g., compliance assurance activities, obtaining federal inspection credentials, and assisting EPA to draft permits).
- D.3.37 Tribe has established a program to assist EPA with implementing the federal Underground Injection Control (UIC) program (e.g., compliance assurance activities, obtaining federal inspection credentials, and assisting EPA to draft permits).
- D.3.38 Tribe reports quality assured Underground Injection Control (UIC) inventory information to EPA (especially Class V wells).

### *Indicators to pursue only if seeking EPA-approved SDWA program delegation authority*

- D.3.39 Tribe has developed the funding structure and legal framework (e.g., laws, codes, and/or regulations with effective enforcement provisions that are at least as stringent as the SDWA) to implement the primary drinking water enforcement program (primacy).
- D.3.40 Tribe has primacy for implementing the Public Water Supervision System (PWSS) program (SDWA Section 1451).
- D.3.41 Tribe has developed and submitted a draft authorization package to EPA for approval to enforce federal UIC requirements and manage injection wells on tribal lands.
- D.3.42 Tribe has primacy for implementing Underground Injection Control wells regulatory program.

## **E: Building Solid Waste, Hazardous Waste, and Underground Storage Tank Capacities**

### **E.1 EPA's Solid Waste, Hazardous Waste, and Underground Storage Tank Programs**

GAP funding related to tribal solid and hazardous waste programs is unique in that the GAP statute provides EPA with the authority to fund both the development of program capacity as well as program implementation in accordance with the purposes and requirements of applicable provisions of law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).<sup>42</sup> Agency priorities for resources applied to tribal solid waste programs will be consistent with both the GAP Guidance and the Environmental Protection Agency-Wide Plan to Provide Solid Waste Management Capacity Assistance to Tribes (Plan). Therefore, each fiscal year regions should review GAP assistance agreement work plans for consistency with the priorities expressed in the Plan. The GAP Guidance and Plan are dynamic documents subject to further refinement as priorities and resources change.

The Resource Conservation and Recovery Act (RCRA) is the primary federal law for managing solid waste, hazardous waste, and Underground Storage Tanks (USTs). The law was originally enacted in 1976, amending the Solid Waste Disposal Act of 1965, and has been subsequently amended. The federal hazardous waste regulations under RCRA Subtitle C apply to all facilities generating and managing hazardous wastes. Under RCRA Subtitle D, EPA has established nationally applicable criteria for non-hazardous waste disposal facilities.<sup>43</sup> Under RCRA Subtitle I, EPA has established criteria for the operation and closure of USTs and Leaking USTs (LUSTs). Also pursuant to RCRA, EPA promotes sustainable materials management, including pollution prevention and environmentally-sound recycling. Sustainable materials management uses a “cradle-to-cradle” approach to focus on the full life cycle of materials including how they can be reinvested and reincorporated into manufacturing, thus reducing the use of virgin materials. For more information on RCRA, visit: <http://www.epa.gov/epawaste/index.htm> and <http://www.epa.gov/oust/tribes/index.htm>

Under RCRA, EPA implementation activities include: (1) issuing permits to hazardous waste treatment, storage, and disposal facilities; (2) issuing RCRA identification numbers to facilities that handle (generate, store, treat, transport, etc.) hazardous waste; (3) conducting compliance assurance (including inspections) and enforcement at facilities subject to the hazardous waste or UST requirements; (4) accepting required notifications from regulated UST owner/operators; (5) directing corrective action activities at facilities subject to the hazardous waste or UST requirements; and (6) exercising enforcement options as necessary under RCRA, including: RCRA § 7003<sup>44</sup> (which allows EPA to

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<sup>42</sup> The Indian Environmental General Assistance Act of 1992, 42 U.S.C. § 4368b(f).

<sup>43</sup> 40 C.F.R. Parts 257 and 258.

<sup>44</sup> Guidance on the Use of Section 7003 of RCRA, U.S. EPA Office of Enforcement and Compliance Assurance, October 1997 (<http://www.lb7.uscourts.gov/documents/08-34331.pdf>).

respond to conditions at non-hazardous waste facilities which may present an imminent and substantial endangerment to health or the environment) or § 4005(c)(2).<sup>45</sup>

In 1994, Congress passed the Indian Lands Open Dump Cleanup Act of 1994 (25 U.S.C. § 3901-3908).<sup>46</sup> The Act authorizes the Indian Health Service (IHS), in cooperation with EPA, to develop and maintain an inventory of open dumps and an assessment of the relative severity of the threat posed by each dump. The IHS uses the Web Sanitation Tracking and Reporting System (w/STARS) database to inventory sanitation infrastructure deficiencies, including open dumps in tribal areas.

EPA's RCRA Information system (RCRAInfo) is a national program management and inventory system that maintains information on hazardous waste generators, transporters, treatment facilities, storage facilities, and disposal facilities. To access RCRAInfo, please visit <http://www.epa.gov/enviro/facts/rcrainfo/index.html>. EPA regional offices maintain UST inventories for each tribal land area.

Tribal governments have opportunities to partner with EPA in its RCRA activities under the Subtitle C (hazardous waste) and I (UST) programs. As appropriate, EPA regional offices can utilize Direct Implementation Tribal Cooperative Agreements (DITCAs), memoranda of agreement, program funding, or other mechanisms to provide for tribal participation in the implementation of the RCRA hazardous waste and UST programs. Examples of activities that tribal staff may be able to engage in with EPA include: (1) assisting the Agency to develop/update an inventory of facilities subject to federal compliance requirements; (2) conducting compliance assistance activities for inventoried facilities; (3) obtaining federal inspection credentials to inspect facilities on behalf of EPA; (4) assisting EPA to draft facility permits; and (5) assisting EPA to provide oversight of corrective actions.

Key sources of tribal-related program guidance include:

- “The Environmental Protection Agency-Wide Plan to Provide Solid Waste Management Capacity Assistance to Tribes” (Date TBD)  
<http://www.epa.gov/epawaste/wyl/tribal/capacityassist.htm>
- “OSWER Tribal Strategy: EPA and Tribal Partnership to Preserve and Restore Land in Indian Country,” November 2008.  
[http://www.epa.gov/oswer/tribal/pdfs/oswer\\_tribal\\_strategy.pdf](http://www.epa.gov/oswer/tribal/pdfs/oswer_tribal_strategy.pdf)
- “Tribal Decision Makers Guide to Solid Waste Management,” November 2003  
<http://www.epa.gov/epawaste/wyl/tribal/tribalguide.htm>
- “The Five Elements of a Tribal Integrated Waste Management Plan,” July 2007  
(<http://yosemite.epa.gov/osw/rcra.nsf/6f3756c16d517d7185256f2a007818ee/e7661f353791ad71852573780050876e!OpenDocument>)

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<sup>45</sup> Guidance on Using RCRA Section 4005(c)(2) to Address Uncontrolled Waste Dumps in Indian Country, U.S. EPA Office of Enforcement and Compliance Assurance, March 2007.  
(<http://www.epa.gov/compliance/resources/policies/civil/rcra/rcrasection4005c2-guidance.pdf>)

<sup>46</sup> The Indian Lands Open Dump Cleanup Act of 1994 can be found at:  
[http://www.gsa.gov/graphics/pbs/INDIAN\\_LANDS\\_OPEN\\_DUMP\\_CLEANUP\\_ACT\\_OF\\_1994.pdf](http://www.gsa.gov/graphics/pbs/INDIAN_LANDS_OPEN_DUMP_CLEANUP_ACT_OF_1994.pdf)

- “Building a Tribal Solid Waste Program”  
[http://www.epa.gov/region10/pdf/tribal/igapfy13/attachment\\_B\\_building\\_a\\_tribal\\_solid\\_waste\\_program.pdf](http://www.epa.gov/region10/pdf/tribal/igapfy13/attachment_B_building_a_tribal_solid_waste_program.pdf)
- “Sustainable Materials Management”  
<http://www.epa.gov/epawaste/conservesmm/index.htm>
- “Report to Congress on Implementing and Enforcing the Underground Storage Tank Program in Indian Country,” August 2007.  
[http://www.epa.gov/oust/fedlaws/rte\\_finalblnkpgs.pdf](http://www.epa.gov/oust/fedlaws/rte_finalblnkpgs.pdf)
- “Strategy for an EPA/Tribal Partnership to Implement Section 1529 of the Energy Policy Act of 2005,” August 2006. <http://www.epa.gov/oust/fedlaws/tribal-strat-080706r.pdf>
- RCRA Compliance Monitoring Policies and Guidance  
<http://epa.gov/compliance/resources/policies/monitoring/index.html#rcra>
- “Underground Storage Tank Enforcement Compendium,” May 2009  
[http://www.epa.gov/oecaerth/resources/policies/federalfacilities/enforcement/civil/ust\\_compendium.pdf](http://www.epa.gov/oecaerth/resources/policies/federalfacilities/enforcement/civil/ust_compendium.pdf)

## **E.2 Program Capacity Building: Planning, Developing, and Establishing Tribal Waste Management and Underground Storage Tank Program Capacity**

Tribal environmental departments develop waste management program capacity through a range of planning and development activities. Section E.3 provides a non-exclusive list of tribal environmental protection program capacity indicators that EPA will use to evaluate progress under the GAP. In general, GAP funding should be used to build the applicable tribal environmental program capacities; once capacity is established, tribes may seek funding to support more complex program development and implementation while continuing to use GAP resources for ongoing capacity building activities.

EPA’s main tribal solid waste priority is the promotion of sustainable tribal waste management programs through the development and implementation of Integrated Waste Management Plans (IWMPs).

EPA will focus GAP funding on this priority. An IWMP outlines a tribe’s overall long-term approach for managing waste and serves as a roadmap for developing an effective waste management program. IWMPs also provide tribes with a way to identify waste management funding needs, investigate potential funding sources, and allocate resources accordingly. By promoting the adoption of effective cradle-to-grave regulatory oversight, IWMPs also help tribes address existing open dumps and prevent new open dumps. GAP funding should first be used to establish tribal waste management program capacities like the ones described in Section E.3; tribes may then transition to program implementation.

In addition to the GAP, Appendix V provides a list of other potential sources of EPA funding related to RCRA activities. More detailed descriptions of Agency funding resources may be found in the Plan.

The first stage in developing an IWMP is to develop the necessary expertise and skills to identify, address, and manage the solid and hazardous waste issues facing the community. Tribal capacity-building activities should focus on assigning staff, acquiring initial training, compiling relevant data on which the tribe can make program development decisions, engaging the tribal community on waste management issues, and using this information to make decisions on further development of a waste management program. The specific capacities described in Section E.3 that a tribe may wish to establish with GAP funding should be based on the presence or absence of certain facilities or activities on tribal land. For example: solid waste landfills; open or unauthorized waste dumps; hazardous waste generators, transporters, or disposal facilities; transfer stations; and USTs. Tribes may use GAP funds for any activity identified in an approved work plan designed to establish an applicable capacity indicator; tribes may not need to develop all the capacities described below.

### **E.3 Indicators of Tribal Waste Management and UST Program Capacity**

- E.3.1 Tribe has established a staffing plan (position description and recruitment/retention/promotion plan) for who will serve as tribal waste management program coordinator(s).
- E.3.2 Staff has completed appropriate training and acquired baseline knowledge and skills related to the relevant areas of RCRA (become familiar with the major goals, programs, and requirements of the RCRA; the national structure for implementing the RCRA; and the EPA regional personnel and organization).
- E.3.3 Tribe has established a program to meaningfully participate in waste management programs administered by other tribal, federal, state, or local governments (including reviewing and commenting on waste disposal facility permits and applicable waste management regulations).
- E.3.4 Tribe is receiving funding under the RCRA or other related EPA media specific program.
- E.3.5 Tribe is conducting community education and outreach activities to assess community knowledge and interest in source reduction, alternatives for managing household hazardous waste, recycling, composting, and the use of green materials in tribal construction and to promote the use of such integrated solid waste management systems.
- E.3.6 Tribe has completed a waste assessment (e.g., a waste stream characterization study of the solid and hazardous waste management practices, facilities, and issues in the community; effectiveness of current waste management system(s); waste collection and disposal options; and associated costs).
- E.3.7 Tribe has a tribally-approved Integrated Waste Management Plan (IWMP).
- E.3.8 Tribe has established a program to provide waste minimization, recycling, household hazardous waste collection, used oil collection, junk vehicle removal, bulk waste/appliance/electronic waste collection, and/or composting.
- E.3.9 Tribe has established co-management roles through an intergovernmental agreement with a municipal government (e.g., Memorandum of Understanding or other mechanism) regarding landfill management where both governments have a stake.

- E.3.10 Tribe has completed a solid waste facility plan/feasibility study.
- E.3.11 Tribe has completed an open dump inventory and submitted to EPA and IHS for inclusion in the w/STARS database (including: GPS location; estimated size/volume; contents/type of waste; estimated distance to nearest homes, surface water and groundwater; estimated project costs; and site name).
- E.3.12 Sites included in the open dump inventory have a health hazard ranking score.
- E.3.13 Tribe has coordinated with EPA to ensure accuracy of EPA's regulated hazardous waste facility inventory and operating status.
- E.3.14 Tribe has coordinated with EPA to ensure accuracy of EPA's regulated UST & LUST facility inventory and operating status.
- E.3.15 Tribe has established capacity to provide information to EPA that may be used to conduct compliance monitoring inspections or in a RCRA § 3008, § 7003, § 4005(c)(2), or § 9006 enforcement action.
- E.3.16 Tribe has established a program to assist EPA with implementing the federal RCRA program(s) (e.g., assisting the Agency to conduct compliance assistance activities for regulated entities, obtaining federal inspection credentials to inspect regulated entities, and assisting EPA to draft permits for regulated entities).
- E.3.17 Tribe has enacted waste management and/or UST laws, codes, and/or regulations with effective compliance assurance and enforcement mechanisms (including anti-littering provisions and protocols to address small-scale dumping/burning activities; siting/operating requirements for USTs that are at least as stringent as the federal program).
- E.3.18 Tribe has established a compliance monitoring and enforcement strategy for the tribe's solid and hazardous waste management laws, codes, and/or regulations.
- E.3.19 Tribe has established mechanisms to assure a financially sustainable waste management program, including financing for trash collection services (e.g., fee for service, tribal government funding of trash collection services, or other cost recovery systems).
- E.3.20 Tribal staff is leading circuit rider, train the trainer, and peer-match programs.

#### **E.4 Program Implementation: Tribal Waste Management and UST Program Implementation**

Once a tribe has established a waste management program that is generally consistent with the applicable indicators described above, GAP funds may be used for the following implementation activities in order of priority: (a) program administration; (b) compliance and enforcement; (c) solid waste management, resource recovery, and resource conservation support; and (d) cleanup and closure.

**(a) Tribal Waste Management Program Administration.** Program administration generally includes all administrative oversight functions to ensure proper program implementation (e.g., financial management, human resources management, program performance evaluation, scheduling). Program administration and oversight do not generally include the costs of facility operation and maintenance or general

government services normally provided to the general public, such as fire and police.<sup>47</sup> Under GAP, this restriction on government services includes trash collection, transportation, backhaul, and disposal services which are generally outside the scope of programs administered by the EPA.<sup>48</sup> In limited circumstances, EPA may exercise discretion and grant an exception to this restriction on government services by approving the use of GAP funds for waste management services for up to two years for a grant recipient that has established a waste management program consistent with Sections E.2 and E.3 above. An applicant seeking approval to use GAP funds for waste management services under this exception must demonstrate that no other resources for such services are currently available and document the actions they will take during the approved grant period to establish sustainable funding for collection, transportation, backhaul and/or disposal services. Regional offices will evaluate requests to use GAP resources for solid waste services and will submit the request to the AIEO Director and their justification for a recommended approval or non-approval of the request. AIEO will make the determination on the recommendation within 30 days and in consultation with Office of Solid Waste and Emergency Response (OSWER).

**(b) Tribal Compliance and Enforcement Programs.** Tribes are not eligible for authorization to administer a RCRA Subtitle C hazardous waste or Subtitle I UST program, nor may tribal programs be approved by EPA under RCRA Subtitle D. However, under EPA policy and consistent with EPA's role as a regulatory agency, GAP may fund implementation activities associated with tribal waste management laws, codes, and/or regulations, such as compliance assurance (including inspections) and enforcement consistent with the extent of their authorities. In addition, GAP may fund tribes to support compliance with federal requirements, including: (1) compliance assurance (including inspections) under tribal authority at non-hazardous waste disposal facilities to help verify that such facilities are in compliance with 40 C.F.R. Part 257 and/or Part 258; (2) compliance assistance and inspections to help verify that hazardous waste generators are in compliance with 40 C.F.R. Parts 261 and/or 262; or (3) compliance assurance (including inspections) to help verify that hazardous waste transporters are in compliance with 49 C.F.R. Parts 172, 173, 178, and 179. In accordance with a tribally approved IWMP, tribes may also use GAP funds to conduct community outreach and education programs on solid waste, hazardous waste, source reduction and diversion, and USTs.

**(c) Activities to Support Solid Waste Management, Resource Recovery, and Resource Conservation.** Consistent with RCRA § 4008, activities funded under

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<sup>47</sup> 2 C.F.R. § 225, Appendix B(19)(a)(5): "Cost Principles for State, Local, and Indian Tribal Governments."

<sup>48</sup> "Any general assistance under this section shall be expended for the purpose of planning, developing, and establishing the capability to implement programs administered by the Environmental Protection Agency and specified in the assistance agreement. Purposes and programs authorized under this section shall include the development and implementation of solid and hazardous waste programs for Indian lands. [...] Such programs and general assistance shall be carried out in accordance with the purposes and requirements of applicable provisions of law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.)." Indian Environmental General Assistance Act of 1992, 42 U.S.C. § 4368b(f).

GAP may include: facility planning and feasibility studies; expert consultation; surveys and analysis of market needs; marketing of recovered resources; technology assessments; legal expenses; construction feasibility studies; source separation projects; and fiscal or economic investigations or studies but shall not include any other element of construction, or any acquisition of land or interest in land, or any subsidy for the price of recovered resources.<sup>49</sup> Activities that are part of a sustainable waste management program designed to increase waste source reduction, recycling, composting, and sustainable materials management are also allowable under GAP. Under EPA policy, the operation and maintenance of solid waste facilities and trash collection services are not deemed to be eligible for GAP funding; however, program administration and oversight as described in paragraph (a) above may be eligible. Further, the purchase, repair, upgrade, and replacement of resource recovery, resource conservation, and source separation supplies and equipment (e.g., vehicles, scales, containers, crushers, shredders, sheds, fencing, and signage) may be eligible for GAP funding. Similarly, the construction, repair, upgrade, and replacement of source separation facilities (e.g., transfer stations, recycling centers, compost facilities, household hazardous waste collection facilities, bulk waste/appliance/electronic waste collection facilities; construction and demolition debris facilities, used oil collection stations, and other similar facilities) may also be funded under GAP.

**(d) Cleanup and Closure Activities.** Unauthorized dumping of solid waste is typically a symptom of inadequate access to, or citizen participation in, integrated and sustainable waste minimization, recycling, collection, and disposal programs. As a result, funding cleanup activities prior to establishing and implementing an effective program seldom results in lasting changes to a community's waste disposal practices. While GAP funds may be used to implement solid and hazardous waste programs consistent with the GAP statute,<sup>50</sup> including cleanup activities, GAP will remain focused on supporting tribal government efforts to develop a sustainable program designed to address and prevent new, or recurring, unauthorized dumping on tribal lands. IHS is the primary federal agency responsible for identifying, assessing and funding open dump cleanups and closures.<sup>51</sup>

Regional offices will evaluate requests to use GAP resources for cleanup activities described below in Section E.4(d)(i-iii) and will submit the request to the AIEO Director with supporting documentation, including assurance that the tribe has adequate administrative controls to oversee the cleanup, and their justification for a recommended approval or non-approval of the request. AIEO will make the determination on the recommendation within 30 days and in consultation with the appropriate EPA program office(s) (e.g., the Office of Solid Waste and Emergency Response, the Office of Enforcement and Compliance Assurance, and the Office of General Counsel).

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<sup>49</sup> 42 U.S.C. § 6948(a)(2)(A).

<sup>50</sup> The Indian Environmental General Assistance Act of 1992, 42 U.S.C. § 4368b(f).

<sup>51</sup> Consistent with the Indian Lands Open Dump Cleanup Act of 1994, EPA works cooperatively with the IHS to develop the inventory and evaluate open dumps, as requested. 25 U.S.C. §3904.

**(i) Cleanup and Closure Activities for Established Tribal Programs**

Cleanup or closure activities may be eligible for funding under GAP after the tribe has established a program and demonstrated the following program capacity indicators: E.3.5, E.3.6, E.3.7, E.3.8, E.3.17, and E.3.18.<sup>52</sup> EPA decisions on funding cleanup and closure activities should be consistent with the tribal waste program priorities as defined in the Plan. If funded, cleanup and closure work should include documentation on the amount of waste removed/recycled, the types of wastes removed, and the disposition of the waste.

**(ii) Cleanup and Closure Activities for Tribal Programs under Development**

Cleanup or closure activities may be eligible for funding under GAP when the tribe has demonstrated that they are substantially pursuing tangible elements of the following actions towards building a sustainable waste management program:

- Conducting a characterization study of the waste streams a tribe generates and an assessment of current waste management practices.
- Conducting solid waste facility planning and feasibility studies.
- Developing an IWMP for approval by the tribe's governing body.
- Developing waste management laws, codes, ordinances, or regulations within the scope of their authority.
- Developing and implementing a compliance monitoring and enforcement program and/or other mechanisms to identify and respond to illegal dumping activity.
- Conducting community outreach and/or environmental education on waste management programs.

**(iii) Cleanup and Closure Activities Where No Tribal Program is being Developed**

Where a tribe does not have an established program as described above, or is not substantially pursuing tangible elements of the above actions, EPA will not prioritize providing financial assistance, including GAP funds, for the cleanup or closure activities *unless* the open or unauthorized dump presents an imminent and substantial endangerment to human health or the environment.<sup>53</sup> Where this standard is met, AIEO will as part of their approval process, consult with OSWER and OECA. This is consistent with the coordinated approach described in the Plan and will ensure proper EPA involvement and oversight of cleanups where there is an imminent and substantial endangerment to human health and the environment.

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<sup>52</sup> To help protect human health and the environment, EPA may consider approving GAP funding for cleanup activities for tribes with limited jurisdiction that have not developed E.3.17 and E.3.18, on a case-by-case basis.

<sup>53</sup> This standard is consistent with RCRA §7003 (42 U.S.C. § 6973) and is applied here as a matter of policy to guide the use of GAP resources for open dump cleanup and closure actions.

## **F: Building Tribal Contaminated Site Remediation and Emergency Response Program Capacities**

### **F.1 EPA's Comprehensive Environmental Response, Compensation and Liability Act; Emergency Planning, Community Right-to-Know Act; and Small Business Liability Relief and Brownfields Revitalization Act Programs**

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund, is the primary federal law that ensures responses to releases or threatened releases of hazardous substances that may endanger public health or the environment. The law was originally passed in 1980 and amended in 1986 by the Superfund Amendments and Reauthorization Act. CERCLA authorizes responses to address releases requiring prompt response and actions to address dangers associated with releases or threats of releases to the environment that are not immediately life-threatening. EPA can fund remedial actions under CERCLA only at sites listed on the National Priorities List, which is a list of national priorities among the known releases or threatened releases from uncontrolled or abandoned hazardous waste sites. The CERCLA provides EPA with authority to ensure cleanup and payment for cleanup. If a responsible party does not agree to do the cleanup, EPA can issue an order to do certain work, or work with the Department of Justice to pursue the party through the federal court system. If a party is out of compliance with an order or settlement, the Superfund enforcement program takes action to bring them into compliance. For more information on CERCLA, visit: <http://www.epa.gov/superfund>.

The Emergency Planning and Community Right-to-Know Act (EPCRA) establishes hazardous chemical emergency planning and reporting requirements for federal, state and local governments, Indian tribes, and industry. The right-to-know provisions are designed to increase the public's knowledge and access to information on hazardous substances at specific facilities, their uses, and releases into the environment. Government entities use this information to prepare for and respond to emergencies involving hazardous substances. For more information, visit: <http://www.epa.gov/ceppo/web/content/epcra/>.

The Small Business Liability Relief and Brownfields Revitalization Act, commonly referred to as the Brownfields law, provides CERCLA liability relief for certain property owners and small businesses, and limits CERCLA enforcement authority at sites remediated under state or tribal voluntary cleanup programs. The Act also significantly expands federal grant authority to increase Brownfields redevelopment. Noncompetitive CERCLA § 128(a) State and Tribal Response Program grants fund tribes to establish and enhance a response program which can include addressing contaminated lands. The competitive brownfields grants such as the Assessment, Revolving Loan Fund, and Cleanup, and Environmental Workforce and Job Training Grants are open to all tribes except those in Alaska. For more information on Brownfields, visit: <http://epa.gov/Brownfields/laws/2869sum.htm>.

EPA implementation activities include: (1) maintaining and updating the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS)

database to reflect newly identified sites where contaminants are suspected to have been released or new actions at existing sites; (2) response actions to address clean-up of hazardous substances; (3) response and post-clean up monitoring at sites on the National Priorities List (NPL); and (4) compliance assistance and enforcement actions to ensure that required EPCRA reports are submitted to formal EPCRA organizations.

CERCLIS contains information on hazardous waste sites, potentially hazardous waste sites, emergency response or removal sites, and remedial activities across the nation, including NPL sites or sites that are being considered for the NPL. The information is updated by the EPA regional offices. The data describes what has happened at Superfund sites, identifies involved parties (other federal agencies, states, and tribes), and includes information on human exposure, ground water migration, and construction status.

While there is no national database of Brownfield sites, an important component of the Brownfields Program is the development of site inventories. Tribal Response Program grants can be used to survey and develop brownfield inventories, many of which can be accessed online. Tribal staff may be aware of other facilities that may be subject to regulation under CERCLA or EPCRA.

In addition to participating in the federal CERCLA and EPCRA schemes for remediating contaminated sites and providing emergency response, tribes may use GAP funds to develop their own programs consistent with their own priorities and authorities.

Tribes may request delegation of federal authority under CERCLA and EPCRA and can form agreements with EPA to become involved in decision-making concerning CERCLA sites, including assuming the lead role for site assessment or long-term cleanup of sites. In addition, tribes concerned about contaminated federal facilities can partner with other federal agencies, such as the Department of Defense and Department of Energy, through advisory boards and committees to help make site decisions.

Under EPCRA, tribal governments have the lead role in ensuring an EPCRA-compliant emergency preparedness/response organization covers the tribe. Tribes can establish Tribal Emergency Response Commissions (TERCs), join existing Local Emergency Planning Committees (LEPCs), or coordinate with State Emergency Response Commissions (SERCs) to draft and implement an Emergency Response Plan.

Under Brownfields, tribes are co-regulators for many of the program aspects that address contaminated lands. In many instances tribes can serve as the lead for assessment or cleanup of brownfield sites. State and Tribal Response program funding can be used to establish and enhance programs to address contaminated sites, development of necessary codes and regulations, brownfields assessment and cleanup (including open dumps that meet the definition of a brownfields site), development of emergency response programs, and/or receive technical assistance such as job training. Brownfields grants are also available to assess and clean up brownfields sites.

Key sources of program guidance include:

- “OSWER Tribal Strategy: EPA and Tribal Partnership to Preserve and Restore Land in Indian Country,” November 2008.  
[http://www.epa.gov/oswer/tribal/pdfs/oswer\\_tribal\\_strategy.pdf](http://www.epa.gov/oswer/tribal/pdfs/oswer_tribal_strategy.pdf)
- Funding Guidance for State and Tribal Response Programs Fiscal Year 2013  
[http://www.epa.gov/swerosps/bf/state\\_tribal/fund\\_guide.htm](http://www.epa.gov/swerosps/bf/state_tribal/fund_guide.htm)
- “Tribal Brownfields and Response Programs: Respecting Our Land, Revitalizing Our Communities,” 2011. [http://www.epa.gov/swerosps/bf/state\\_tribal/pubs.htm](http://www.epa.gov/swerosps/bf/state_tribal/pubs.htm)
- “Plan to Enhance the Role of States and Tribes in the Superfund Program,” Chapter 4: Tribal Recommendations, March 1998.  
<http://www.epa.gov/superfund/partners/osrti/pdfs/chapt4.pdf>
- Emergency Planning and Community Right-to-Know Act (EPCRA) Local Emergency Planning Requirements. [http://www.epa.gov/osweroe1/content/epcra/epcra\\_plan.htm](http://www.epa.gov/osweroe1/content/epcra/epcra_plan.htm)
- “Guidance for Preparing Tribal Emergency Response Plans,” September 2004.  
[http://www.epa.gov/oswer/tribal/pdfs/guidance\\_for\\_preparing\\_tribal\\_erps.pdf](http://www.epa.gov/oswer/tribal/pdfs/guidance_for_preparing_tribal_erps.pdf)

## **F.2 Establishing Tribal Programs Related to CERCLA, EPCRA, and Brownfields**

This subsection provides a “road map” for tribes and outlines a non-exclusive list of tribal environmental protection program capacity indicators that EPA will use to evaluate progress under the GAP. The subsection describes in general terms the types of indicators that tribes and/or inter-tribal consortia could undertake with GAP funding to address issues related to CERCLA, EPCRA, or Brownfields. In general, GAP funding should be used to build baseline environmental program capacities; once capacity is established, tribes may seek funding under EPA’s media-specific programs to support more complex program development and implementation while continuing to use GAP resources for ongoing capacity building activities.

The first stage in developing a tribal site response program is to develop the necessary expertise and skills in order to establish an appropriate response planning committee, evaluate the threats from contaminated sites, evaluate the options for tribal programs, and develop partnerships with appropriate federal agencies to address contamination. Tribal capacity-building activities should focus on: (1) assigning staff; (2) acquiring initial training; (3) compiling relevant data on which the tribe can make program development decisions; (4) engaging the tribal community on contaminated land issues; and (5) using this information to make decisions on further development of a tribal site response program.

After building fundamental program capacities related to CERCLA, EPCRA, and Brownfields Tribal Response Program, and evaluating the type of related issues that may be facing the community, tribes may consider undertaking efforts to establish programs to address these issues. Tribes and inter-tribal consortia are encouraged to seek funding support under EPA’s media-specific programs where appropriate.

### **F.3 Indicators of Tribal Emergency Response and Remediation Program Capacity**

- F.3.1 Tribe has established a staffing plan (position description and recruitment/retention/promotion plan) for who will serve as tribal program coordinator(s).
- F.3.2 Staff has completed appropriate training and acquired baseline knowledge and skills related to CERCLA, EPCRA, and Brownfields (e.g., become familiar with the major goals, programs, and requirements in CERCLA, EPCRA, and Brownfields Tribal Response Program; the national structure for implementing these programs; and the EPA regional personnel and organization).
- F.3.3 Tribal response staff has completed and developed proficiency in OSHA-required HAZWOPER baseline and annual refresher training to qualify them to safely respond to spills and emergency incidents, and other appropriate training (e.g., acquire certification in an Incident Command System (ICS) course).
- F.3.4 Tribal staff has completed and developed proficiency in All Appropriate Inquiries (EPA 40 C.F.R. § 312), Phase 1 ESA (ASTM E 1527-05), and ECM 10-2 (Department of Interior).
- F.3.5 Tribe has established mechanisms to provide meaningful opportunities for public participation / community involvement to identify contamination concerns and/or solicit input on site cleanup decisions.
- F.3.6 Tribe is meaningfully participating in programs administered by other tribal, federal, state, or local governments (including reviewing and commenting on cleanup and response standards/plans).
- F.3.7 Tribe has completed a site inventory of properties of environmental concern and identified potential EPA program(s) associated with the sites.
- F.3.8 Tribe has established an EPCRA compliant tribal emergency planning organization (TERC, LEPC members, or SERC coordination).
- F.3.9 Tribe has established program to conduct emergency response training and exercises for community members (e.g., orientation seminars to review the contents of the emergency response plan; table tops drills to verify understanding of notification procedures and response actions; and field exercises to ensure that response personnel are familiar with equipment and responsibilities).
- F.3.10 Tribe has established a program to receive and manage material safety data sheets under EPCRA's Hazardous Chemical Storage Reporting Requirements.
- F.3.11 Tribal lands and resources covered by an EPCRA-compliant emergency response plan.
- F.3.12 Tribe has established program to coordinate with state and federal agencies on specific spill response trainings (hands on response to oil and chemical hazards).
- F.3.13 Tribe is conducting, alone or in collaboration with other governmental entities, annual hazmat or oil spill incident exercises (tabletop, functional or full-scale).
- F.3.14 Tribe is receiving funding under CERCLA, EPCRA, or Brownfields.

- F.3.15 Tribe has enacted laws, codes, and/or regulations establishing oversight and enforcement authority to address contaminated sites, including emergency response authority.
- F.3.16 Tribe has promulgated cleanup standards for soil, surface water, and groundwater to guide response and remediation decisions on contaminated sites (e.g., tribal “Applicable or Relevant and Appropriate Requirements” (ARARs).
- F.3.17 Tribe has established capacity to conduct Phase I and Phase II site assessments.
- F.3.18 Tribe has established program to participate in Department of Defense and Department of Energy advisory boards (Federal Facilities Restoration and Reuse) that involve stakeholders in cleanup decisions.
- F.3.19 Tribe has established support agency cooperative agreements with EPA to provide for tribal input in cleanup decisions at CERCLA sites.
- F.3.20 Tribe has developed MOA/MOU with EPA on implementation of appropriate CERCLA programs.

## **G: Building Tribal Chemical Safety and Pollution Prevention Program Capacities**

### **G.1 EPA's Asbestos Hazard Emergency Response Act; Federal Insecticide, Fungicide and Rodenticide Act; and Toxic Substances Control Act Programs**

The Asbestos Hazard Emergency Response Act (AHERA) is a provision of the Toxic Substances Control Act (TSCA) that was enacted in 1986. The EPA implemented AHERA through the Asbestos-Containing Materials in School rule (40 C.F.R. Part 763(E)). This rule requires local education agencies to inspect public and non-profit private K-12 schools for asbestos-containing building material and prepare management plans to prevent or reduce asbestos hazards. Specific requirements include: performing an original inspection and re-inspection every three years of asbestos-containing material; developing, maintaining, and updating an asbestos management plan and keeping a copy at the school; providing yearly notification to parent, teacher, and employee organizations regarding the availability of the school's asbestos management plan and any asbestos abatement actions taken or planned in the school; designating and training a contact person to ensure the responsibilities of the local education agency are properly implemented; performing periodic surveillance of known or suspected asbestos-containing building material; ensuring that properly accredited professionals perform inspections and response actions and prepare management plans; and providing custodial staff with asbestos-awareness training. To implement AHERA, the Agency provides outreach and compliance assistance, and conducts compliance inspections. For more information on AHERA, visit:

[http://www.epa.gov/asbestos/pubs/asbestos\\_in\\_schools.html](http://www.epa.gov/asbestos/pubs/asbestos_in_schools.html).

In addition to AHERA requirements, the Asbestos National Emissions Standards for Hazardous Air Pollutants (NESHAP) under the CAA specifies practices to be followed for renovations or demolition of buildings containing asbestos (40 C.F.R. Part 61(M)).

The Federal Insecticide, Fungicide, and Rodenticide (FIFRA) provides for federal regulation of pesticide distribution, sale, and use. All pesticides distributed or sold in the United States must be registered by EPA. Pesticide use is regulated through the registration program, label requirements, and a compliance assurance and enforcement program. The labeling requirements include directions for use, precautionary statements, environmental hazards, detailed explanations regarding acceptable use sites, and requirements related to pesticide handlers and field workers. It is a violation of FIFRA to use a pesticide in a manner contrary to its labeling. This provision applies to all label requirements, including but not limited to mixing, loading, applying, storage and disposal. Through FIFRA, EPA also addresses the certification and training of restricted use pesticide applicators, and establishes requirements for restricted use pesticide record-keeping. The law was originally passed in 1947, substantially revised in 1972, and amended in 1988, 1996, and 2003. Under FIFRA, the Agency provides compliance assurance (including inspections), takes enforcement actions against violators, provides technical assistance, and conducts education and outreach. For more information on FIFRA, visit: <http://www.epa.gov/lawsregs/laws/fifra.html>.

The TSCA provides EPA with the authority to regulate the importation, manufacture, and use of chemical substances and/or mixtures. It does this through reporting, recordkeeping, and testing requirements, as well as restrictions and bans. TSCA addresses the production, importation, use, and disposal of specific chemicals including polychlorinated biphenyls (PCBs), asbestos, radon and lead-based paint. TSCA was originally enacted in 1976, and significantly amended in 1986, 1988, and 1992. To implement TSCA, EPA provides outreach and compliance assistance and conducts compliance inspections. For more information on TSCA, visit: <http://www.epa.gov/lawsregs/laws/tsca.html>.

The Residential Lead-Based Paint Hazard Reduction Act's Real Estate Notification and Disclosure Rule requires landlords, property management companies, real estate agencies, and sellers to inform potential lessees and purchasers of the presence of lead-based paint and lead-based paint hazards in pre-1978 housing. This ensures that potential tenants and home buyers are receiving the information necessary to protect themselves and their families from lead-based paint hazards. The Lead-based Paint Activities Training and Certification Rule holds that no individuals or firms can perform lead-based paint activities without certification from EPA. The Renovation, Repair and Painting Rule addresses common renovation activities like sanding, cutting, and demolition that can create hazardous lead dust and chips by disturbing lead-based paint. Under the rule, contractors performing renovation, repair and painting projects that disturb lead-based paint in homes, child care facilities, and schools built before 1978 must be certified by EPA-approved training providers and must follow specific work practices to prevent lead contamination.

EPA generally is the primary enforcement authority for pesticide use violations in Indian country. Tribes may restrict or prohibit the sale or use of a federally registered pesticide, but may not allow the sale or use of an unregistered product. EPA works cooperatively with tribes to enforce FIFRA, as it does with states and territories. For example, under FIFRA Section 23, EPA may enter into cooperative agreements with tribes. These agreements may include provisions for tribes to assist EPA in ensuring compliance with FIFRA by obtaining federal inspector credentials, conducting inspections, and recommending enforcement actions to EPA.

Under FIFRA and TSCA, EPA regional offices can utilize, as appropriate, Direct Implementation Tribal Cooperative Agreements (DITCAs), memoranda of agreement, program funding, and other devices to provide for tribal participation in the implementation of the federal program. Examples of activities that tribal staff may engage in with EPA include: (1) conducting compliance assistance activities for regulated entities; (2) providing technical and compliance assistance, education, and outreach; and (3) obtaining federal inspection credentials to inspect regulated activities.

For many of the activities regulated under TSCA (including AHERA and lead programs) and FIFRA, the Agency does not maintain a national inventory of regulated entities. EPA

regional offices will work closely with tribal staff to identify facilities potentially affecting each tribe that may be subject to the requirements in these federal statutes. While tribal governments cannot operate the federal AHERA program, tribes may seek EPA approval of and subsequently implement certain lead-based paint programs under TSCA and pesticide programs under FIFRA in a manner similar to states. For example, EPA may approve tribal training and certification programs for applicators of restricted-use pesticides.

In addition to participating in the federal AHERA, FIFRA, and TSCA schemes, tribes may use GAP funds to develop their own chemical safety and pollution prevention programs consistent with their own priorities and authorities.

Key sources of program guidance include:

- “Guidance for Funding Development and Administration of Tribal Pesticide Field Program and Enforcement Cooperative Agreements,” January 3, 2011.  
<http://www.epa.gov/nscep/index.html>.
- “The National Pesticide Tribal Program: Achieving Public Health and Environmental Protection in Indian Country and Alaska Native Villages.” October 2009.  
<http://www.epa.gov/oppfead1/Publications/tribal-brochure.pdf>.
- "Guidance on Basic Elements of an EPA-Funded Tribal Pesticide Program," March 11, 2002.  
<http://www.epa.gov/oppfead1/tribes/guidance.htm>.

## **G.2 Activities Eligible for Funding Under EPA Programs that Support Tribal Capacity Development and/or Implementation of Chemical Safety and Pollution Prevention**

This subsection provides a “road map” for tribes and outlines a non-exclusive list of tribal environmental protection program capacity indicators that EPA will use to evaluate progress under the GAP. The subsection describes in general terms the types of indicators that tribes and/or inter-tribal consortia could establish with GAP funding to address issues related to TSCA (including AHERA and lead programs) and FIFRA. In general, GAP funding should be used to build baseline environmental program capacities; once capacity is established, tribes may seek funding under EPA’s media-specific programs to support more complex program development and implementation while continuing to use GAP resources for ongoing capacity building activities.

The first stage in developing programs related to asbestos, lead-based paint, pesticides, and toxics is to develop the necessary expertise and skills to identify, address, and manage any of those issues that may be facing the community. Tribal capacity-building activities should focus on: (1) assigning staff; (2) acquiring initial training; (3) compiling relevant data on which the tribe can make program development decisions; (4) engaging the tribal community on chemical safety and pollution prevention issues; and (5) using this information to make decisions on further development of chemical safety and pollution prevention programs. Based on the presence or absence of certain facilities or activities (for example, pesticide use, residences or child-occupied buildings with lead-based paint), it will not be necessary for all tribes to develop all the capacities below.

After building fundamental program capacities related to the federal asbestos, pesticides, lead-based paint, and toxics programs and evaluating the type of related issues that may be facing the community, tribes may consider undertaking efforts to establish programs to address these issues. Tribes and inter-tribal consortia are encouraged to seek funding support under EPA's media-specific programs where appropriate.

### **G.3 Indicators of Chemical Safety and Pollution Prevention Program Capacity**

- G.3.1 Staff has established a staffing plan (position description and recruitment/retention/promotion plan) for who will serve as tribal program coordinator(s).
- G.3.2 Staff has completed appropriate training and acquired baseline knowledge and skills related to TSCA (including AHERA and lead paint programs), FIFRA, and pollution prevention (e.g., become familiar with: the major goals, programs, and requirements related to TSCA and FIFRA; the national structure for implementing these programs; and the EPA regional personnel and organization).
- G.3.3 Tribe is receiving funding under FIFRA, TSCA, Pollution Prevention Act, or other similar program to support projects or programs related to managing chemical safety and pollution prevention.
- G.3.4 Tribe has completed an asbestos, pesticides, lead-based paint, and pesticides needs assessment that: collects and evaluates existing data on pesticide use and other relevant factors; assesses the need to develop related projects and/or programs; and evaluates short-term and long-term options to address those identified needs.
- G.3.5 Tribal staff has acquired necessary training/accreditation/certification to conduct lead-based paint hazard evaluations at pre-1978 tribal housing/pre-1978 child occupied facilities.
- G.3.6 Tribe has developed Quality Assurance Plan (QAP) to cover sampling and analysis activities and secured EPA approval for QAP before conducting physical sampling, blood testing, or other investigations.
- G.3.7 Tribe has established community outreach/education programs.
- G.3.8 Tribe has established mechanisms to provide meaningful opportunities for public participation / community involvement to identify concerns related to chemical safety and pollution prevention and/or solicit input on decisions.
- G.3.9 Tribe has completed inventory of all pre-1978 target housing and child-occupied buildings and gathered information on the presence of lead-based paint and/or lead-based paint hazards in or around these buildings.
- G.3.10 Tribe has completed an inventory of asbestos (in accordance with the AHERA), pesticides, and toxics in K-12 schools.
- G.3.11 Tribe has adopted a pollution prevention strategy and/or policy (e.g., integrate pollution prevention practices through government services, policies, and initiatives; establish environmentally preferable purchasing standards, green building codes/standards, greenhouse gas emission reduction targets; reduction targets for the use of hazardous materials; establish an integrated

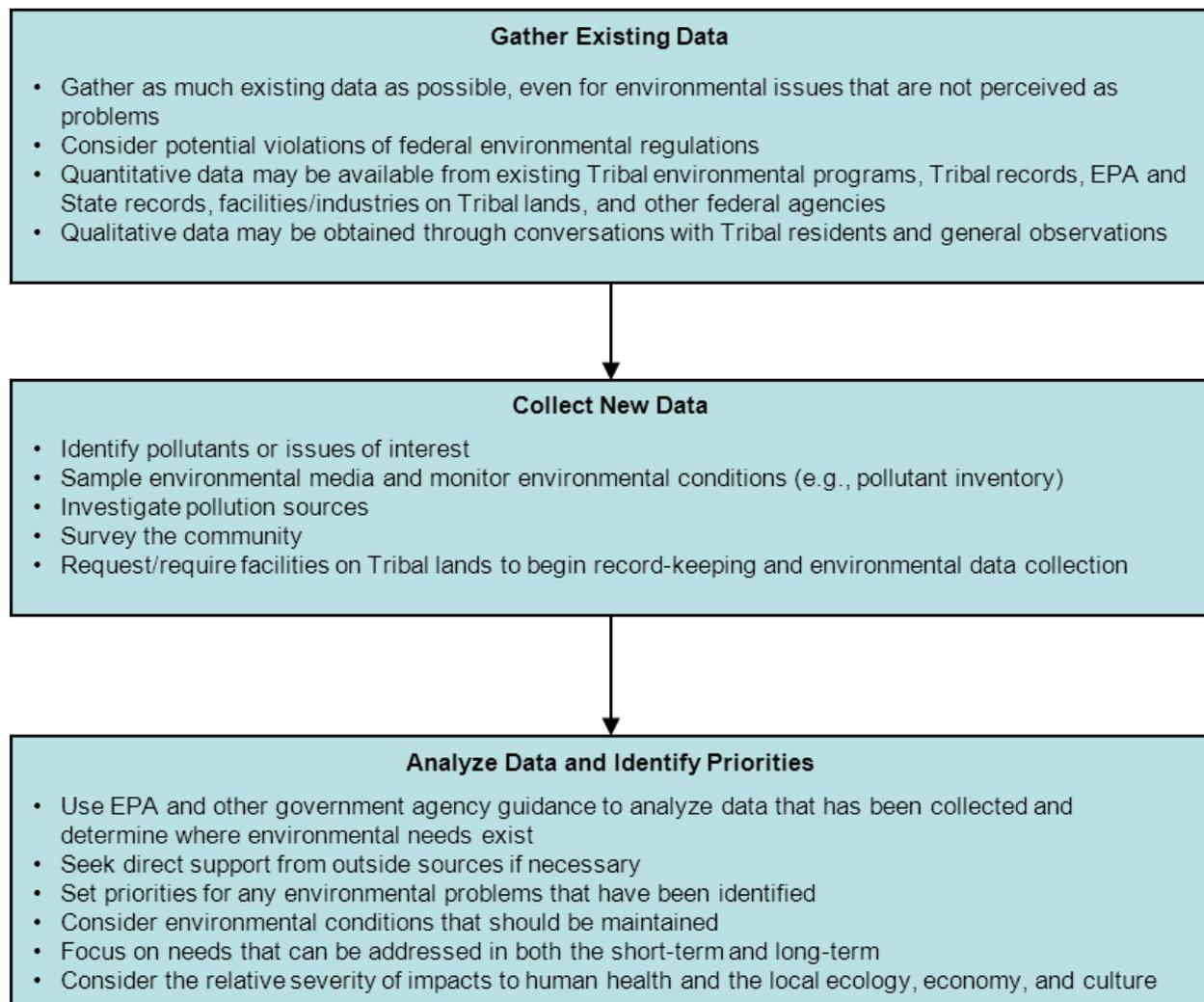
- pest management program; and adopt natural resources protection policies/procedures).
- G.3.12 Tribe is meaningfully participating in programs administered by other tribal, federal, state, or local governments.
- G.3.13 Tribe has established an EPA-tribal MOA/MOU or interagency agreement concerning joint implementation of FIFRA, TSCA, or other authorities.
- G.3.14 Tribe has established a program to implement lead abatement and Renovation, Repair and Painting (RRP) program.
- G.3.15 Tribe has established certification and training plan for restricted use pesticide applicators (commercial and private) to educate applicators and control restricted use pesticides in Indian country.
- G.3.16 Tribe has established a training/accreditation/certification program similar to TSCA Section 402 for individuals and firms engaged in lead-paint activities and for asbestos related accredited training under AHERA requirements (i.e., a model accreditation plan).
- G.3.17 Tribe has established a Pesticides Field Program, including identification of possible pesticide inspection targets and pesticide-specific issues to determine the kind of approach needed to address concerns related to the use and sale of pesticides.
- G.3.18 Tribe has established a pesticides compliance assurance and enforcement program under which a tribal inspector completes all required training and, upon EPA approval, obtains federal credentials to conduct inspections of the regulated community (e.g., pesticide applicators, marketplaces that sell pesticides, etc.) to determine compliance with FIFRA or tribal pesticide regulations.
- G.3.19 Tribe has established a compliance assurance and enforcement program similar to TSCA Section 406(b) that requires distribution of information on lead-based paint hazards.
- G.3.20 Tribe has established a compliance assurance and enforcement program for tribal laws and regulations to manage asbestos, pesticides, toxics, or other chemical risks that are at least as stringent as the applicable federal statutes.
- G.3.21 Tribal staff has capacity to lead circuit rider, train the trainer, and peer-match programs.
- G.3.22 Tribe has enacted tribal laws, codes, and regulations with effective compliance assurance and enforcement provisions to manage asbestos, pesticides, toxics, or other chemical risks that are at least as stringent as the applicable federal statutes.

## Appendix II

### Baseline Needs Assessment

The diagram below illustrates the types of steps that tribes can take to identify and prioritize the environmental issues they want to address. Such an assessment can help inform a tribe's approach for undertaking protection and restoration efforts. As a tribe develops a more sophisticated environmental program, it may undertake extensive sampling and monitoring efforts. The baseline needs assessment is not meant to be such an extensive data collection effort, but rather a primary step to prioritize general environmental issues.

#### Conducting a Baseline Needs Assessment



## Appendix III

### Sample GAP Work Plan: Developing or Updating a Joint EPA-Tribal Environmental Plan

#### Work Plan Details

<b>Tribe</b>	<i>Recipient Name</i>
<b>Work Plan Period</b>	
<b>Reporting Frequency</b>	
<b>Fiscal Year of Funding</b>	
<b>Status</b>	
<b>Author(s)</b>	<i>Author Name</i>
<b>Description</b>	

#### Component #1: Joint EPA-Tribal Environmental Plan

<b>Description</b>	Developing (or Updating) a joint environmental protection plan that identifies long-range environmental capacity development and program implementation goals that are consistent with the GAP capacity indicators and EPA program authorities.
<b>Long-Term Outcome</b>	Increased knowledge of EPA programs, resources, and technical assistance that are aligned with tribal priorities and tribal environmental protection program development goals.
<b>Measures</b>	
<b>Intermediate Outcomes</b>	Identify EPA statutes and regulations applicable to regulated entities in the community. Identify appropriate role for tribe in helping to implement EPA programs. Identify current and needed tribal laws/codes/ordinances/regulations. Identify the long term program development goals and capacity indicators that the tribe will establish.
<b>Estimated Component Cost</b>	
<b>Estimated Work Year (FTE)</b>	
<b>EPA Program Coding</b>	

#### Commitment #1.1

<b>Description</b>	Work with EPA project officers and programs to identify which EPA statutes and regulations apply to facilities, sites, and activities that may affect the tribe or that are located in close proximity to tribal boundaries
<b>Estimated Cost</b>	

<b>End Date</b>	
<b>Positions</b>	Program Director/Assistant Director
<b>Outputs and Deliverables</b>	List of applicable statutes and regulations

**Commitment #1.2**

<b>Description</b>	Review, and update with tribal information, EPA’s baseline inventory of regulated entities, sites, or activities that may affect the tribe or that are located in close proximity to tribal boundaries
<b>Estimated Cost</b>	
<b>End Date</b>	
<b>Positions</b>	Environmental Specialist, Program Director/Assistant Director
<b>Outputs and Deliverables</b>	Complete accurate inventory

**Commitment #1.3**

<b>Description</b>	Identify existing tribal priorities and associated capacity indicators the tribe intends to establish
<b>Estimated Cost</b>	
<b>End Date</b>	
<b>Positions</b>	Program Director/Assistant Director
<b>Outputs and Deliverables</b>	Tribe sends Environmental Priorities document to EPA

**Commitment #1.4**

<b>Description</b>	Develop (or Update) a joint EPA-Tribal Environmental Plan that includes the following for each of the programs identified under this Commitment: 1) identification of tribal environmental program priorities, including capacity building and program implementation goals; (2) identification of EPA program priorities and management requirements; (3) inventory of regulated entities; and (4) identification of mutual roles and responsibilities.
<b>Estimated Cost</b>	
<b>End Date</b>	
<b>Positions</b>	Administrative Assistant, Program Director/Assistant Director
<b>Outputs and Deliverables</b>	Joint Planning Agreement approved by both the legally authorized tribal leadership and the EPA Regional Administrator

## Appendix IV

### **EPA Water Program Reference Table: Framework for Tribal Water Program Strategic Planning and Development**

This reference table is for tribes that intend to establish water programs that are consistent with authorities under the Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA) and that may pursue, or are already receiving, EPA funding under the CWA or the SDWA in tandem with GAP funds. With careful planning, tribes may initiate activities to establish water programs using GAP funds and continue to enhance their water programs using CWA or SDWA grant funds, provided the activities are consistent with and eligible under CWA or SDWA funding authorities.

The table provides examples of basic activities that are consistent with program guidance under the CWA and SDWA and therefore are generally viewed as eligible for funding under EPA grant programs supporting tribal water programs. The activities are subdivided into CWA and SDWA program areas, and are separated into two columns to distinguish between activities that are typically considered *planning and development* and activities typically considered to be *implementation*.

The table may be useful to:

- Provide a summary view of CWA and SDWA program milestones that tribes can use to plan their water program goals, including short, intermediate, and long-term (i.e., implementation) goals for water programs that are consistent with the CWA and SDWA.
- Provide examples of indicators for building capacity to meet those long-term goals.
- Provide examples of indicators for inclusion in the GAP work plan, which contains the short-term goals, so that the indicators are clearly linked to the longer-term goals.
- Enable the tribe and EPA to have a shared understanding of the path that will be followed to successfully develop tribal environmental program capacity.
- Clarify examples of activities a tribe could pursue based on whether a tribe wants to develop a program under (1) their own tribal authority, (2) a Direct Implementation Tribal Cooperative Agreement (DITCA) with EPA, and/or (3) EPA-approved treatment in a manner similar to a state (TAS) authorization or delegation of primacy.
- Distinguish between program development and program implementation activities for a particular water program area.
- Identify capacity building activities that are generally eligible for funding by EPA.

In general, the planning and development activities in the left hand column are capacity building and therefore may be eligible for GAP funding. In many cases, planning and development activities can also be funded by specific EPA program grants (such as SDWA Section 1451, and CWA Sections 106 and 319).

In general, the ongoing operation and implementation activities in the right hand column are eligible for funding through water program grants.

Tribes should consult with the GAP and water programs to determine the best program planning and funding approach for their specific situation when developing their work plans.

Note: The baseline environmental program capacities listed in the left hand column of the table are consistent with the “capacity indicators” in Appendix 1 of this Guidance, and may be used in GAP work plans.

This table is a non-exclusive list of possible water program planning, development and implementation activities. Tribes should consult with the GAP and water programs, as well as review applicable EPA water program guidance, as appropriate, in determining the types of capacity activities for which to pursue using GAP funding. In addition, please note that: (1) this information is intended as a summary, and despite mandatory language, does not itself contain requirements for the programs described independent of the statutory and regulatory authorities; (2) statutes and regulations control if there is any ambiguity between this information and the requirements contained in statute or regulation; (3) there is no guarantee all eligible entities will be eligible for, or will receive, funding under any specific grant competition or funding announcement.

Tribes may prefer to use other indicators of water program capacity in GAP assistance agreement work plans (i.e., indicators that are not directly related to CWA and SDWA programs), and can work with regions on a tribe-by-tribe basis, reflecting the unique priorities and program development plans of a particular recipient. EPA will rely on the capacity indicators that have been identified in work plans and ETEPs to assess and report on progress in the development of tribal environmental program capacities under the GAP program.

**Table 1:** Framework of Activities Generally Consistent with EPA CWA and SDWA Authorities and Funding Sources that Support Tribal Water Program Capacity Planning, Development and/or Implementation

Tribal Activities for Water Program <b>Planning and Development</b>	Tribal Activities for Water Program <b>Implementation</b>
<b>Clean Water Act</b>	
<p><b><u>Water Quality Monitoring Activities</u></b></p> <ul style="list-style-type: none"> <li>- Identify basic water resources.</li> <li>- Identify water quality and financial needs.</li> <li>- Identify water quality program objectives, goals and milestones.</li> <li>- Begin developing a water quality monitoring strategy.</li> <li>- Begin developing a Quality Assurance Project Plan (QAPP) associated with their water quality monitoring strategy.</li> <li>- Begin developing a database management function for its water quality monitoring data.</li> <li>- Begin conducting water quality outreach and education activities.</li> <li>- Developing TAS Package for 106 grant eligibility.</li> </ul>	<p><b><u>Water Quality Monitoring Activities</u></b></p> <ul style="list-style-type: none"> <li>- Implementing and updating a water quality monitoring strategy.</li> <li>- Collecting surface water quality data.</li> <li>- Collecting surface water quality data for the 7 parameters (106 Guidance).</li> <li>- Collecting groundwater quality data.</li> <li>- Provide quality assured surface water monitoring data in a format accessible for storage into EPA's database.</li> <li>- Routinely provide quality assured surface water monitoring data in a format accessible for storage into EPA's STORET database.</li> <li>- Analyze water quality data and determine the status of water quality in tribal waters.</li> </ul>

Tribal Activities for Water Program Planning and Development	Tribal Activities for Water Program Implementation
<b>Clean Water Act</b>	
	<ul style="list-style-type: none"> <li>- Complete an annual water quality assessment report.</li> </ul>
<p><b><u>Non Point Source (NPS) Activities</u></b></p> <ul style="list-style-type: none"> <li>- Determine areas with water quality problems.</li> <li>- Determined watershed-based goals.</li> <li>- Begin developed a Watershed-Based Plan.</li> <li>- Conduct nonpoint source (NPS) outreach and education activities.</li> <li>- Develop TAS Package for 319 grant eligibility.</li> </ul>	<p><b><u>Non Point Source (NPS) Activities</u></b></p> <ul style="list-style-type: none"> <li>- Implement Watershed-Based Plan that has been reviewed by EPA Regional staff.</li> <li>- Work with other stakeholders to develop watershed management plan.</li> <li>- Develop/implement voluntary programs and/or specific projects to prevent or mitigate nonpoint source pollution.</li> <li>- Implementing water quality protection and restoration activities.</li> <li>- Applying for 319 competitive funding.</li> </ul>
<p><b><u>Wetlands Activities</u></b></p> <ul style="list-style-type: none"> <li>- Developing a wetland protection program pursuing one of more of the core wetland program elements.</li> <li>- Developing a Wetlands Program Plan.</li> </ul>	<p><b><u>Wetlands Activities</u></b></p> <ul style="list-style-type: none"> <li>- Applying for wetland program grants.</li> <li>- Implementing a tribal wetlands protection program.</li> <li>- Implementing voluntary surface water and/or wetlands protection and restoration activities.</li> <li>- Implementing a wetland permitting program.</li> <li>- Developing WQS that cover designated uses for wetlands.</li> </ul>
	<p><b><i>Activities following EPA-approved WQS and TAS authority only</i></b></p> <ul style="list-style-type: none"> <li>- Implementing the Section 404 CWA program to regulate the discharge of dredged or fill material into waters of the US, including wetlands.</li> </ul>
<p><b><u>Water Quality Standards Activities</u></b></p> <p><b><i>Activities to pursue using either tribal authority and/or EPA authority<sub>a</sub></i></b></p> <ul style="list-style-type: none"> <li>- Developing draft water quality standards.</li> <li>- Obtaining tribal council adoption of initial water quality standards.</li> <li>- Conducting a survey to determine fish consumption rates for the purpose of setting or revising water quality criteria for human health effects from bioaccumulative pollutants.</li> </ul>	<p><b><u>Water Quality Standards Activities</u></b></p> <p><b><i>Activities to pursue using either tribal authority and/or EPA authority<sub>a</sub></i></b></p> <ul style="list-style-type: none"> <li>- Implementing water quality standards.</li> <li>- Revising and/or submitting any necessary new or revised standards, such as updating numeric criteria.</li> </ul>
<p><b><i>Activities to pursue only if seeking EPA-approved TAS authority</i></b></p> <ul style="list-style-type: none"> <li>- Developing TAS package for EPA-approved WQS.</li> <li>- Submitting draft standards to EPA for review.</li> </ul>	<p><b><i>Activities to pursue following EPA-approved TAS authority only</i></b></p> <ul style="list-style-type: none"> <li>- Developing and implementing a CWA Section 401 certification program.</li> <li>- Conducting at least one triennial review.</li> <li>- Carrying out implementation method for antidegradation policy, including conducting any necessary review of activities that may lower water quality in high quality waters.</li> </ul>

Tribal Activities for Water Program Planning and Development	Tribal Activities for Water Program Implementation
<b>Clean Water Act</b>	
<p><b><i>Impaired Waters Identification/Listing and Total Maximum Daily Loads (TMDLs) Activities</i></b></p> <ul style="list-style-type: none"> <li>- Providing available water quality-related data and information on geographically-relevant waters</li> <li>- Reviewing and commenting on water quality reports, TMDLs, and other watershed-based planning efforts</li> <li>- Developing capacity to assess water quality conditions, including comparing water quality monitoring information and data against applicable water quality standards</li> <li>- Develop capacity (including modeling) to develop TMDLs and other water quality-based planning efforts</li> </ul>	<p><b><i>Impaired Waters Identification/Listing and Total Maximum Daily Loads (TMDLs) Activities</i></b></p> <ul style="list-style-type: none"> <li>- Developing reports/lists of impaired and threatened waters</li> <li>- Developing TMDLs for impaired and threatened waters</li> </ul>
<p><b><u>Permit Activities</u></b></p> <p><b><i>Activities to pursue using either tribal authority and/or EPA authority<sub>a</sub></i></b></p> <ul style="list-style-type: none"> <li>- Developing the legal framework to implement the permit program, e.g., promulgation of regulations</li> <li>- Developing the funding structure necessary to implement the permit program</li> </ul>	<p><b><u>Permit Activities</u></b></p> <p><b><i>Activities to pursue using either Tribal authority and/or EPA authority<sub>a</sub></i></b></p> <ul style="list-style-type: none"> <li>- Issuing permits</li> <li>- Renewing permits in a timely manner</li> <li>- Conducting inspections</li> <li>- Providing compliance assistance</li> <li>- Revising regulations, as needed</li> </ul>
<p><b><i>Activities to pursue only if seeking EPA TAS authority</i></b></p> <ul style="list-style-type: none"> <li>- Develop TAS Package for NPDES</li> <li>- Develop a draft authorization package for EPA review and comment</li> </ul>	<p><b><i>Activities to pursue following EPA-approved TAS authority only</i></b></p> <ul style="list-style-type: none"> <li>- Providing data to EPA's ICIS database</li> <li>- Assisting the Region in enforcement and compliance activities.</li> </ul>
<p><b><u>Wastewater Infrastructure – CWA</u></b></p> <ul style="list-style-type: none"> <li>- Tribe becomes knowledgeable of the processes to procure Federal funds for the construction of tribal wastewater treatment systems (funding sources may include: EPA Tribal Set Aside, USDA-RD, IHS, HUD &amp; DOI).</li> </ul>	<p><b><u>Wastewater Infrastructure – CWA</u></b></p> <ul style="list-style-type: none"> <li>- Apply for federal funds for the construction of tribal wastewater treatment systems (EPA Tribal Set Aside, USDA-RD, IHS, HUD &amp; DOI).</li> <li>- Manage grants, agreements, and contracts through project completion.</li> </ul>

Tribal Activities for Water Program Planning and Development	Tribal Activities for Water Program Implementation
<b>Safe Drinking Water Act</b>	
<p><b><u>Ground Water and Source Water Protection Activities</u></b></p> <ul style="list-style-type: none"> <li>- Delineate source water protection areas</li> <li>- Begin developing a Source Water Assessment.</li> </ul>	<p><b><u>Ground Water and Source Water Protection Activities</u></b></p> <ul style="list-style-type: none"> <li>- Complete and implement source water protection plan/wellhead protection plan for public water supplies</li> <li>- Institute land use planning to protect susceptible</li> </ul>

Tribal Activities for Water Program Planning and Development	Tribal Activities for Water Program Implementation
<b>Safe Drinking Water Act</b>	
	source water areas.
<p><b>Drinking Water Infrastructure – SDWA</b></p> <ul style="list-style-type: none"> <li>- Tribe becomes knowledgeable of the processes to procure Federal funds for the construction of tribal public drinking water systems (funding sources may include: EPA Indian Set Aside, USDA-RD, IHS, HUD, and DOI).</li> </ul>	<p><b>Drinking Water Infrastructure – SDWA</b></p> <ul style="list-style-type: none"> <li>- Apply for federal funds for the construction of tribal public drinking water systems (EPA Tribal Set Aside, USDA-RD, IHS, HUD, and DOI).</li> <li>- Manage grants, agreements, and contracts through project completion.</li> </ul>
<p><b>Oversight, Enforcement and Permitting Activities under SDWA</b></p> <p><b>Activities to pursue using either tribal authority and/or EPA authority<sup>a</sup></b></p> <ul style="list-style-type: none"> <li>- Tribe requests a DITCA with their EPA Region that assists EPA with direct implementation activities of the Public Water System Supervision (PWSS) program</li> <li>- Tribe requests a DITCA with their EPA Region that assists EPA with direct implementation activities of the Underground Injection Control (UIC) program</li> <li>- Tribe Reports UIC inventory (esp. Class V wells) information to EPA.</li> </ul>	<p><b>Oversight, Enforcement and Permitting Activities under SDWA</b></p> <p><b>Activities to pursue using either tribal authority and/or EPA authority<sup>a</sup></b></p> <ul style="list-style-type: none"> <li>- Enact UIC laws and regulations to administer and implement a UIC program</li> <li>- Issue individual permits and rule authorized injection</li> <li>- Renew permits in a timely manner</li> <li>- Conduct inspections</li> <li>- Provide compliance assistance</li> <li>- Revise regulations, as needed</li> </ul>
<p><b>Activities to pursue only if seeking EPA-approved program delegation authority</b></p> <ul style="list-style-type: none"> <li>- Developing the legal framework to implement the primary enforcement program (primacy), e.g., promulgation of regulations, enforcement capabilities</li> <li>- Developing a draft authorization package for EPA review and comment for primary enforcement responsibility under Section 1451 of SDWA (“primacy”)</li> <li>- Developing a draft authorization package for EPA review and comment for primacy to enforce federal UIC requirements and manage injection wells on tribal lands.</li> </ul>	<p><b>Activities to pursue only following EPA-approved program delegation via TAS or the primacy agency</b></p> <ul style="list-style-type: none"> <li>- Oversee and enforce the National Primary Drinking Water Regulations for the PWSS program at public water systems under tribal jurisdiction</li> <li>- Maintain compliance data systems on public water systems</li> <li>- Receive and analyze compliance monitoring data</li> <li>- Conduct sanitary surveys of public water systems</li> <li>- Certify laboratories that can perform analysis of drinking water, which will be used to determine compliance with the regulations</li> <li>- Provide technical assistance to managers and operators of public water systems;</li> <li>- Use UIC grant funds to implement the minimum Federal UIC requirements</li> <li>- Implement and enforcement the Federal UIC regulations on tribal lands.</li> </ul>

**a** – Means that a tribe could pursue these activities under (1) their own tribal authority, (2) a Direct Implementation Tribal Cooperative Agreement (DITCA) or Memorandum of Understanding (MOU) with EPA, and/or (3) EPA-approved treatment in a manner similar to a state (TAS) authorization or delegation of primacy.

## Appendix V

### **EPA Funding Programs that Support Tribal Environmental Program Capacity Development and/or Implementation Activities**

Indian Environmental General Assistance Program [CFDA No. 66.926]: Assistance to build tribal capacity to administer environmental regulatory programs on Indian lands, and technical assistance in the development of multimedia programs. Supports planning, developing, and establishing the capability to implement programs administered by EPA and includes the development and implementation of solid and hazardous waste programs for Indian lands in accordance with the purposes and requirements of applicable provisions of law, including the Solid Waste Disposal Act.

Direct Implementation Tribal Cooperative Agreements [CFDA No. 66.473]: Assistance authority to support tribes to work with EPA to directly implement federal environmental programs required or authorized by law in the absence of an acceptable Tribal program.

- EPA Funding Programs that Support Tribal Capacity Development and/or Implementation of CAA

Training, Investigations, and Special Purpose Activities of Federally-Recognized Indian Tribes Consistent with the Clean Air Act, Tribal Sovereignty and the Protection and Management of Air Quality CAA Section 103 (Tribal CAA 103 Project Grants) [CFDA No. 66.038]: Assistance to support tribal efforts to understand, assess and characterize air quality; design methods and plans to protect and improve air quality on tribal lands through surveys, studies, research, training, investigations, and special purpose activities.

Air Pollution Control Support Program (CAA Section 105) [CFDA No. 66.01]: Assistance for planning, developing, establishing, improving, and maintaining adequate programs for the continuing prevention and control of air pollution and/or in the implementation of national primary and secondary air quality standards.

National Clean Diesel Emissions Reduction Program [CFDA No. 66.039]: Assistance through grants and low-cost revolving loans to eligible entities to fund the costs of a retrofit technology that significantly reduces emissions for buses (including school buses), medium heavy-duty or heavy heavy-duty diesel trucks, marine engines, locomotives, or nonroad engines or diesel vehicles or equipment used in construction, handling of cargo (including at port or airport), agriculture, mining, or energy production. In addition, eligible entities may also use funds awarded for programs or projects to reduce long-duration idling using verified technology involving a vehicle or equipment described above, or the creation of low-cost revolving loan programs to finance diesel emissions reduction projects.

Chemical and Emergency Preparedness and Prevention Technical Assistance Grants [CFDA No. 66.810]: Assistance for chemical accident prevention activities that relate to

the Risk Management Program under the Clean Air Act Section 112(r), chemical emergency planning, and community right-to-know programs which are established to prevent or eliminate unreasonable risk to the health and environment of the community.

- EPA Funding Programs that Support Tribal Capacity Development and/or Implementation of CWA and SDWA

SDWA Capitalization Grants for Drinking Water State Revolving Funds (Drinking Water Infrastructure Grants: Tribal Set-Aside Program) [CFDA No. 66.468]: Assistance to finance infrastructure improvements for public drinking water systems.

Construction Grants for Wastewater Treatment Works & Capitalization Grants for Clean Water State Revolving Funds (Indian Set Aside Program) [CFDA No. 66.418, 66.458]: Assistance for planning, design and construction of wastewater treatment facilities; low-cost financing to eligible entities within tribal lands for water quality projects including all types of nonpoint source, watershed protection or restoration, and estuary management projects, as well as more traditional municipal wastewater treatment projects.

Assessment and Watershed Protection Program Grants (CWA Section 104(b)(3)) [CFDA No. 66.480]: Assistance to support a watershed approach to water quality problems and building capacity to develop and implement programs for watershed protection, restoration, and management.

Surveys, Studies, Investigations, Demonstrations, and Training Grants and Cooperative Agreements – Section 104(b)(3) of the Clean Water Act [CFDA No. 66.436]: Assistance to support the coordination and acceleration of research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects (including health and welfare effects), extent, prevention, reduction, and elimination of water pollution.

Regional Wetland Program Development Grants (CWA Section 104(b)(3)) [CFDA No. 66.461]: Assistance for building programs which protect, manage, and restore wetlands.

Water Pollution Control State, Interstate, and Tribal Program Support (CWA Section 106) [CFDA No. 66.419]: Assistance to establish and maintain adequate measures for prevention and control of surface and ground water pollution from both point and nonpoint sources.

Nonpoint Source Implementation Grants (CWA Section 319) [CFDA No. 66.460]: Assistance for implementing EPA-approved nonpoint source management programs.

Beach Program Monitoring and Notification Implementation Grants [CFDA No. 66.472]: Assistance for eligible coastal and Great Lakes Tribes to develop and implement programs for monitoring and notification for coastal recreation waters adjacent to beaches or similar points of access that are used by the public.

Surveys, Studies, Investigations, Demonstrations, and Training Grants – Section 1442 of the Safe Drinking Water Act [CFDA No. 66.424]: Assistance for source water protection program support, operator certification program support, tribal capacity development program support, and administration of drinking water system infrastructure.

State Public Water System Supervision [CFDA No. 66.432]: Assistance for eligible tribes (those that have Primary Enforcement Responsibility for the Public Water System Supervision Program, or are developing such a program) for implementation of Public Water Systems Supervision Program.

State Underground Water Source Protection [CFDA No. 66.433]: Assistance for states and Indian tribes that have been delegated primary underground injection control enforcement authority pursuant to the Safe Drinking Water Act (SDWA)..

- EPA Funding Programs that Support Tribal Capacity Development and/or Implementation of RCRA

Tribal Solid Waste Management Assistance Projects [CFDA No. 66.808]: Assistance to characterize/assess open dumps; develop IWM plans and tribal codes and regulations; develop and implement alternative solid waste management activities/facilities (including equipment acquisition); and develop and implement cleanup, closure, and post-closure programs for open dumps in Indian Country. Note that starting in Fiscal Year 2012, funding from all federal agencies for this Project was zero, “reflecting the challenging fiscal constraints facing the federal government.”<sup>54</sup>

Headquarters and Regional Underground Storage Tank Program [CFDA 66.816]: Assistance to support activities that promote the prevention, compliance, and identification of USTs and to support activities that promote corrective action, enforcement and management of releases from UST systems.

Underground Storage Tank Prevention, Detection, and Compliance Program [CFDA No. 66.804]: Assistance for the development and implementation of UST programs and for leak prevention, compliance and other activities.

Leaking Underground Storage Tank Trust Fund Corrective Action Program [CFDA No. 66.805]: Assistance for the oversight and corrective action associated with petroleum releases from federally-regulated USTs, as well as for enforcement activities related to such corrective action.

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<sup>54</sup> “The Environmental Protection Agency-Wide Plan to Provide Solid Waste Management Capacity Assistance to Tribes, Draft for Tribal Review,” Month, 2012, at page 16.

- EPA Funding Programs that Support Tribal Capacity Development and/or Implementation of CERCLA, EPCRA, and Brownfields

Superfund State, Political Subdivision, and Indian Tribe Site-Specific Cooperative Agreements [CFDA No. 66.802]: Assistance to conduct site characterization activities at potential or confirmed hazardous waste sites; undertake response planning and implementation actions at sites on the NPL to clean up the hazardous waste sites that are found to pose hazards to human health; and effectively implement the statutory requirements of CERCLA 121(f), as appropriate, which mandates substantial and meaningful involvement, and CERCLA 126(a).

Superfund State and Indian Tribe Core Program Cooperative Agreements [CFDA No. 66.809]: Assistance to conduct CERCLA activities which are not assignable to specific sites, but support a recipient's site-specific response program, such as developing procedures for emergency response actions and remediation of environmental and health risks; establishing legal authorities and enforcement support; hiring and training staff; and activities that support EPA/recipient interaction.

Chemical and Emergency Preparedness and Prevention Technical Assistance Grants [CFDA No. 66.810]: Assistance for chemical accident prevention activities that relate to the Risk Management Program under the Clean Air Act Section 112(r), chemical emergency planning, and community right-to-know programs which are established to prevent or eliminate unreasonable risk to the health and environment of the community.

State and Tribal Response Program Grants [CFDA No. 66.817]: Non competitive assistance through annual grant program to develop and enhance response programs, including establishing and maintaining a public record of sites at which response actions have been completed or are planned, inventorying brownfields sites, establishing legal authorities for environmental programs, and addressing contaminated brownfields sites through assessment and clean up; hiring and training staff; creating procedures for meaningful community involvement and for site-specific work; and activities to reduce and revitalize the number of contaminated sites. Funding can also be used to provide program capacity for inventorying UST and ABT sites, developing an integrated solid waste management plan, developing and implementing oversight and enforcement of the tribe's environmental programs. Federally recognized tribes/native villages in Alaska are eligible to request funding.

Brownfield Environmental Workforce Development and Job Training Grants [CFDA No. 66.808, 66.813, & 66.815]: Assistance to recruit, train, and place unemployed and under-employed predominantly low-income and minority persons, providing them with the skills needed to secure full-time, sustainable employment in the environmental field and in the assessment and cleanup work taking place in or near their communities. Federally recognized tribes are eligible to apply with the exception of those in Alaska.

Brownfields Assessment, Revolving Loan Fund, and Cleanup Cooperative Agreements [CFDA No.66.818]: Assistance to: inventory, characterize, assess, and conduct planning

and community involvement related to Brownfield sites; capitalize a revolving loan fund (RLF) and provide sub-grants to carry out cleanup activities at brownfield sites; and carry out cleanup activities at Brownfield sites that are owned by the grant recipient. Federally recognized tribes are eligible to apply with the exception of those in Alaska.

- EPA Funding Programs that Support Tribal Capacity Development and/or Implementation of TSCA (including AHERA and lead program) and FIFRA

Community Action for a Renewed Environmental Program [CFDA No. 66.035]:

Assistance to support analyses, studies, evaluations, surveys, investigations, conferences, demonstrations and special purpose projects which empower communities to reduce risks from exposures to toxic pollutants in the air, in the water, and on the land through collaborative action at the local level.

Consolidated Pesticides Enforcement Cooperative Agreements [CFDA No. 66.700]:

Assistance for developing and maintaining comprehensive pesticide programs that address all aspects of pesticide enforcement, and special pesticide initiatives; sponsor cooperative surveillance, monitoring and analytical procedures; and encourage regulatory activities to support and strengthen pesticide compliance programs, including pesticide compliance monitoring, inspection and enforcement activities.

Pesticide Environmental Stewardship Regional Grants [CFDA No. 66.714]: Assistance to

support integrated pest management approaches that reduce the risks associated with pesticide use in agricultural and non-agricultural settings, including: pesticide risk reduction, pesticide pollution prevention, Integrated Pest Management (IPM) implementation, and children's health issues related to pesticides.

Tribal Education Outreach on Lead Poisoning and Baseline Assessment of Tribal Children's Existing and Potential Exposure and Risks Associated with Lead [CFDA: No. 66.715]: Assistance to support tribal outreach and baseline assessment activities on lead-based paint to identify children's risk to lead hazards and lead poisoning.

Research, Development, Monitoring, Public Education, Training, Demonstrations, and Studies [CFDA No. 66.716]: Assistance support Research, Development, Monitoring, Public Education, Training, Demonstrations, and Studies assistance relating to the protection of public health and the environment from pesticides and potential risk from toxic substances. Projects for safer use of pesticides, including worker protection, certification and training of pesticide applicators, protection of endangered species, tribal pesticide programs, integrated pest management; environmental stewardship.

Pollution Prevention Grants Program [CFDA No. 66.708]: Assistance to implement pollution prevention technical Assistance services for businesses, and promote training in pollution prevention/source reduction techniques.

State Indoor Radon Grants [CFDA No. 66.032]: Assistance to develop and implement programs to assess and mitigate radon-related lung cancer risk.

Surveys, Studies, Investigations, Training Demonstrations, and Educational Outreach Related to Environmental Information and the Release of Toxic Chemicals [CFDA No. 66.612]: Assistance to educate the public on the how to obtain access to and effectively use environmental information, including information about toxic chemical releases and other waste management activities.

Toxic Substances Compliance Monitoring Cooperative Agreements [CFDA No. 66.701]: Assistance to develop and maintain compliance monitoring programs to prevent or eliminate unreasonable risks to health or the environment associated with chemical substances or mixtures, specifically asbestos, PCB, and lead-based paint; encourage establishment of regulatory activities for lead-based paint and asbestos; and support enforcement activities for asbestos and lead-based paint programs.

TSCA Title IV State Lead Grants Certification of Lead-Based Paint Professionals [CFDA No. 66.707]: Assistance to develop and implement authorized programs that: certify contractors engaged in lead-based paint activities and accredit lead-based paint activities training programs; certify contractors engaged in renovation, repair and painting activities that disturb painted surfaces in most target housing; and/or require distribution of lead-hazard information prior to renovation (pre-renovation education program).

# **NTOC REFERENCE GUIDE**

**January 10, 2013**

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### Introduction

EPA created this National Tribal Operations Committee (NTOC) Reference Guide to provide NTOC members with background on NTOC policy and procedures. It contains both high-level information on the NTOC (e.g., *What is the purpose of the NTOC? What groups interact with NTOC?*) and its operational procedures (e.g., *How are new National Tribal Caucus (NTC) Executive Committee members elected?*)

This document does not substitute for the official NTOC Charter, which sets the purpose, roles and responsibilities and basic operating parameters for the NTOC. For ease of cross-reference, each section of this Manual provides a link to the specific parts of the NTOC Charter used to form the basis for each section.

The sections of this Manual are:

- **Section 1: Overview and Purpose of NTOC:** Provides a short background of NTOC purpose.
- **Section 2: NTOC Membership, Roles and Responsibilities:** Outlines the responsibilities and duties of each member, the NTOC's role in development of national priorities and the National Tribal Caucus (NTC) Executive Committee election process.
- **Section 3: NTOC and NTC Meetings:** Provides a schedule of annual meetings and outlines meeting processes.
- **Section 4: NTC Operations and Guidelines:** Contains general information on the operations of the NTC and guidelines for travel and working with NTC support contractors.
- **Section 5: Interactions with other EPA Tribal Partnership Groups:** Describes interactions and communications between the NTOC and other Tribal Partnership Groups.
- **Appendix A: NTOC Charter**
- **Appendix B: NTC Members**
- **Appendix C: Major EPA Programs**
- **Appendix D: EPA Budget Cycle**

This document will be periodically updated as procedures are modified or changed, as agreed upon by both U.S. Environmental Protection Agency (EPA) and the NTC. Any changes to the NTOC Charter will require an update to this Guide.

## Section 1: Overview and Purpose of NTOC

### **NTOC Vision Statement**

EPA and federally recognized tribes are implementing environmental programs consistent with federal environmental laws, EPA's mission, tribal values and lifeways, which address the gaps in environmental protection in Indian country and achieve high levels of protection for human health, while also safeguarding the environment.

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### ***Applicable NTOC Charter Sections: Parts 1-4***

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EPA established the NTOC in February 1994 to improve communication and build stronger partnerships between the Agency and federally recognized tribes.<sup>1</sup> It is comprised of 19 tribal members from nine EPA Regions (referred to as the NTC) and EPA's Senior Leadership Team, including the Administrator, the Deputy Administrator and the Agency's Assistant Administrators and Regional Administrators. Whenever possible in this document, differences between the larger NTOC and the NTC are highlighted. It is important to keep this distinction in mind because while the NTC is part of the NTOC, the groups have different roles.

The NTOC serves as the forum for the NTC and EPA senior leadership to work together on policy and resource matters related to tribal capacity building, environmental program development, and implementation in Indian country.<sup>2</sup> The NTOC also identifies mechanisms for EPA and tribes to facilitate actions that protect human health and environment in Indian country. Specifically, the NTOC members work together to:

- Exchange views, information and advice concerning intergovernmental efforts to manage and implement EPA's programs in Indian country.

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<sup>1</sup> A "federally recognized tribe" is an Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1944, 25 U.S.C. 479a.

<sup>2</sup> Indian country as used in this document includes reservations, dependent Indian communities, Indian allotments and Alaska Native Villages.

- Identify and facilitate actions that address the gaps in data, information, policy and understanding that impact environmental and human health protection in Indian country and strive for relative parity in resources for environmental protection between state and tribal programs.
- Strengthen EPA-tribal partnerships to build capacity to develop and implement environmental programs in Indian country.
- Promote mutual understanding of interests and perspectives on national tribal environmental issues, policies and priorities.
- Monitor and assess progress in EPA's tribal program, including the performance of the NTOC in fulfilling its mission.

The NTOC Charter was originally enacted in April 1996, updated and re-certified in July 2001, and again updated and re-certified in July 2012. A copy of the Charter is provided in Appendix A.

The NTOC operates in a manner consistent with EPA's 1984 Indian Policy<sup>3</sup>, the federal trust responsibility to federally recognized tribes, federal laws, regulations, policies and guidance, as well as tribal values and interests. The 1984 Indian Policy states that EPA will work directly with tribes on a one-to-one (or Nation-to-Nation) basis and not as political subdivisions of States or other governmental units. The interactions of the NTOC do not substitute for this government-to-government relationship between EPA and federally recognized tribes.

In line with the NTOC mission and vision the principal purpose of the NTC is to **advise** EPA on how the Agency's tribal programs can be improved. Because the NTC serves in an **advisory capacity** it may initially appear to be subject to the Federal Advisory Committee Act (FACA; see text box). However, the Unfunded Mandates Reform Act of 1995 (UMRA)<sup>4</sup> specifically exempts certain intergovernmental meetings from FACA if they meet the following criteria:

### What is FACA?

Enacted by Congress in 1972, FACA governs the behavior of federal advisory committees. In particular, it has special emphasis on open meetings, public involvement and reporting. FACA applies to any committee or other group established or utilized by the President or a federal agency to obtain collective advice or recommendations and which does **not** consist solely of full time federal employees. NTC and NTOC are **not** subject to FACA requirements, as explained in the text.

1. *Are held exclusively between Federal official and elected officers of State, local and tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and*

<sup>3</sup> The *EPA Policy for the Administration of Environmental Programs on Indian Reservations, November 8, 1984* can be found at <http://www.epa.gov/tribal/pdf/indian-policy-84.pdf>.

<sup>4</sup> Section 204 of the Title II, codified at 2 U.S.C Sec. 1534(b)

- 2. Are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of Federal programs established pursuant to public law that explicitly or inherently share intergovernmental responsibilities or administration.*

Therefore the NTC and its activities are **not** subject to FACA requirements.<sup>5</sup> Overall, this is important because it promotes free communication and permits federal officials to speak directly with their tribal counterparts and not the public at large. This communication can occur at any point during NTOC activities, whether during day-to-day operations, conference calls or meetings.

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<sup>5</sup> 2 U.S.C. Sec. 1534(b) (1) & (2)

## Section 2: NTOC Membership, Roles and Responsibilities

### *Applicable NTOC Charter Sections: Parts 5-7*

The NTOC includes members of NTC and EPA senior leaders. This section provides additional details about membership and the important roles that the NTC and EPA play in the functioning of the NTOC.

### **NTC Membership**

The NTC is, first and foremost, a **national body** of high-level tribal advisors. Members are selected on a regional basis and represent all tribes within their region. Their primary focus is to identify and address tribal environmental issues that are national in scope, cross-agency or cross-media in nature, or that may be emerging or urgent. It is not the role of the NTC to address issues of individual tribes per se. However, if the issue of an individual tribe is indicative of a larger, national issue, the NTC may consider that issue as one of their national priorities.

As noted in Part 6.1 of the NTOC Charter, NTC members are selected based on specific criteria that are designed to help ensure that each member has the knowledge, skills and support to fully participate in the work of the NTOC. A list of current NTC members is provided in *Appendix B: NTC Members*. In summary, the NTC members may be individuals with tribal environmental program experience and expertise in program areas or elected tribal officials. The specific criteria are listed in the *NTC Membership Criteria* text box. EPA relies on the individual expertise as well as the tribal and regional perspective of each member to add to the richness of the dialogue that occurs among the NTC and with the full NTOC.

Tribes in each Region are responsible for determining the method of selection of NTC member(s) and alternate(s), insuring an open membership process. If a member is selected and

### **NTC Membership Criteria**

Members and alternates should meet all criteria under either (1) the Environmental Experience option **OR** (2) the Elected Official option. If members meet the Environmental Experience option and are not tribal elected officials, they must be designated in writing by their tribal leadership to act on behalf of their tribe.

#### **Environmental Experience Option:**

- Served for at least 3 years as an Environmental Director, Deputy Director or an equivalent position for a federally recognized tribe;
- Experience managing the implementation of a variety of tribal environmental programs for a federally recognized tribe; and,
- Experience working with, or interacting with, EPA senior managers at the Regional or Headquarters levels. This interaction could include involvement with regional tribal partnership groups.

#### **Elected Official Option:**

- Serves as an elected official or a traditionally appointed representative of a federally recognized tribe with broad responsibilities that include oversight of environmental, natural resource and/or human health issues.

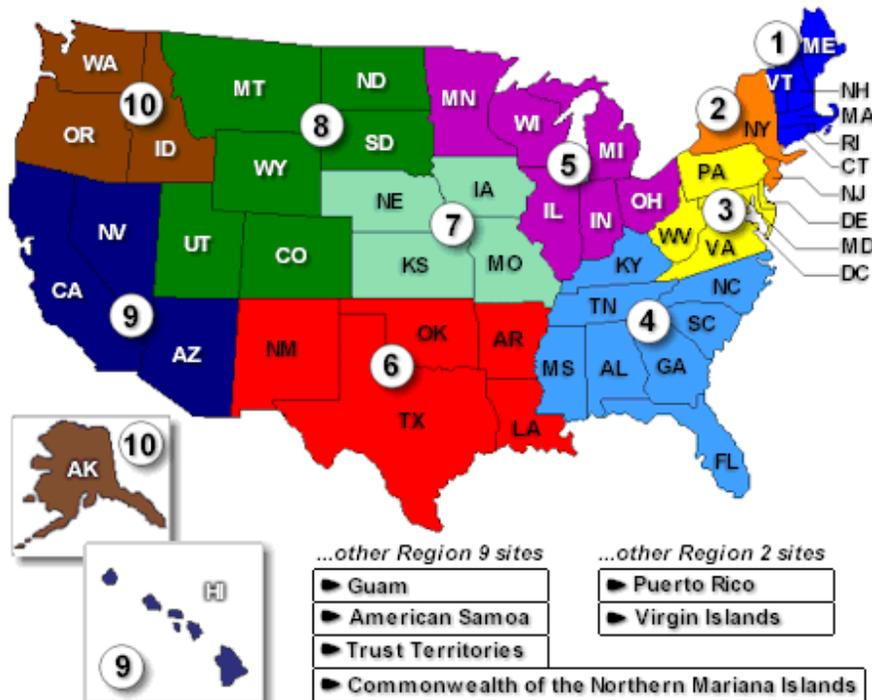
they choose to designate someone to serve in their place on the NTC, that individual becomes the recognized primary member of the group.

**All members and alternates should be willing and able to commit time and energy to the work of the NTC and NTOC.**

EPA’s American Indian Environmental Office (AIEO) is responsible for working with the Regions to certify each candidate as a NTC member. Once certified, the member is considered a duly authorized delegate for his or her Region.

There are 19 NTOC tribal members (i.e., the NTC) from nine<sup>6</sup> EPA Regions (see Figure 1 for a map of EPA Regions):

- |               |   |
|---------------|---|
| Region 1: One | Region 7: One                                     |
| Region 2: One | Region 8: Three                                   |
| Region 4: One | Region 9: Four (one from Navajo Nation)           |
| Region 5: Two | Region 10: Four (two from Alaska Native Villages) |
| Region 6: Two |   |



**Figure 1: Map of EPA Regions**

<sup>6</sup> When one or more tribes receive federal recognition in Region 3, the NTC membership will be adjusted to include a member from that Region.

### ***Alternates***

Each Region has one alternate. There is also an alternate for Alaska and the Navajo Nation. Alternates participate in meetings or conference calls when a member from that Region (or Alaska or Navajo Nation) cannot participate and requests his/her alternate to participate. When a NTC member is absent, his/her alternate takes over the voting rights.

### ***Meeting Participation***

All NTC members or their alternates are expected to fully participate in all meetings. Participation can be in person or virtual (e.g., through the internet or via conference call). Attendance on conference calls is encouraged for all NTC members and their alternates. For more information on meetings, please see Section 3.

### ***Roles and Responsibilities***

NTC members may be asked to perform many duties during their term. In general, NTC members are expected to undertake the following actions to support the NTOC mission:

- Identify and articulate the relative environmental and human health priorities and issues of tribes that are national in scope, cross-EPA or cross-media in nature and/or are emerging or urgent.
- Provide advice and feedback to the NTOC on tribal goals and strategies for protecting human health and the environment and environmental program development and implementation in Indian country.
- In accordance with *EPA's Policy on Consultation and Coordination with Indian Tribes*, assist in the identification of EPA matters that may be appropriate for tribal consultation.
- Listen to, understand and provide feedback on the environmental and human health issues and requests put forward by EPA.
- Request and analyze data, information and input from EPA, federally recognized tribes and EPA Tribal Partnership Groups to understand the relative environmental priorities and issues of tribes nationally.
- Identify the resource needs of tribes to address the environmental priorities identified.

### **Tribal General Assistance Program (GAP) Funds**

In 1992, Congress passed the Indian Environmental General Assistance Program Act (42 U.S.C. 4368b), which authorizes EPA to provide GAP grants to federally recognized tribes and tribal consortia for planning, developing and establishing environmental protection programs in Indian country. Beyond capacity building, the only allowable implementation activities under GAP are for solid and hazardous waste.

Since its inception, GAP has become a core program and the largest single source of funding for tribal environmental programs, with almost \$455 million of funding to about 500 different tribal entities. EPA Regional offices have discretion in how funds are allocated to individual tribal programs.

In addition to GAP funds, EPA also provides media specific funding to tribes through 31 grant programs (e.g., Clean Water 106 funds).

- Convey information about the work of the NTOC back to tribes and EPA Tribal Partnership Groups in a timely way.
- Work with tribal organizations outside of EPA to raise environmental and human health issues and advance NTOC initiatives that are mutually beneficial.
- Identify issues to be placed on NTC and NTOC meeting agendas and, as necessary, develop issue papers for discussion.

### ***NTC Role in Development of National Tribal Priorities***

A major role of the NTC is to identify national tribal environmental priorities and associated resource needs. These priorities and needs help guide EPA in its decisions about program direction and funding for tribal programs, such as tribal General Assistance Program (GAP) funds (*see text box*). To identify these priorities, NTC members draw on a variety of resources, including their own expertise and experience with environmental issues, observations of trends in Indian country, and information on Regional or programmatic priorities brought forward during NTC meetings or by other Tribal Partnership Groups.

To the extent that NTC members need information to support the development of these priorities, they may work with EPA staff at the Regional and Headquarters levels to gather data. (*See Appendix C: Major EPA Programs* for a list of EPA program offices.) If the data are not available, the NTC can work with EPA staff to develop a plan to get the data where possible.

The NTC typically aligns tribal environmental priorities and budget requests with goals from EPA's strategic plan.<sup>7</sup> The group has recently moved to a five-year planning process with annual updates, again similar to EPA's planning process. The NTC also considers whether there are environmental issues the best way to promote these issues to EPA's Tribal Program. Additional information on coordinating with EPA's strategic goals is provided in Section 4.

When identifying priorities, NTC members gather input from a variety of sources. Members should focus on national or cross-programmatic priorities even though these priorities may differ from the priorities of their tribe or of the Region they represent.

### ***NTC Executive Committee***

The NTC Executive Committee includes the Chair, Vice-Chair and Secretary. Serving on the NTC Executive Committee requires dedication and a commitment to act in a leadership position and engage in regular discussions with EPA senior leaders.

### ***Roles and Responsibilities***

The roles of all executive members extend above and beyond the normal duties of NTC members outlined in the previous section. The specific responsibilities of each Executive Committee member are provided in the Charter and listed below:

#### ***NTC Chair***

- Presides at NTC meetings and co-chairs NTOC meetings.
- Facilitates consensus of the NTC on national tribal environmental issues.

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<sup>7</sup> For EPA's 2011-2015 Strategic Plan see: <http://www.epa.gov/planandbudget/strategicplan.html>

- May convene the NTC as a separate subcommittee from the NTOC to accomplish goals and objectives.
- Serves as ex-officio member of subcommittees and work groups.
- Delegates issues to smaller work groups of the NTC.
- Facilitates the consensus of the NTC at EPA Regional and National Indian Workgroup meetings.
- Represents the NTC on various EPA work groups and committees, as appropriate.
- Works with EPA staff to identify needs and ensure that any support required in accomplishing the group's goals are fulfilled. *(Proposed)*

### *Vice-Chair*

- Presides at meetings in the absence of the Chair.
- Assumes and discharges all the duties of the Chair in his/her absence.
- Takes leadership on specific issues per Chair's direction.

### *Secretary*

- Creates or reviews a written record of all meetings and teleconferences of the NTC and any discussions of the NTC *(this is generally in coordination with EPA contractor support)*.
- Ensures NTC comments are accurately reflected in written records.
- Transmits this information to the NTC and, as appropriate, to EPA.
- May receive assistance from AIEO to help distribute information in a timely manner to NTC members.
- Co-manages NTC's online document sharing site with AIEO staff, to ensure that important information is distributed and discussions are facilitated between monthly conference calls. *(Proposed)*

### *Election Overview*

Elections of tribal members for the NTC Executive Committee occur every year during a meeting of the NTC, usually during the fall. Only NTC official delegates (19 primary members) of the NTC can submit nominations. Nominations must be made in writing. For each election process only current official primary members of the NTC are eligible to be nominated. Officers are elected by a majority vote of the members on the Tribal Caucus. If all 19 members are not present, the group is to have a quorum present to vote, and the officers are elected based on a majority vote of the quorum. Officers hold offices for one year or until their successors are elected.

Nomination and election processes are initiated and coordinated by AIEO in consultation with the NTC Officers. Maintaining anonymity of voting members and ensuring integrity of the voting process are of the utmost importance.

**Election Timeline**



**Figure 2: NTC Executive Committee Election Process**

**Approximately 60 days prior to election:** AIEO begins the process to verify and validate all NTC members eligible to serve on the Executive Committee, by requesting each Regional Administrator to certify their primary members or alternates for the upcoming year. A list of all eligible primary members is compiled.

**No later than 30 days prior to election:** AIEO sends this list to all NTC members requesting nominations for the Executive Committee positions. AIEO also sends election instructions—including date of election—to all NTC members and includes contact information for a single AIEO point of contact (and alternate) throughout the election process.

**No later than 14 days prior to election:** NTC members send nominations via email, regular mail, or fax to the AIEO contact, with a copy also sent to the current NTC Secretary. All nominations must be postmarked or electronically time-stamped by the deadline to be considered valid. AIEO compiles the nominations and contacts all nominated members to verify their willingness and ability to serve. If a member notes a conflict with serving on the Executive Committee, he or she may remove his or her name from consideration from voting before the election takes place. Finally, AIEO creates an official ballot.

**Election Day:** During an official NTC meeting, members confirm the official ballot prior to voting by asking each candidate to verbally confirm or deny his or her candidacy. All nominated members have the opportunity to briefly speak about their qualifications and commitment. A person may be a candidate for more than one office. Candidates may remove themselves from the ballot at this time, if they have not already. All ballots are distributed by AIEO. Votes are cast for the Chair position first, then for the Vice-Chair, and finally for the Secretary. NTC members complete the ballots and return them to AIEO during the meeting. At the completion

**Proxy Votes**

In instances when both an NTC member and his/her alternate are unable to attend the meeting during which the NTC elections are held, a submission of a vote by proxy is permitted. It is the responsibility of the NTC member or the alternate to request a proxy vote by contacting the NTC Secretary and the AIEO contact person. AIEO will then send the official ballot to the NTC member. A proxy vote must be submitted by a letter (via regular mail, email or fax) signed by the voting member and addressed to the AIEO Director with the heading *Attention: Proxy Vote* with the accompanying official ballot. Official ballots, containing the names of the certified candidates, must be used by all voting NTC members, whether in person or by proxy.

of in-person voting, the current NTC Secretary calls for proxy votes. A proxy vote is disqualified if the person indicated on the proxy ballot is not on the final ballot. AIEO adds any valid proxy votes to the completed, untabulated ballots. At least two people conduct independent tabulations of the ballots. Following the election, AIEO securely retains the ballots for one year.

### EPA Membership

When forming the NTOC the Agency recognized that tribes and nations needed access to EPA's senior leadership team to ensure that tribal interests were considered at the highest levels of Agency decisions. Although the NTOC does not prohibit individual tribes from requesting an audience with the EPA Administrator and other EPA leaders, the NTOC serves as a regular forum for representatives of federally recognized tribes and nations to work with EPA on identifying and addressing national tribal environmental priorities and important agency tribal program policies and activities.

EPA members of the NTOC reflect this commitment to high-level EPA engagement. EPA members of the NTOC include:

- Administrator
- Deputy Administrator
- Assistant Administrator, Office of International and Tribal Affairs
- AIEO Director
- Chief Financial Officer
- Assistant Administrators
- Regional Administrators
- General Counsel
- Inspector General
- Associate Administrators
- Senior Advisor to the Administrator on Environmental Justice

### Meeting Participation

At a minimum, EPA members are expected to attend the full NTOC meeting each year. They may also be called on to engage with the NTC as issues impacting tribal interests arise, or at the request of the NTC to provide specific information on EPA initiatives and regulatory actions. When an EPA member is not able to participate in NTOC activities, he or she may designate another senior manager (such as a Deputy) to participate.

In addition to the senior managers noted above, other senior staff from EPA Headquarters and Regional offices may participate in NTOC activities at the discretion of the NTC and AIEO, to advance the goals of the NTOC. These EPA participants should have direct experience working with tribes or have specific subject matter expertise on issues impacting tribal communities. For more information on meetings, please see Section 3.

### EPA's Tribal Consultation Policy

On May 4th, 2011, EPA released its final policy on consultation and coordination with Indian tribes. EPA was among the first of the federal agencies to finalize its consultation policy in response to President Obama's first tribal leaders summit in November 2009, and the issuance of Executive Order 13175, which established regular and meaningful consultation and collaboration with tribal officials in the development of federal policies that have tribal implications. EPA Regions and program offices (including those listed in Appendix C) have the primary responsibility for consulting with tribes and will work closely with the NTC and tribes to ensure that consultation occurs on a government to government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests. For more on the tribal consultation policy, see: [http://www.epa.gov/tp/pdf/cons and coord with-indian tribes policy.pdf](http://www.epa.gov/tp/pdf/cons_and_coord_with-indian_tribes_policy.pdf)

### *EPA Roles and Responsibilities*

Together, EPA members of the NTOC work to fulfill the NTOC mission by conducting the following actions as noted in the Charter:

- Share information and Agency initiatives that may be of interest to tribes or that may have an impact on tribal environmental programs with the NTOC in a timely manner.
- Listen to, understand and provide feedback to the NTC on the priority issues and requests that they put forward.
- Take action on priority issues, where possible, and ensure that tribal interests are addressed consistently and routinely in the course of Agency operations.
- Update the NTC at least annually about progress being made by the Agency in addressing tribal priorities.
- Support the NTC with appropriate resources and information.
- Support EPA Tribal Partnership Groups and internal Agency groups in collecting and disseminating information, to ensure issues are brought forward to the NTOC in a timely way.
- Consistent with NTOC agendas and NTC priorities and requests, work with other federal agencies to address programmatic inconsistencies and explore opportunities for collaboration to protect human health and the environment in Indian country.

### *EPA's American Indian Environmental Office (AIEO)*

AIEO is housed within the Office of International and Tribal Affairs (OITA). Within EPA, AIEO provides leadership direction on the Agency-wide effort to strengthen public health and environmental protection in Indian country, with a special emphasis on helping tribes administer their own environmental programs. AIEO also provides coordination support for EPA's tribal consultation activities as outlined in EPA'S *Policy on Consultation and Coordination with Indian Tribes* (see text box).

#### **EPA Tribal Portal**

AIEO houses EPA's tribal portal website, <http://www.epa.gov/indian/>, a gateway to EPA environmental information specifically related to tribal governments, such as environmental policies, practices and laws. The website is updated frequently and provides a single source for EPA's tribal activities and news.

AIEO staff coordinates NTOC activities and participation from EPA members and groups, including EPA's tribal program managers (TPMs), and EPA speakers and guests. In addition, AIEO supports NTOC with technical, policy and logistic support including, but not limited to:

- Providing administrative and technical support to the NTC for all meetings;
- Coordinating between the NTC workgroups and EPA workgroups undertaking similar activities;
- Maintaining open, direct communication paths between EPA and NTC members;
- Coordinating meeting agenda development with the NTC, ensuring all meeting topics have a clear purpose and work toward concrete outcomes;

- Finalizing and distributing meeting agendas;
- Tracking action items from each meeting and regularly updating lists with input from NTOC members; and
- Facilitating NTC Executive Committee elections.

### ***Other EPA Participants***

**EPA TPMs** consist of Headquarters and Regional tribal coordinators and serve as liaisons between the EPA office and the NTC, coordinating information sharing on program-specific (e.g., air, water, toxic, environmental data) issues. TPMs are not official members of the NTOC; however, they may be called on throughout the year to discuss subject-specific matters with the NTC and are expected to participate in monthly NTC conference calls.

Every two years a different EPA Region is designated as the Tribal Lead Region. The Tribal Lead Region selects a Lead Region Coordinator (LRC) who coordinates the Regional TPM's involvement in the NTC and NTOC discussions.

## **Section 3: NTOC and NTC Meetings**

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### ***Applicable NTOC Charter Sections: Parts 8 and 9***

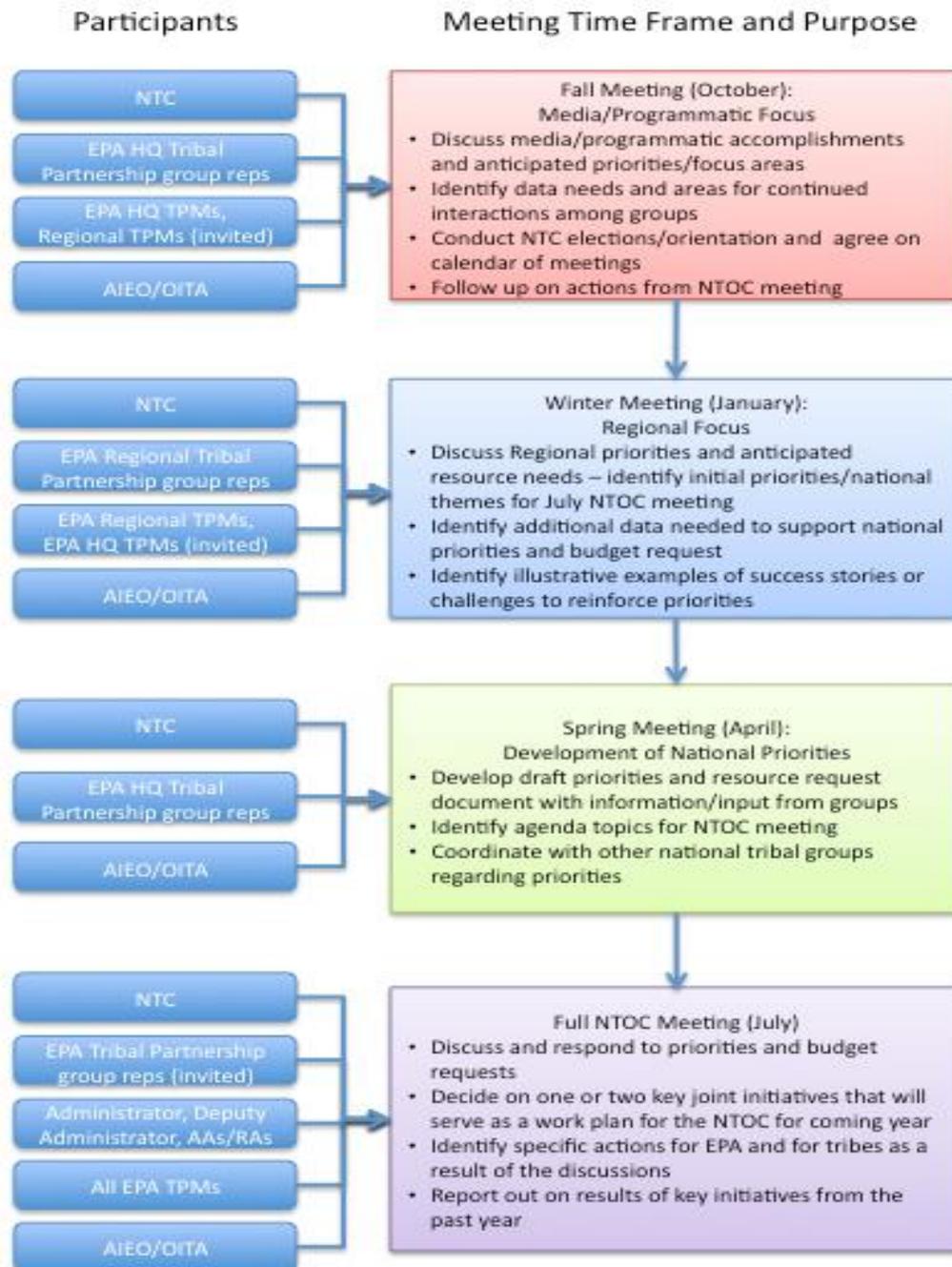
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As an NTC member, one of the most important ways to both provide input on EPA's decision-making, and support and advance the work of the group, is by participating in regularly scheduled meetings and conference calls. This section provides information on meeting schedules, processes and participation.

### ***Overview and General Schedule***

Face-to-face interactions are critical to the success of the NTOC and NTC. Meetings are held to exchange views, information or advice relating to the management or implementation of federal environmental programs. Tribal customs, practices and manner govern the order of all meetings. Travel to and from meetings is conducted in accordance with the travel standard operating procedures (SOPs) provided in Section 4. Recent guidance from EPA senior management encourages EPA offices to hold meetings in a virtual environment, rather than face-to-face meetings, as a way to focus the Agency's tribal budget on providing the most effective and efficient support possible. In response to this directive, AIEO is working with the NTC to ensure that all meetings, whether in-person or virtual, allow for robust participation of the full NTC.

## Overview of Straw Proposal for a Strategic Regular Engagement Process Between EPA Tribal Partnership Groups and the National Tribal Caucus



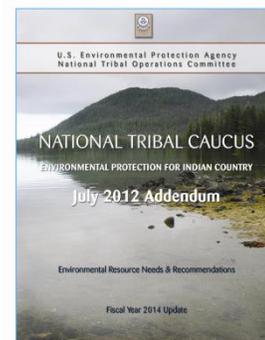
**Figure 3: General Meeting Schedule**

As shown in Figure 3: General Meeting Schedule, a full cycle of development of national tribal environmental priorities occurs in discussions throughout the year. Each year the exact timing and month of each meeting may be adjusted so as not to conflict with other important tribal meetings or activities. For example, for FY2011, the fall meeting was held in December and the

winter meeting was held via telecom and video-conference in March. Some of the actions in Figure 3 take place in meetings, during monthly calls, or in other communications among members. The cycle coincides with EPA’s budget-setting cycle. A complete calendar of EPA’s budget process is found in Appendix D.

To facilitate the priority setting process and discussions, EPA provides support for meetings, conference calls and other forms of virtual interaction between the NTC and EPA throughout the year. A full NTOC meeting is held annually, usually in the summer. Depending on the availability of funds, the following meeting/interaction schedule may apply<sup>8</sup>:

- **Fall Meeting (Media/Programmatic Focus):** This meeting formally initiates the process for identifying environmental priorities for the following fiscal year and includes discussion of action items from the summer NTOC annual meeting. This meeting also includes election of the new NTC Executive Committee, as outlined in Section 2, and completion of other NTC/AIEO business processes. During this meeting, a draft schedule of meetings/interactions for the year, along with possible host tribes, is developed.
- **Winter Meeting (Regional Focus):** The purpose of the meeting is to meet with EPA Regional Tribal Partnership Groups (TPGs) to discuss Regional priorities and further identify national priorities and budget requests. After members start gathering and sharing data from a regional perspective, the NTC spends several months discussing and deciding on tribal environmental priorities on a national scale.
- **Spring Meeting (Development of National Priorities):** This meeting is traditionally a working meeting of the NTC and EPA with input from Tribal Partnership Groups, as appropriate. Attendees analyze data from the regions and EPA programs and continue to identify a list of national priorities and budget requests.
- **NTOC Annual Meeting (July):** The cycle culminates in the annual NTOC meeting in Washington, DC. At this meeting, national tribal environmental goals and budget requests—in the form of a budget and policy priority document (see Figure 4: *2012 NTC Environmental Priorities in Indian Country*)—are officially presented by the NTC to the full NTOC, including EPA management. The annual budget document identifies the pressing environmental issues relayed to the NTC by tribal governments from across the nation. Starting in 2010, the NTC moved from creating a one-year priority document to creating a document that reflects priorities over a five-year span. The NTC revisits and adjusts the document on an annual basis, as needed. For more information on development of this document, see *NTC Role in Development of National Tribal Priorities* in Section 2. This meeting also includes discussion of national tribal environmental issues of interest to EPA and helps frame key initiatives and actions for the following year.



**Figure 4: 2012 NTC Environmental Priorities in Indian Country**

<sup>8</sup> While EPA makes every effort to adhere to this schedule, each meeting is dependent on funding availability. In some years, meetings are combined or in-person meetings are replaced with video conferences or other remote meeting tools.

## **Meeting Processes**

EPA and NTC strive for consensus decision-making during discussions and meetings. All meetings are reflective of tribal customs, practices and traditions and should be constructive to help, not hinder the business of the group. Each NTOC member is encouraged to participate fully in the discussions and decision-making.

While the overall goal of all meetings is to improve communication and build stronger partnerships between EPA and the tribes, specific processes for each meeting vary depending on tribal and EPA priorities.

## **NTC Meetings**

In-person meetings will alternate between EPA Headquarters and locations throughout Indian country, depending on the availability of resources. All meetings will make use of current technologies for attendees to participate in the meeting remotely if they are unable to attend in person.

Prior to the first meeting in the fall, AIEO asks all NTC members to provide EPA with the dates of RTOC meetings or other important tribal regional and national meetings for the upcoming year. Additionally, AIEO encourages NTC members and EPA TPMs to provide regular updates of meeting dates throughout the year, as they are scheduled. AIEO then works to reduce or eliminate scheduling conflicts for NTC members and EPA staff.

Each of the NTC meetings furthers the development of the agenda for the annual NTOC meeting and provides the NTC with dedicated time to identify and discuss tribal environmental short-term and long-term priorities. Prior to each meeting, NTC members work with EPA to outline specific goals and develop an agenda. EPA TPMs, senior leadership and other guests may be invited to attend to discuss important tribal programs or agency policy/legislative updates.

Whenever possible, meetings are coordinated in conjunction with a host tribe and include site visits with the host tribe. NTC and EPA strive to rotate the meeting locations among different tribal areas.

### **NTC Meeting with Office of Management and Budget**

In addition to the meetings outlined in this section, the NTC, or the NTC Executive Committee, also meets with the White House's Office of Management and Budget (OMB) on an annual basis. The purpose of this meeting is to provide a summary of tribal environmental needs so this information can be considered in the President's Budget Proposal as well as EPA's.

## **NTOC Annual Meeting**

As noted previously in this section, the annual meeting is held to structure and present upcoming fiscal year tribal priorities to EPA senior management, both from a programmatic and budget perspective. The NTC and EPA work jointly before the annual meeting, usually via a sub-workgroup, to develop meeting goals, agenda and discussion topics. The annual meeting is scheduled to coincide with the Agency's annual budget meetings, to increase the opportunities for interaction between NTC and the EPA members of the NTOC. In conjunction with (or in place of) the spring meeting, NTC Executive Committee members may be asked to meet (in-person or virtually) with EPA's

Deputy Administrator and Chief Financial Officer, to directly communicate and coordinate

budget and tribal priority requests. This is a unique opportunity to directly communicate tribal priorities to EPA and discuss funding issues for the upcoming federal fiscal years.

Selected EPA program leaders and NTC members generally meet the day prior to the official NTOC one-day meeting in order to discuss program-specific issues that are not covered during the full NTOC meeting. EPA can also request to meet with the NTC before the NTOC meeting in order to discuss agency priorities.

During the full NTOC meeting, AIEO records all major discussion points and action items in an action item matrix. This document tracks progress on each action item throughout the year. AIEO provides updates on this information in real-time via the NTC's online Website (*Proposed*), and notifies responsible parties of outstanding items before each meeting, so all members can track progress towards completing items.

### ***Monthly Conference Calls***

The NTC also has monthly conference calls, currently scheduled for the second Tuesday of each month. During the monthly conference calls the first hour is dedicated to internal NTC discussions with only NTC members and alternates on the line. The second hour expands discussions to include EPA. Generally, the EPA personnel on the call include AIEO, the TPMs, the National Indian Workgroup (NIWG), and invited program coordinators and contacts.

The purpose of these calls is to share progress on joint NTC-EPA initiatives, provide the opportunity for NTC members to ask questions of EPA about national tribal environmental priority issues and activities, and for EPA to update the NTC on important Agency initiatives that may be of interest to tribes. The NTOC action item matrix is also distributed and discussed during monthly calls, as needed. An effort is made to focus these calls on substantive and timely discussions, rather than just reporting out on completed tasks.

As with the other meetings, AIEO works with NTC members and EPA staff to develop a structured agenda and distribute the agenda to all NTC members and participants one week before the call, along with supporting materials.

Participating in these calls is important to the overall priority-setting structure of the NTC, and to share detailed information between NTC and EPA; therefore, attendance on the calls is tracked by EPA. As with all other meetings, AIEO's support contractor records important points from meeting discussions and action items. Notes from conference calls are distributed within 5 days following a call.

### ***Workgroups on the NTOC***

EPA – or the NTC with EPA's concurrence – may establish subcommittees or workgroups to accomplish the NTOC's mission. All members may be asked to participate in these subcommittees or workgroups, to lend their technical expertise. A lead from both the EPA and the NTC is designated to convene and oversee the subcommittee or workgroup. The leads are responsible for (1) ensuring the group and/or subcommittee carries out its assigned tasks and (2) placing items on NTC meeting agendas for discussion and reporting. AIEO helps coordinate between the NTOC workgroups and other EPA workgroups.

NTC members are encouraged to be actively involved in these discussions, especially if they have particular subject matter expertise, and to recommend additional tribal members for

inclusion who would be beneficial to the group’s success. The workgroups provide a unique opportunity for tribal and EPA experts to work collaboratively on environmental issues of national importance. The value and importance EPA pays to suggestions and discussions from these groups cannot be overstated.

***Meeting Protocol and Participation***

All NTC meetings are led by the NTC Chair (or Vice-Chair in the Chair’s absence). NTC and EPA joint meetings are co-led by the NTC Chair and the AIEO Director (or designee). The annual NTOC meeting is led by the NTOC Co-Chairs; the NTC Chair and the EPA Administrator, with support from the Office of International and Tribal Affairs Assistant Administrator and AIEO Director.

There is no dress code for meetings, but attendees are encouraged to maintain a professional appearance (e.g., tribal dress, business casual), especially for the full annual NTOC meeting. Internal NTC meetings are typically more intimate and less formal than the NTOC annual meeting.

Members are expected to attend the entire portion of each meeting and actively participate in discussions. Although occasional absences from the group due to extenuating circumstances may occur, if a member has advance notice of a scheduling conflict he or she should work with their alternate member(s) to ensure that their Region is represented at the meeting. If a member misses two meetings in a year<sup>9</sup> (excluding monthly conference calls), regardless of alternate participation, AIEO and the Tribal Caucus leadership, in conjunction with the EPA Region, will work with that individual to understand what is preventing participation and either ensure that the member can participate at future meetings or provide the tribes in the Region with the opportunity to replace that individual with someone else. AIEO tracks the participation of Tribal and EPA members for all meetings and conference calls and provides the information to NTC leadership and the applicable RTOC on a regular basis.

Over the course of a member’s term, an NTC member may find he or she can no longer fulfill his or her obligations. In such cases, the member is encouraged to work with the NTC Chair and their respective Regional Administrator to transition off the Caucus. It is very rare for any NTC member to be involuntarily removed from the Caucus.

**FY2012 NTOC Workgroups**

There are currently three main NTOC workgroups:

- **Strengthening EPA/Tribal Partnership Paradigm:** Engages with EPA to examine current regulatory and EPA processes that can be changed or used to improve agency tribal relationships.
- **Hydraulic Fracturing Workgroup:** Focuses on issues associated with hydraulic fracturing activities on or impacting tribal lands. Since its founding in 2011, the workgroup recommended that EPA focus on: Technical Assistance, Regulatory Clarity, and Coordination and Information Sharing
- **Climate Change Adaptation Workgroup:** Discusses and addresses issues associated with climate change. The group has open and regular communications with EPA’s Tribal Science Council and the National Tribal Air Association.

<sup>9</sup> A “year” is measured based on the term of the individual member. For example, if the member is selected to serve starting in August, participation will be evaluated from that point until the following August.



## Section 4: NTC Operations and Guidelines

*Applicable NTOC Charter Section: All*

As discussed throughout this Manual, EPA relies on the expertise of the NTC members to work with EPA senior leadership on environmental policy and resource matters impacting Indian country. Because EPA appreciates the commitment and time NTC members willingly share to support the NTOC’s mission, EPA has established procedures to ensure efficient operations of the group. This section discusses the daily operations of the NTC, procedures and policy, and on-the-ground actions that help ensure effective and efficient processes to meet the responsibilities listed in Section 2.

### Travel Requirements

The principal purpose of the NTC travel is to meet as a group so tribal members can advise EPA on how the Agency’s tribal programs can be improved. NTC members travel for meetings as EPA invitational travelers. Travel procedures in this section are developed in conjunction with EPA travel procedures noted at 41 CFR §301-70.800 (available at:

<http://www.gpoaccess.gov/cfr/>) and with special consideration of the travel needs of NTC members and alternates.

The primary member is responsible for informing his or her regional alternate and AIEO, via email, of any meeting for which they will be absent or unable to attend.

When planning and preparing for travel, it is important that NTC members keep in mind that EPA can only pay travel reimbursement at federal rates and will only cover reimbursement for travel costs (including federal per diem rates).<sup>10</sup> EPA cannot compensate travelers for time spent at or preparing for meetings.

### Invitational Travel Guidelines

The Agency supports tribal participation in NTC/NTOC meetings by issuing invitational travel orders. Under federal policy, EPA **may not** use an assistance agreement to gather information for the Agency’s own use, to evaluate or improve EPA’s operations, or to obtain advice for EPA’s direct benefit.\* Consequently tribes **cannot** use their GAP funds to pay for travel to NTOC or charge GAP grants for the time staff spends advising EPA at a meeting.

*\*The Federal Grant and Cooperative Agreement Act (FGCAA), 31 U.S.C. 6304 and 6305, as interpreted by EPA Order 5700.1, Policy for Distinguishing Between Assistance and Acquisition*

### Preparing for Travel

#### Step 1: Receiving Information about the Travel Itinerary

1. EPA or contract personnel will provide the traveler with information about the lodging location, approved lodging dates, approved room rates and reservation cut-off dates.

<sup>10</sup> NTC members will receive standard government per diem reimbursement for meals and incidentals allowable under 41 CFR §301-11 (see <http://www.gsa.gov/portal/category/21287> for per diem rates).

2. Do not make a lodging reservation until after receiving the event specific information.

### **Step 2: Making the Lodging Reservation**

1. Please contact the hotel to reserve lodging before the cut-off date to ensure government rates.
2. The hotel will likely require a credit card to hold your reservation.
3. Reserve the lodging for no longer than the approved lodging dates. If the traveller requires special travel arrangements or different dates, please verify any variances with EPA before finalizing plans with the hotel.
4. If the hotel quotes a non-government room rate or a room rate that is different from that included in the information provided by EPA, please check with AIEO (see page 4 for contact information) for approval of the rates before making the reservation.
5. Ask for email confirmation from the hotel or note the confirmation number, lodging dates, and government rate for future reference.

#### **Important Information for First Time Travelers**

First time travelers must submit **mailing address, date of birth, and full legal name** to AIEO for EPA Traveler Identification. Please be sure the name exactly matches that on an approved ID for airline travel.

Please email or fax the information attention to Edna Silver at AIEO.

This information is needed for account processing and will be held in strict confidence, following EPA's policy for Personally Identifiable Information (PII). A public copy of this policy is available at: [www.epa.gov/privacy/policy/2151/](http://www.epa.gov/privacy/policy/2151/)

### **Step 3: Securing Your Airline Ticket with EPA Headquarters Travel Service (Rodgers Travel Inc.)**

1. All NTC travelers **MUST** use Rodgers Travel Inc. (contact information following) to make online reservations. EPA **cannot** reimburse any tickets purchased elsewhere.
2. When making airline reservations, please identify yourself as an **Invitational Traveler** for EPA/AIEO (Headquarters). Please work with Rodgers Travel to make sure the flight meets all needs before they book the ticket. If the flight they suggest presents a logistical challenge (e.g., excessive layovers), travelers may ask them to search for other flights.
3. Request a copy of the flight itinerary from Rodgers Travel.
4. Email total airfare cost to Edna Silver at AIEO. She will begin the Travel Authorization (TA) once she receives the flight itinerary from Rodgers Travel.
5. If the traveler would like to use alternate travel arrangements and drive a privately owned vehicle (POV), email the request along with a statement as to why the traveler is using the POV to Edna Silver. Send Edna Silver the round-trip mileage from residence to the departing airport, in order to be reimbursed for mileage costs. All alternate travel **MUST** be approved by AIEO prior to the trip.
6. Rodgers Travel, Inc. Contact Information:
  - Reservations: 1-866-614-0615 (Wait for Prompt #1)

- Fax Number: 1-215-473-1902
- 24-Hour Emergency Line: 1-866-383-2095

**Step 4: Receiving your Travel Authorization (TA)**

1. AIEO will prepare the TA and secure the appropriate approval signature(s). AIEO will send the approved TA to the traveler by email or fax within five business days.
2. EPA Travel (Rodgers Travel, Inc.) will issue an electronic ticket for pick-up from the airport with an approved picture ID. EPA pays for the airline ticket directly. There will be no cost to the traveler.
3. Cash advances are not available to invitational travelers.
4. RENTAL CARS MAY ONLY BE UTILIZED IF AUTHORIZED AND APPROVED BY AIEO. TRAVELER MUST SUBMIT A JUSTIFICATION SHOWING CAUSE. It is not EPA's policy to authorize use of rental cars for Invitational Travelers.
5. **ALL NTC members are required to carry approved travel authorizations when traveling for the federal government, regardless of the mode of travel.**

**Important Information for Travelers from Alaska**

Alaska Travelers may book an extra travel day on either end of the trip. In addition, please inform Edna Silver of the specific mode of transportation (and costs) from your primary place of residence to the main departure airport (e.g., Anchorage).

**Canceling Travel Plans**

If for any reason travel plans change, the member or alternate is responsible for canceling all travel and lodging reservations as soon as possible:

1. Contact Rodgers Travel to cancel airline travel. Ask for and record the cancellation number.
2. Contact the hotel to cancel lodging. Ask for and record the cancellation number.
3. Inform AIEO as soon as possible by email or fax (see page 4 for contact information) of the cancellation.

If unable to attend the event the member or alternate is responsible for canceling travel and lodging reservations. Members or alternates will be **personally liable** for all travel expenses that are not canceled.

*EPA 2550B Travel Manual, Chapter 2, Section 3.b(4)*

**Reimbursement Process**

**Step 1: Receipt Submittal**

1. Each NTC traveler is responsible for all airline tickets, hotel and other expense receipts.
2. Each traveler must collect and retain all original receipts and submit them to AIEO with the signed Travel Voucher to complete the reimbursement process as noted in the next step.

3. **Within five business days of completion of the trip**, the traveler **must** submit receipts to AIEO by faxing or emailing photocopies of all receipts to Edna Silver at AIEO office. Travelers will not be funded by AIEO for subsequent NTC travel until vouchers are received.

**Step 2: Travel Voucher Preparation/Submittal by AIEO**

1. AIEO will prepare and complete your Travel Voucher based on the receipts faxed.
2. AIEO will fax or send the Travel Voucher electronically via email for traveler review and signatures.
3. Each traveler must initial, sign, and date the Travel Voucher where indicated using a pen with **blue** ink.
4. Mail or courier the signed Travel Voucher and original receipts to AIEO (address below).
5. AIEO will forward the completed Travel Voucher package to EPA's Financial Management Center (FMC) for Agency review and processing.

**Step 3: Reimbursement of Travel Costs**

1. FMC disburses a reimbursement check directly to the traveler within 10 business days upon their receipt of a completed Travel Voucher package.
2. Please contact Edna Silver at with any questions regarding the status of your Travel Authorization or Travel Voucher.

**AIEO Contact and Mailing Information**

- By Email:** Edna Silver at [Silver.Edna@epamail.epa.gov](mailto:Silver.Edna@epamail.epa.gov)
- By Phone:** Edna Silver at (202) 564-0286
- By Fax:** Attn. Edna Silver to (202) 565-2427
- Alternate:** Elvira Dixon at (202)564-0378 or [dixon.elvira@epa.gov](mailto:dixon.elvira@epa.gov)
- By US mail:** Attn: Edna Silver  
Environmental Protection Agency  
American Indian Environmental Office – MC 2690R  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460
- By Courier:** Attn: Edna Silver  
Environmental Protection Agency  
American Indian Environmental Office  
Ronald Reagan Building, Room 31244, MC 2690R  
1201 Constitution Avenue, NW  
Washington, D.C. 20460

**Working with Contractors**

All NTC members have important responsibilities and jobs outside of their duties on the NTC. Some run tribal environmental programs or are elected members of their tribes. Others actively engage in important environmental work on tribal lands and throughout the Regions. To help

ease some of the duties and logistical complexities of being an NTC member, EPA has engaged contractor support.

Currently, there are two separate contractors that support the activities of the NTC: SRA International, Inc. (SRA) and Kauffman and Associates, Inc. (KAI), a Native American owned firm. SRA provides meeting logistics support to EPA and the NTC. KAI provides technical support to the NTC, coordinated via EPA. Because NTC members and alternates are more likely to regularly interact with KAI, this section will focus on guidelines for those activities.

EPA engaged KAI in the fall of 2011 to provide the NTC with timely and effective analysis of issues that may have national importance for tribal environmental programs. KAI can be tasked by NTC to assemble, analyze, and report out data and information. All requests for support must follow the guidelines presented in the text box and must be coordinated via EPA through the following process:

- NTC members present requests for contractor support to the NTC Chair.
- The NTC Chair or other executive committee members (along with interested NTC participants) then coordinate with the EPA Project Officer (PO) to deliver the request to the contractor. The role of the EPA PO is mainly administrative; other AIEO managers or EPA staff will also be involved in substantive discussions depending on the topic. The current PO is Paige Ingram, who can be contacted at [ingram.paige@epa.gov](mailto:ingram.paige@epa.gov) or (202)564-9957.
- Work completed by KAI will be submitted to the EPA PO, who will forward the document(s) to the NTC Chair.

## **Guidelines for Working with Technical Support Contractors**

1. All NTC requests for contract support are to be made by the NTC Chair to the EPA Project Officer (PO). **Due to legal restrictions of federal contract work, requests cannot be made directly from an NTC member, including the Chair, to KAI.**
2. KAI shall provide analytical support that will consist of gathering publically available environmental data, analysis (arranging data for presentation), and compiling information into appropriate documents.
3. It is the NTC's responsibility to determine how to use the data/information (e.g., to help support a policy recommendation).
4. At the request of the PO, the contractor may provide an analysis of the data, but cannot provide their own recommendation or views on policy matters.
5. As requested by the PO, the contractor can provide word processing support for any reports that need to be prepared for the NTC (e.g., briefing documents).
6. The contractor cannot be involved in developing the technical content (what the NTC will be recommending) of the documents, and cannot provide any policy or scientific technical expertise, nor represent their own views in the materials.
7. The contractor may attend the regular scheduled in person NTC meetings and should participate in the monthly conference calls. This will enable them to have heard the background discussion that leads to the request for research from the NTC.

## **Coordinating with EPA's Strategic Goals**

As noted in Section 3, the NTC typically aligns and coordinates tribal environmental priorities and budget requests with goals from EPA's Strategic Plan.<sup>11</sup> For EPA's 2011-2015 fiscal years, the goals are:

- Goal 1: Taking Action on Climate Change and Improving Air Quality
- Goal 2: Protecting America's Waters
- Goal 3: Cleaning Up Communities and Advancing Sustainable Development
- Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution
- Goal 5: Enforcing Environmental Laws

During the Fall NTC meeting, the NTC selects members to serve as lead contacts for each of EPA Goals. Each goal may have more than one NTC Goal Lead at a time.

The EPA Headquarters Tribal Program Managers (TPMs) serve in their respective program areas under each goal along with a lead Regional contact. The TPMs serve as the contact point and generally support the direct work of the NTC Goal Leads to assist in data and information gathering, as needed.

The NTC Goal Leads are responsible for leading the creation of priorities and budget requests for that specific area, and are expected to devote a significant amount of time to this purpose if needed. All NTC members are encouraged to work closely with the TPM and if appropriate, their respective Tribal Partnership Group (see Section 5) throughout the year to provide expertise, regional viewpoints, and data to develop the fiscal year priorities. The NTC Goal

<sup>11</sup> For EPA's 2011-2015 Strategic Plan see: <http://www.epa.gov/planandbudget/strategicplan.html>

Leads also provide progress updates on their goal at each NTC meeting and work closely with the NTC Executive Committee and AIEO to create the *NTC Environmental Priorities in Indian Country* document and annual updates. All members along with AIEO (and contractor support) work together to finalize the document in the late spring and present it to EPA at the annual NTOC meeting.

## **Section 5: Interactions with other EPA Tribal Partnership Groups**

### *Applicable NTOC Charter Section: Part 5*

When the NTOC was formed in 1994, its purpose was to provide a main link between EPA and tribal nations. Now, there are many more Tribal Partnership Groups (TPGs) both at EPA (typically focused on media-specific issues and interactions between EPA and tribal representatives) and outside of EPA. In some cases, NTC members also belong to one or more of these Tribal Partnership Groups, (e.g., RTOCs). As noted in the previous section, NTC members (and NTC Goal Leads in particular) communicate with these groups, as appropriate, to establish their annual priorities.

This section presents information on working with TPGs and summary data on some of the tribal groups that NTC members interact with throughout the year.

### **Working with TPGs**

NTC members should be aware that each TPG operates through different funding vehicles and have different processes for initiating interactions. NTC members should rely on TPMs to help navigate the communications and interactions with their respective groups. These interactions will focus on coordination and cooperation and do not imply that any group is directing the work of another.

Coordinating with the appropriate TPM contact, the NTC Goal leads are encouraged to maintain regular communications with their respective Tribal Partnership Group, and whenever possible to participate in the activities and discussions of the groups. Working with these groups to discuss, and when possible coordinate, messages and priorities helps EPA develop a clear path forward to address the gaps in environmental protection in Indian country and achieve high levels of protection for human health while safeguarding the environment.

### **Developing National Priorities**

To develop the national tribal program priorities and resource needs, NTC relies on both Regional EPA Tribal Partnership Groups and Programmatic/Media-specific Partnership Groups (more information on these groups is presented later in the Section).

### **Value of Working with TPGs**

As articulated in the NTOC Charter, it is the responsibility of the NTC to share information about national tribal environmental priorities with all EPA Tribal Partnership Groups, but especially the Regional groups. This exchange at the Regional level ensures that information about priorities is disseminated broadly to tribes across the country.

In addition, both Regional and Programmatic/Media specific EPA TPGs benefit from these interactions. Their engagement provides the opportunity to raise the profile of national issues they are working on and could result in increased resources or Agency attention.

- Regional EPA TPGs collect and communicate to the NTC the regional priorities and resource needs throughout the year. During NTC meetings, members look across regional priorities and identify issues that have national significance. In addition, NTC members communicate back to the Regions (via TPGs and direct communications with the EPA Regional leadership) nationally significant issues.
- Programmatic/Media-specific Tribal Partnership Groups support developing the national priorities in two ways. First, they provide information on trends and topics of interest for their particular program. These topics and trends may provide indicators of, or support for, issues that may be nationally significant or cross-media in nature. Second, some Programmatic/Media-specific Tribal Partnership groups assess national priorities within their focus area. They provide these priorities to the NTC for evaluation along with the Regional priorities that are received.

Based on these inputs, the NTC identifies themes, trends, and common priorities to develop a set of national tribal environmental priorities and resource needs. It reaches out to Regional or Programmatic/Media-specific Tribal Partnership Groups to clarify issues or get input that adds impact or urgency to these priorities. As discussed in Section 3, the NTC develops a priority and resource needs document and presents it to the EPA Administrator and Senior Leadership at the annual NTOC meeting, typically held in the summer.

Some EPA programs, such as EPA's Office of Environmental Compliance and Assurance (OECA), do not have specific tribal partnership groups. NTC directly works with these offices and other regional and national groups (e.g., National Environmental Justice Advisory Council) to coordinate programmatic priorities.

### National Tribal Air Association (NTAA)

The mission of NTAA is to advance air quality management policies and programs, consistent with the needs, interests and unique legal status of American Indian Tribes and Alaska Natives.

- **Member criteria:** All federally recognized tribes are eligible to become Member Tribes of the NTAA.
- **Selection process:** Administration of the NTAA is vested in the Executive Committee consisting of 12 tribal representatives, one from each of the 10 EPA Regions, plus one each from Alaska and Hawaii. The tribes in each region shall decide their own process for selecting their regional tribal representative to serve on the NTAA's Executive Committee.
- **Term lengths:** There is no term limit for member tribes. Terms of office for the Executive Committee Board shall be staggered terms of two (2) years.
- **EPA Primary Contact:** Pat Childers (*Acting*), Office of Air and Radiation (OAR); phone: (202) 564-1082

### National Tribal Water Council (NTWC)

NTWC advocates for the best interests of federally-recognized Indian and Alaska Native Tribes, and tribally-authorized organizations, in matters pertaining to water. It is the intent of the

NTWC to advocate for the health and sustainability of clean and safe water, and for the productive use of water for the health and well-being of Indian country, Indian communities, Alaska Native Tribes and Alaska Native Villages (ANVs).

- **Member criteria:** The NTWC has detailed criteria to determine the qualifications of nominees for membership on the NTWC, based on professional water-related experience in Indian country, including ANVs; tribe or tribally authorized organization affiliation; and willingness to participate in NTWC activities and share expertise. A detailed list of criteria is at: <http://www.nationaltribalwatercouncil.org/members.htm>.
- **Selection process:** The Council consists of fifteen (15) members. Nine members are appointed, one from each of the EPA regions with federally-recognized tribes, and six members serve as at-large members. The NTWC reserves the right to appoint additional members up to a total of twenty (20) Council members.
- **Term lengths:** Members of the first full Council serve staggered two- or three-year terms, determined by lot. Thereafter, all Council members serve three-year terms. There is no prohibition on re-nominating and re-appointing members whose terms are due to expire.
- **EPA Primary Contact:** Felicia Wright, Office of Water; phone: (202) 566-1886

### EPA-Tribal Science Council (TSC)

TSC was created in partnership with tribal representatives to help integrate Agency and tribal interests, specifically with respect to environmental science issues. The TSC provides a forum for tribes and EPA to identify priority environmental science issues and collaboratively design effective solutions.

- **Member criteria:** All TSC members must have an adequate scientific background to understand and work on tribal science issues effectively.
- **Regional selection process:** The TSC is composed of a single tribal representative from each of the nine EPA Regions with federally recognized tribes, with an additional tribal representative designated in Region 10 to represent Alaska Native communities. Tribal representatives are nominated by their Regional Tribal Operations Committees or similar bodies through the National Tribal Operations Committee. There is also a single Agency representative from each Headquarters Program Office and Region. Agency representatives are designated by Assistant Administrators from the EPA Program Offices and Regions.
- **Term lengths:** Unknown
- **EPA Primary Contact:** Monica Rodia, Office of Research and Development (ORD); phone: (202) 564-8322

### EPA's National Tribal Toxics Council (NTTC)

The newly formed Tribal Toxics Council provides tribes a forum for providing advice on the development of EPA's chemical management and pollution prevention programs that affect them. The council held its first meeting in 2011. The group is currently developing a Charter, identifying cross-agency issues, and coordinating agency input and response.

- **EPA Primary Contact:** Anna Kelso, Office of Chemical Safety and Pollution Prevention (OCSPP); phone: (202) 564-0645

### Tribal Grants Council (TGC)

The Tribal Grants Council is a forum for tribes and EPA to jointly and collaboratively respond as “co-regulators” to challenges and opportunities in tribal management of EPA grants, cooperative agreements and other forms of financial assistance.

- **Member criteria:** The individuals are to be designated by the tribal members of their respective Regional Tribal Operations Committees or similar bodies and each individual must be authorized by its tribe to represent it.
- **Regional selection process:** Each EPA Region will have two tribal representatives consisting of one environmental staff person and one financial management staff person.
- **Term lengths:** Unknown
- **EPA Primary Contact:** TBD

### Tribal Pesticides Program Council (TPPC)

The TPPC is a tribal technical resource and program and policy dialogue and development group, focused on pesticide issues and concerns. It is composed of authorized representatives from federally recognized tribes and Indian nations and intertribal organizations.

- **Member criteria:** All tribes, Indian nations and intertribal organizations that are interested in pesticide issues and concerns and want to participate in the TPPC are welcome to authorize a representative to the TPPC.
- **Regional selection process:** Authorization for new representatives must be in writing by a letter from either the Tribal Chairperson or a letter or resolution from the Tribal Council or similar governing body.
- **Term lengths:** Unknown
- **EPA Primary Point of Contact:** Caren Robinson, Office of Chemical Safety and Pollution Prevention (OSCPP); phone: (202) 564-0544

### Tribal Waste and Response Assistance Program (TWRAP)

The Tribal Waste and Response Assistance Program (TWRAP) is funded by EPA and provides training and assistance to tribes in the fields of solid and hazardous waste management and compliance and enforcement programs. The Institute of Tribal Professionals (ITEP) has established a national tribal steering committee in order to assist with the work of the TWRAP and to ensure that tribal needs and priorities are addressed by this program’s activities.

- **Member criteria:** The Committee is an advisory body composed of tribal representatives that represent a broad range of expertise and national geographic distribution. Each tribal representative serving on the Committee must be affiliated with a federally recognized tribe and engaged in tribal environmental quality issues. Any person engaged in tribal environmental quality issues may be nominated for Committee membership.

- **Regional selection process:** Once an individual is nominated, ITEP will send a letter of notification to the nominee and to the appropriate elected official. To be eligible to participate as a member of the Committee, each nominee must have authorization from an appropriate elected official. The Committee strives to maintain a minimum of seven members to help ensure broad programmatic experience and national geographic distribution.
- **Term lengths:** The Committee may consist of up to 10 members with a term of office of two years. The terms of office for the Chair and Vice-Chair shall be one year. Terms are limited to a period of four consecutive years.
- **EPA Primary Point of Contact:** Andrew Baca, Office of Solid Waste and Emergency Response (OSWER); phone: (202) 566-0185

### National Environmental Justice Advisory Council (NEJAC)

The NEJAC was established by charter pursuant to the Federal Advisory Committee Act (FACA) on September 30, 1993. The Council meets once each year and provides a forum focusing on human health and environmental conditions in all communities, including minority populations and low-income populations. Tribal issues are considered by NEJAC.

- **Member Criteria:** The full NEJAC is made up of approximately 26 members and one Designated Federal Office (DFO). To ensure that all views are represented, membership comprises a balanced representation of the following groups: tribal governments/indigenous groups, academia, community groups, industry/business, non-government organizations/environmental organizations, and state/local governments. NEJAC has an Indigenous People's Subcommittee.
- **Regional selection process:** Typically, at least one member of the NTC is a member of NEJAC and helps ensure tribal interests are considered in all NEJAC actions and discussions. NEJAC coordinates selection of tribal representation with the NTC.
- **Term lengths:** Each NEJAC appointment lasts for one year from January 1-December 31. Extensions may be granted for up to 3 years. If a member resigns, a replacement is appointed to complete the term.
- **EPA Primary Point of Contact:** Danny Gogal, Office of Environmental Justice (OEJ); phone: (202) 564-2576

### Exchange Network Tribal Governance Group (TGG)

The Exchange Network includes representatives from States, Tribes, Territories, and EPA working together to provide better access to high-quality environmental data. All partners share in the management and administration of the Network, basing decisions on collaborative consensus. Tribal representatives have been serving on Exchange Network Governance groups since 2005. These representatives form the Tribal Governance Group (TGG) and support Tribal participation in the Network. The TGG includes representatives from across Indian Country, as well as national and regional Tribal organizations.

- **EPA Primary Point of Contact:** Beth Jackson, Office of Environmental Information (OEI); phone: 202-566-0626

## **Regional Tribal Groups (Regional Operations Committees (RTOCs/ROCs) or their Equivalent)**

RTOCs serve as a liaison between the NTOC, the tribes and EPA Regions on national policy issues and to articulate tribal concerns to Senior Managers and staff regarding regional issues.

- **Member criteria:** Vary, depending on regional procedures
- **Regional selection process:** Vary, depending on regional procedures
- **Term lengths:** Vary, depending on regional procedures

## Acronyms

The following acronyms are commonly used by the NTOC.

<b>AEA</b>	<b>Atomic Energy Act</b>
<b>AIEO</b>	American Indian Environmental Office
<b>ANV</b>	Alaska Native Village
<b>CAA</b>	Clean Air Act
<b>CERCLA</b>	Comprehensive Environmental Response, Compensation, and Liability Act (a.k.a, Superfund)
<b>CWA</b>	Clean Water Act
<b>DFO</b>	Designated Federal Office
<b>DITCA</b>	Direct Implementation Tribal Cooperative Agreement
<b>EPCRA</b>	Emergency Planning & Community Right-to-Know Act
<b>FACA</b>	Federal Advisory Committee Act
<b>FFDCA</b>	Federal Food, Drug, and Cosmetic Act
<b>FIFRA</b>	Federal Insecticide, Fungicide, and Rodenticide Act
<b>ITEP</b>	Institute of Tribal Professionals
<b>LUST</b>	Leaking Underground Storage Tanks
<b>MPRSA</b>	Marine Protection, Research, and Sanctuaries Act
<b>NCAI</b>	National Congress of American Indians
<b>NEJAC</b>	National Environmental Justice Advisory Council
<b>NEPA</b>	National Environmental Policy Act
<b>NIWG</b>	National Indian Workgroup
<b>NTAA</b>	National Tribal Air Association
<b>NTC</b>	National Tribal Caucus
<b>NTOC</b>	National Tribal Operations Committee
<b>NTWC</b>	National Tribal Water Council
<b>OAR</b>	Office of Air and Radiation
<b>OCFO</b>	Office of Chief Financial Officer
<b>OCR</b>	Office of Civil Rights
<b>OCSP</b>	Office of Chemical Safety and Pollution Prevention
<b>OECA</b>	Office of Enforcement and Compliance Assurance
<b>OEI</b>	Office of Environmental Information
<b>OGC</b>	Office of General Counsel
<b>OIG</b>	Office of Inspector General
<b>OITA</b>	Office of International and Tribal Affairs
<b>OMB</b>	Office of Management and Budget
<b>OPA</b>	Oil Pollution Act
<b>ORD</b>	Office of Research and Development
<b>OSWER</b>	Office of Solid Waste and Emergency Response
<b>OW</b>	Office of Water
<b>PPA</b>	Pollution Prevention Act

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<b>RCRA</b>	Resource Conservation and Recovery Act
<b>RIC</b>	Regional Indian Coordinator
<b>RTOC</b>	Regional Tribal Operations Committee
<b>SAB</b>	Science Advisory Board
<b>SDWA</b>	Safe Drinking Water Act
<b>TAS</b>	Treatment in a Manner Similar to States
<b>TGC</b>	Tribal Grants Council
<b>TGG</b>	Tribal Governance Group (Exchange Network)
<b>TPPC</b>	Tribal Pesticides Program Council
<b>TPM</b>	Tribal Program Manager
<b>TSC</b>	Tribal Science Council
<b>TSCA</b>	Toxic Substances Control Act
<b>TWRAP</b>	Tribal Waste and Response Assistance Program
<b>UST</b>	Underground Storage Tanks

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## **Appendix A: NTOC Charter**

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### ***EPA National Tribal Operations Committee Charter***

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#### **1. TITLE**

Committee's Official Designation: National Tribal Operations Committee (NTOC)

#### **2. AUTHORITY**

This Charter complies with the statutory provisions as set forth at 2 U.S.C. Sec. 1534(b) (1) & (2), and therefore the NTOC is not subject to the Federal Advisory Committee Act (FACA).<sup>12</sup>

#### **3. VISION STATEMENT**

EPA and federally recognized tribes<sup>13</sup> are implementing environmental programs consistent with federal environmental laws, EPA's mission, and tribal values and lifeways that address the gaps in environmental protection in Indian country and achieve high levels of protection for human health while safeguarding the environment.

For the purposes of this Charter, Indian country may include, as appropriate to the circumstance or activity being described, Indian country as defined at 18 U.S.C. § 1151 and/or other tribal areas, including Alaska Native Villages, where federally recognized tribes have rights and interests.

#### **4. MISSION STATEMENT**

The NTOC serves as a forum for federally recognized tribes to work with EPA Senior Leadership on policy and resource matters related to tribal capacity building, environmental program development and implementation in Indian country. Further, the NTOC identifies mechanisms for federally recognized tribes and EPA to facilitate actions that protect human health and the environment in Indian country.

The NTOC seeks to implement this mission in a manner consistent with *EPA's 1984 Indian*

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<sup>12</sup> 2 U.S.C. § 1534 (b) provides: "The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to actions in support of intergovernmental communications where –

(1) meetings are held exclusively between Federal official and elected officers of State, local and tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and

(2) such meetings are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of Federal programs established pursuant to public law that explicitly or inherently share intergovernmental responsibilities or administration.

<sup>13</sup> A "federally recognized tribe" is an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1944, 25 U.S.C. 479a.

*Policy*,<sup>14</sup> the federal trust responsibility to federally recognized tribes, federal laws, regulations, policies, and guidance as well as tribal values and interests. *The 1984 Indian Policy* states that EPA will work directly with tribes on a one-to one (or Nation-to-Nation) basis and not as political subdivisions of States or other governmental units. The interactions of the NTOC do not substitute for this government-to-government relationship between EPA and federally recognized tribes.

### **5. ROLES AND RESPONSIBILITIES**

#### **5.1. NATIONAL TRIBAL OPERATIONS COMMITTEE**

The NTOC is composed of the National Tribal Caucus (NTC) and EPA Senior Management across the Agency, including the American Indian Environmental Office (AIEO). The NTOC members work together to:

- Exchange views, information and advice concerning intergovernmental efforts to manage and implement EPA's programs in Indian country.
- Identify and facilitate actions that address the gaps in data, information, policy and understanding that impact environmental and human health protection in Indian country and strive for relative parity in resources for environmental protection between state and tribal programs.
- Strengthen EPA-tribal partnerships to build capacity to develop and implement environmental programs in Indian country.
- Promote mutual understanding of interests and perspectives on national tribal environmental issues, policies, and priorities.
- Monitor and assess progress in EPA's tribal program, including the performance of the NTOC in fulfilling its mission.

#### **5.2. NATIONAL TRIBAL CAUCUS**

To support the mission of the NTOC, the NTC members of the NTOC:

- Identify and articulate the relative environmental and human health priorities and issues of tribes that are national in scope, cross-EPA or cross-media in nature, and/or are emerging or urgent.
- Provide advice and feedback to the NTOC on tribal goals and strategies for protecting human health and the environment and environmental program development and implementation in Indian country.

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<sup>14</sup> *The EPA Policy for the Administration of Environmental Programs on Indian Reservations, November 8, 1984* can be found at <http://www.epa.gov/tribal/pdf/indian-policy-84.pdf>

- In accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes*,<sup>15</sup> assist in the identification of EPA matters that may be appropriate for tribal consultation.
- Listen to, understand and provide feedback on the environmental and human health issues and requests put forward by EPA.
- Request and analyze data, information and input from EPA, federally recognized tribes and EPA Tribal Partnership Groups<sup>16</sup> to understand the relative environmental and human health priorities and issues of tribes nationally.
- Identify the resource needs of tribes to address the environmental and human health priorities identified.
- Convey information about the work of the NTOC to tribes and EPA Tribal Partnership Groups in a timely way.
- Work with tribal organizations outside of EPA to raise environmental and human health issues and advance NTOC initiatives that are mutually beneficial.
- Identify issues to be placed on NTC and NTOC meeting agendas and, as necessary, develop issue papers for discussion.

### 5.3. EPA SENIOR MANAGEMENT

To support the mission of the NTOC, the EPA Senior Leadership works together to:

- Share data, information and Agency initiatives that may be of interest to federally recognized tribes or that may have an impact on tribal environmental programs in a timely manner.
- Listen to, understand and provide feedback to the NTC on the environmental and human health issues and requests that they put forward.
- Request environmental and human health priorities from the NTC and take action, as appropriate, to address these priorities.
- Ensure that tribal interests are addressed consistently and routinely in the course of EPA operations.
- Update the NTC at least annually about progress being made by EPA in addressing tribal priorities.
- Support the NTC with the resources, data and information necessary to do their work as part of the NTOC.
- Support EPA Tribal Partnership Groups and internal Agency groups in collecting and disseminating information to ensure issues are brought to the NTOC in a timely way.

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<sup>15</sup> <http://www.epa.gov/indian/pdf/cons-and-coord-with-indian-tribes-policy.pdf>

<sup>16</sup> EPA Tribal Partnership Groups include Regional Tribal Operations Committees or their equivalents and Headquarters Tribal Partnership groups (e.g., Tribal Water Council, Tribal Science Council) focused on media, programmatic, or regional issues.

- Consistent with NTOC agendas and NTC priorities and requests, work with other federal agencies to address programmatic inconsistencies and explore opportunities for collaboration to protect human health and the environment in Indian country.

## **6. NTOC MEMBERSHIP**

### **6.1. NATIONAL TRIBAL CAUCUS MEMBERSHIP**

**MEMBERS:** There are 19 members of the National Tribal Caucus of the NTOC from nine EPA Regions as indicated below:

Region I	- 1	Region VII	- 1
Region II	- 1	Region VIII	- 3
Region IV	- 1	Region IX	- 4 (one member from the Navajo Nation)
Region V	- 2	Region X	- 4 (two members from Alaska)
Region VI	- 2		

If one or more tribes or nations receive federal recognition in Region III, the NTC membership will be adjusted to include one member from that Region.

**ALTERNATES:** Each Region is to have a single alternate member. There is also an alternate member for Navajo Nation and for Alaska. The NTC member is responsible for informing his or her alternate member and AIEO of any meeting or conference call for which they will be absent or unable to attend. All alternate members have the same voting rights as the NTC member in the absence of the NTC member.

**SELECTION:** Tribes in each Region are responsible for determining the method of selection of NTC members and alternate members and ensuring an open membership renewal process. EPA Regions are responsible for providing assistance to tribes in the selection process, if requested.

Members and alternate members should meet all criteria under either (1) the Environmental Experience option OR (2) the Elected Official option. If members meet the criteria under the Environmental Experience option and are not tribal elected officials, they must be designated in writing by their tribal leadership to act on behalf of their federally recognized tribe as an NTC member.

#### **Environmental Experience Option:**

- Served for at least 3 years as an Environmental Director, Deputy Director or an equivalent position for a federally recognized tribe.
- Experience managing the implementation of a variety of tribal environmental programs for a federally recognized tribe.
- Experience working with, or interacting with, EPA Senior managers at the Regional or Headquarters levels. This interaction could include involvement with Regional Tribal Partnership groups.

**Elected Official Option:**

- Serves as an elected official or traditionally appointed representative of a federally recognized tribe with broad responsibilities that include oversight of environmental, natural resource, and/or human health issues.

All members and alternates should be willing and able to commit time and energy to the work of the NTC and NTOC.

The Regional Administrator recertifies each NTC member annually in a letter to the NTOC Co-chairs and the Director of AIEO. The Regional Administrator also issues letters to the NTOC Co-chairs and Director of AIEO when members are appointed to or resign from the NTC.

**REGULAR ATTENDANCE:** Each NTC member or their alternate is expected to participate fully in all in-person meetings. Participation can be in-person or virtual (e.g., through a web conference). Attendance on conference calls is also encouraged for all NTC members or their alternates.

**REPLACEMENT OF MEMBERS:** If an NTC member fails to participate (in person or virtually) in two in-person meetings in a year<sup>17</sup>, regardless of alternate participation, the NTC leadership and AIEO will work with the respective RTOC (or equivalent group) to assess the situation and determine if the member is able to continue to participate or needs to be replaced with someone who can participate fully. This determination should be made within one month of the second missed meeting. AIEO is responsible for tracking the participation of NTC members for all meetings and calls and providing participation information to NTC leadership and to the applicable RTOC on a regular basis.

**LENGTH OF TERM:** The length of term is to correspond with the RTOC or equivalent Regional tribal group's length of term designation.

## **6.2. EPA MEMBERSHIP**

**MEMBERS:** The following are EPA members of the NTOC:

Administrator  
Deputy Administrator  
Assistant Administrator for International and Tribal Affairs  
AIEO Director  
Chief Financial Officer  
Assistant Administrators  
Regional Administrators

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<sup>17</sup> A "year" is measured based on the term of the individual member. For example, if they are selected to serve on the NTC in August, their participation will be evaluated from that point until the following August.

General Counsel  
Inspector General  
Associate Administrators  
Senior Advisor to the Administrator on Environmental Justice

**REGULAR ATTENDANCE:** EPA members of the NTOC are expected to fully participate in the annual meeting of the entire NTOC. If a member is unable to attend this meeting, the member's Deputy is expected to participate. EPA members may be requested to attend additional meetings with the NTC to discuss specific priorities that impact their Program or Region. EPA members are expected to make every effort to attend such meetings, or send their Deputy or other designated representative to participate in their absence. Regional and Headquarters Tribal Program Managers are expected to participate in conference calls and in-person meetings with the NTC, as needed, to further the work of the NTOC. AIEO is responsible for tracking the participation of EPA NTOC members for all meetings and calls and providing participation information to EPA leadership at Headquarters and in the Regions.

**LENGTH OF TERM:** The length of term for EPA members is to correspond to the length of time they serve in their position.

### **6.3. NTOC LEADERSHIP**

The EPA Administrator serves as the Co-chair of the NTOC representing the Agency. The EPA Deputy Administrator serves as the Co-chair in the absence of the Administrator. The NTC Chair serves as the Co-chair of the NTOC representing the NTC. The Vice-Chair serves as the NTOC Co-chair in the absence of the NTC Chair.

## **7. NATIONAL TRIBAL CAUCUS OFFICERS**

### **7.1. OFFICERS**

- Chair
- Vice-Chair
- Secretary

### **7.2. SELECTION OF NTC OFFICERS**

The selection of NTC Officers is to be held every year at a regular meeting of the NTC. Nominations are to be made by an NTC member in writing. Only sitting NTC members are eligible to become officers. Officers are to be elected by a majority vote of the 19 members of the NTC. If all 19 members are not present, the group is to have a quorum present to vote, and the officers are to be elected based on a majority vote of the quorum. (Quorum is defined in Section 8.5.) Thirty days advance notice of any pending elections and nominations of officers is to be provided to each NTC member. Officers shall hold office for one year or until their

successor is elected. Nomination and election processes are to be initiated and coordinated by AIEO in consultation with the NTC Officers. Additional details about the election process can be found in the NTOC Orientation Manual.

### **7.3. DUTIES OF NATIONAL TRIBAL CAUCUS OFFICERS**

#### **a. CHAIR**

- Presides at meetings of the NTC and co-chairs NTOC meetings.
- Facilitates consensus of the NTC on national tribal environmental issues.
- May convene the NTC as a separate subcommittee from the NTOC to accomplish goals and objectives.
- Serves as ex-officio member of subcommittees and work groups.
- Delegates issues to smaller work groups of the NTC.
- Facilitates the consensus of the NTC at EPA Regional and National Indian Workgroup meetings.
- Represents the NTC on various EPA work groups and committees, as appropriate.

#### **b. VICE-CHAIR**

- Presides at meetings in the absence of the Chair.
- Assumes and discharges all the duties of the Chair in the Chair's absence.
- Takes leadership on specific issues per Chair's direction.

#### **c. SECRETARY**

- Creates or reviews a written record of all meetings, teleconferences and discussions of the NTC.
- Ensures NTC comments are accurately reflected in written records.
- Transmits this information to the NTC and, as appropriate, to EPA.
- May receive assistance from AIEO to help distribute information in a timely manner to the NTC members.

## **8. MEETINGS**

### **8.1. REGULAR MEETINGS**

Face-to-face interactions are critical to the success of the NTC and NTOC. Depending on the availability of funds, these interactions may occur in person. In lieu of in-person meetings or if participants are unable to travel to meetings, virtual opportunities for interaction (e.g., conference call, webinar, video conference, etc.) may be provided.

The annual meeting of the entire NTOC may be held in conjunction with the Annual Agency Planning Meeting where the NTC members participate in priority setting and budget formulation discussions for the upcoming fiscal year.

### **8.2. SPECIAL MEETINGS**

Special meetings can be requested by either the Co-Chair of the NTOC or the Director of AIEO with concurrence of the Co-Chairs of the NTOC.

### **8.3. CONDUCT OF MEETINGS**

Tribal customs, practices and manner are to govern the order of the meeting for all NTC meetings and NTOC meetings, as appropriate. The NTC is expected to strive for consensus decision-making as a means to formally establish the position of the NTC. Where NTC members cannot reach consensus on a specific issue, members may craft or articulate dissenting opinions that are to be entered into meeting records alongside other opinions on specific matters.

All meetings will be conducted pursuant to Section 204(b) of the Unfunded Mandates Reform Act [2 U.S.C. Section 1534(b)].

### **8.4. CONFERENCE CALLS**

The NTC and EPA Tribal Program Managers meet monthly via conference calls. AIEO is responsible for administering conference calls for the NTC on a regular schedule.

### **8.5. QUORUM**

A majority (at least 51%) of the full membership of the NTC constitutes a quorum for all NTC meetings. The lack of a quorum at an NTC meeting does not prevent those present from proceeding with discussions and consensus building. The lack of a quorum, however, prevents the NTC from voting on the election of NTC officers.

## **9. SUBCOMMITTEES & WORKGROUPS**

EPA or the NTC with EPA’s concurrence may establish subcommittees or workgroups, when necessary, to facilitate the mission of the NTOC. NTOC members may be asked to participate in these subcommittees or workgroups to lend their technical expertise. A lead from EPA and the NTC will be designated to convene and oversee the subcommittee or workgroup. The leads are responsible for ensuring the group and/or subcommittee carries out its assigned tasks and placing items on NTC meeting agendas for discussion and reporting. AIEO is responsible for communicating all issues and concerns of any subcommittees or workgroups to the full NTOC, when appropriate. AIEO is expected to coordinate between the NTC workgroups and EPA workgroups.

## **10. AMENDMENTS**

This Charter may be amended at a full NTOC meeting, or outside of a full meeting with consent from the NTOC Co-chairs. Amendments are effective and incorporated into the Charter when accepted by the consensus of the NTC, the EPA Administrator, the Assistant Administrator of the Office of International and Tribal Affairs, and the AIEO Director.

## **11. CERTIFICATION**

We hereby certify that the National Tribal Operations Committee Charter was amended and adopted at a duly called meeting of the National Tribal Operations Committee held on the 18<sup>th</sup> day of July 2012, where a quorum was present.

Dated this 18<sup>th</sup> day of July 2012.

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Lisa P. Jackson, EPA Administrator  
NTOC Co-Chair

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William Clay Bravo, NTC Chair  
NTOC Co-Chair

## Appendix B: NTC Members

Updated on December 7, 2012

*Italic typeface indicates alternate members*

### Executive Committee<sup>18</sup>

*NTC Chair*

**Clay Bravo**, Hualapai Tribe (R9)

*NTC Vice Chair*

**Gerald Wagner**, Blackfeet Tribe (R8)

*NTC Secretary*

**Erica Helms-Schenk**, Soboba Band of Luiseno Indians (R9)

### Region 1

**Sharri Venno**, Houlton Band of Maliseet Indians

**John Banks**, Penobscot Indian Nation

### Region 2

**Dan Hill**, Cayuga Nation

**Mardell Sundown**, Tonawanda Seneca

### Region 4

**Jamie Long**, Eastern Band of Cherokee Indians

**Darin Steen**, Catawba Indian Nation

### Region 5

**Monica Hedstrom**, White Earth Band of Ojibwa

**Tom Maulson**, Lac du Flambeau Band of Lake Superior Chippewa Indians

**Stanley Ellison**, Shakopee Mdewakanton Sioux Community

### Region 6

**Darren Shields**, Kickapoo Tribe of Oklahoma

**Evaristo Cruz**, Ysleta del Sur Pueblo of Texas

*Alternate Vacant*

### Region 7

**Felix Kitto**, Santee Sioux Nation

**Luke Terry**, Kickapoo Tribe in Kansas

### Region 8

**Wesley Martel**, Eastern Shoshone Tribe

**David Nelson**, Cheyenne River Sioux Tribe

**Scott Clow**, Ute Mountain Ute

### Region 9

**Marie Barry**, Washoe Tribe of Nevada and California

**Cornelius Antone**, Tohono O'odham Nation

**Stephen B. Etsitty**, Navajo Nation EPA

*Navajo Nation Alternate Vacant*

### Region 10

**Virginia Washington**, Native Village of St. Michael

**Ronald Wassillie**, Newhalen Tribal Council

**William "Billy" Maines**, Curyung Tribe  
*(Alaska Alternate)*

**Lee Juan Tyler**, Shoshone Bannock Tribes

**Debra Lekanoff**, Swinomish Indian Tribal Community

**Kelly Wright**, Shoshone Bannock Tribes  
*(Region 10 Alternate)*

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<sup>18</sup> Executive Committee members also act as members of their respective Regions.



## **Appendix C: Major EPA Programs**

As noted throughout this Manual, EPA and NTC work closely together throughout the year to support the goals of the NTOC. Although NTC members may interact with many different EPA offices, main interactions will be with the offices briefly described in this appendix. Each office has at least one specific senior-level Tribal Program Coordinator that works closely on tribal environmental issues and acts as a point-person for communications between EPA and tribes. An updated list of specific EPA Tribal Program Coordinators can be found at: <http://www.epa.gov/tp/contactinfo/hqcontacts.htm>.

### **Office of Air and Radiation (OAR)**

OAR's Tribal Air Program works to strengthen EPA and tribal air quality programs in Indian country by providing timely and user-friendly access to key information, promoting the exchange of ideas and making available relevant documents to all environmental professionals who live and work in Indian country. For additional information please contact Tribal Air Coordinators: <http://www.epa.gov/air/tribal/coordinators.html>

### **Office of Water (OW)**

EPA's Office of Water has several interoffice programs specifically dealing with supporting tribal water programs via the Tribal Drinking Water program in the Office of Ground Water and Drinking Water; Tribal Nonpoint Source Pollution in the Office of Wetlands, Oceans, and Watersheds; and Tribal Wastewater located in the Office of Wastewater Management.

### **Office of Chemical Safety and Pollution Prevention (OCSPP)**

OCSPP's Office of Pesticide Programs (OPP) works with tribes, EPA regions, states, other EPA program offices, the EPA Office of General Counsel (OGC) and other federal agencies to coordinate efforts related to tribes and pesticides. In particular, OPP works closely with Office of Enforcement and Compliance Assurance (OECA), which provides continuing funding support, through the EPA regional offices, for tribal cooperation in pesticide enforcement and related activities. OECA presently has cooperative enforcement agreements with 38 tribes. <http://www.epa.gov/ocspp/pubs/tribal/index.htm>

### **Office of Solid Waste and Emergency Response (OSWER)**

OSWER provides financial and technical assistance to tribal governments to build capacity in OSWER programs. In 2010, OSWER funding supported over 135 cooperative agreements with tribes to build program capacity in OSWER programs, and supported a strong array of tribal-specific training on solid and hazardous waste, emergency preparedness, tribal response programs and underground storage tank prevention and cleanup. For additional information please contact OSWER Tribal Coordinators: <http://www.epa.gov/oswer/tribal/contacts.htm>

### **Office of Enforcement and Compliance Assurance (OECA)**

OECA works closely with federally-recognized Indian tribes to ensure compliance at federally-regulated facilities in Indian country. Tribes authorized to manage federal programs must have enforcement authorities that are at least as stringent as federal law. Where authorization is lacking, EPA directly implements federal programs and ensures compliance with federal environmental laws. In both cases, EPA works with officials in tribal environmental, health and agricultural agencies on strategic planning, priority-setting and measurement of results. <http://www.epa.gov/aboutepa/oeca.html>

### **Office of Environmental Information (OEI)**

OEI works with EPA programs and regional offices on the importance of environmental data and how these data can be used to support tribal priorities, tribal self-governance and strengthening the government-to-government relationships between EPA and tribes. <http://www.epa.gov/aboutepa/oei.html>

### **Office of Research and Development (ORD)**

ORD is the scientific research arm of EPA, whose leading-edge research helps provide the solid underpinning of science and technology for the Agency. ORD supports a wide range of science information and resources gathered through tribal traditional knowledge, analytical science and integrated approaches to science by tribes. ORD is also the host office for EPA's Tribal Science Council. <http://www.epa.gov/osp/tribes/tribes.htm>

### **Office of General Counsel (OGC)**

OGC provides legal service to all organizational elements of the Agency with respect to Agency programs and activities. OGC provides legal opinions, legal counsel and litigation support. In addition, the Office assists in the formulation and administration of the Agency's policies and programs as legal advisor. OGC provides tribal support to cross-cutting tribal law issues and tribal funding/finance legal issues.

## Appendix D: EPA Budget Cycle

This appendix provides a high-level summary of EPA’s budget process, from planning, through passage in Congress and oversight. This abbreviated timeline (see Figure 5) covers approximately 1.5 years and includes areas where NTC involvement may be requested and incorporated into EPA’s budget process.

The President, according to the Budget and Accounting Act of 1921, must submit a budget to Congress each year.

EPA begins work on each annual fiscal year budget at least one and a half years before the start of each fiscal year.

For example, the OMB Guidance for the 2014 fiscal year is released in spring of 2012. At any point in the timeline, EPA is working on planning, enacting, or oversight for three or four consecutive fiscal years. This appendix illustrates budget activities for an example year of FY 2014.

### Fiscal Year

The federal government’s fiscal year (FY) begins on October 1 and ends on September 30 of the next calendar year. The fiscal year corresponds to the calendar year in which it ends. For example, FY 2014 begins on October 1, 2013 and ends September 30, 2014.

### Example Budget and Planning Meetings for FY 2014 Budget

- **OMB Guidance (Spring 2012)** OMB issues planning guidance to EPA for the upcoming budget (FY 2014 in this example) and EPA holds internal goal meetings to discuss progress toward the Agency’s strategic goals.
  - **NTC Involvement:** Limited; may be asked to provide information for internal EPA meetings.
- **EPA’s Annual Planning Meeting (Late Spring/Early Summer 2012)** All Regional Administrators and Assistant Administrators meet to discuss fiscal year planning for 2014.
  - **NTC Involvement:** The NTC may be asked to provide input on tribal program budgetary needs in preparation for this meeting.
- **The Budget Forum (July/August 2012)** EPA Regional Administrators and Assistant Administrators discuss budget initiatives at the Agency Budget Forum.
  - **NTC Involvement:** NTC delivers budget and priority requests for 2014, which are discussed by EPA during this meeting. The annual NTOC meeting is generally scheduled to take place at the same time as the Forum.
- **OMB Meetings (July/August 2012)** EPA works with OMB on the 2014 budget proposal.
  - **NTC Involvement:** The NTC leadership may be invited to meet with OMB at this time to formally present and discuss the NTC budget and priority requests.
- **EPA Budget Submittal (September 2012):** EPA submits the full agency 2014 budget proposal to OMB.
  - **NTC Involvement:** None

- **OMB Budget Preparation (September-December 2012)** OMB analyzes proposed budgets with consideration to Presidential priorities, program performance and budget constraints. OMB and agencies continue communication and budget adjustments. OMB briefs the President and senior advisors on proposed budget policies.

  - **NTC Involvement:** None
  
- **Budget Transmittal to Congress (January 1, 2013-first Monday in February 2013)** The President transmits his FY budget proposal to Congress, usually a week or so after the State of the Union Address.

  - **NTC Involvement:** None
  
- **Budget Finalization (February 2013-September 30, 2013)** The Congressional Budget Office (CBO), Budget Committees in the U.S. House of Representatives and Senate, and the full Congress work toward finalizing 2014 FY budget and completing action on appropriations bills for the upcoming fiscal year.

  - **NTC Involvement:** None
  
- **Budget Passage (By September 30, 2013)** Congress passes the FY 2014 budget. In recent years, Congress has passed one or more Continuing Resolutions (*see text box*), or temporary budgets, before passing the final budget well into the fiscal year.

  - **NTC Involvement:** AIEO reports back to the NTC the outcome of their budget and priority requests based on the approved budget.

### Continuing Resolution

In recent years, the federal government budget has been subject to a continuing resolution. A continuing resolution is legislation when the new fiscal year is about to begin (or has begun) to provide budget authority for Federal agencies and programs to continue in operation until the regular appropriations acts are enacted. When continuing resolutions are in effect, EPA generally does not have a detailed picture of available programmatic resources for the fiscal year. This makes longer term planning difficult for both tribes and the Agency.



**Figure 5: Overview of Federal Budget Process**



FY 2014–2018

# EPA Strategic Plan

## EPA's Mission

**To Protect Human Health and the Environment**

### Strategic Goals

**Goal 1: Addressing Climate Change and Improving Air Quality**

**Goal 2: Protecting America's Waters**

**Goal 3: Cleaning Up Communities and Advancing Sustainable Development**

**Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution**

**Goal 5: Protecting Human Health and the Environment by Enforcing Laws and Assuring Compliance**

### Cross-Agency Strategies

**Working Toward a Sustainable Future**

**Working to Make a Visible Difference in Communities**

**Launching a New Era of State, Tribal, Local, and International Partnerships**

**Embracing EPA as a High-Performing Organization**

### Core Values

**Science, Transparency, Rule of Law**

# Fiscal Year 2014–2018 EPA Strategic Plan

April 10, 2014

U.S. Environmental Protection Agency  
Washington, D.C. 20460

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# Administrator's Message



*I am pleased to present the U.S. Environmental Protection Agency's FY 2014–2018 Strategic Plan, which charts our course for protecting public health and the environment in every community in America during the next four years. While we have made significant progress during the past few years, we are facing increasingly complex environmental and human-health concerns at a time of continuing fiscal constraints. This poses both challenges and opportunities for us. As Administrator, I am committed to engaging closely with states, tribes, local partners, federal agencies and business and industry leaders in the most pragmatic, collaborative and flexible way possible to achieve environmental benefits for our children and future generations.*

---

I envision a new era of partnerships for the U.S. environmental-protection enterprise in which the EPA will work collaboratively with a broad range of stakeholders to improve the health of our families and protect the environment. Our priorities will include:

- ◆ Addressing climate change and improving air quality;
- ◆ Reinvigorating water-quality-improvement efforts, including support for green infrastructure;
- ◆ Taking action on toxics and strengthening chemical safety;
- ◆ Enhancing the livability and economic vitality of neighborhoods in and around brownfield sites;
- ◆ Aligning and incentivizing partnerships that spur technological innovations, reducing costs and pollution; and
- ◆ Advancing research efforts to provide relevant, robust and transparent scientific data to support the agency's policy and decision-making needs.

We must focus on the environmental and public-health issues that matter most to the American people and strive to make a visible difference. During this year, which marks the 20th anniversary of Executive Order 12898 on Environmental Justice, we must continue our focus on urban, rural and economically disadvantaged communities to ensure that everyone—regardless of age, race, economic status or ethnicity—has access to clean water, clean air and the opportunity to live, work and play in healthy communities.

Moving beyond the foundation of traditional regulatory approaches to environmental protection, we are seeking to build sustainability into our day-to-day operations. Today's environmental problems require cross-program interactions and new tools that promote innovation, incentives and partnerships. We know that a healthy environment and a strong economy can go hand-in-hand. Sustainable, innovative approaches grounded in science—the underpinning of the EPA's decision making—are instrumental to solving today's environmental challenges. Now more than ever the EPA's leadership as a pre-eminent science and research

institution is essential. To that end, I will advance a rigorous research and development agenda that informs and supports the EPA's policy and decision making with timely and innovative technology and sustainable solutions. We also are mobilizing citizen science efforts to complement those of the EPA, which, combined with greater access to environmental data, enhanced community engagement, environmental education, new tools and increased analysis, will better support state and local decision making. We will heed President Obama's call for action on climate change, the biggest challenge for our generation and those to follow and requiring strong partnerships here at home and around the world. We will work to mitigate this threat by reducing carbon pollution and other greenhouse-gas emissions and by focusing on efficiency improvements in homes, buildings and appliances. We will continue to deliver significant health benefits to the American public through improved air quality and reduced emissions of toxic pollutants in areas where exposures remain challenging. We also will take action to keep communities safe and healthy by reducing risks associated with exposure to toxic chemicals in commerce, indoor and outdoor environments and products and food. Further, we will work to update old chemical-safety laws so our industry partners have a clear, fair set of rules, and we can more effectively protect the public from harmful chemicals in products they use every day.

## Administrator's Seven Themes

- Making a visible difference in communities across the country
- Addressing climate change and improving air quality
- Taking action on toxics and chemical safety
- Protecting water: a precious, limited resource
- Launching a new era of state, tribal and local partnerships
- Embracing EPA as a high-performing organization
- Working toward a sustainable future

Now is the time to reinvigorate our collaborative efforts to improve water quality, given the nation's significant water-infrastructure needs. We will focus on common-sense, flexible approaches that rely on sustainable solutions, such as green infrastructure, and that build resiliency to help us adapt to the effects of a changing climate. Further, we will address stormwater runoff with a pragmatic balance of regulatory and nonregulatory approaches. We will collaborate with our federal-agency partners to leverage our expertise and resources in addressing water-quality issues, particularly in rural areas dealing with nonpoint-source pollution.

To help ensure these efforts succeed, we will convene broad-based dialogue and engagement at the national, regional, and local levels to foster innovation and collaboration. Notably, we are implementing E-Enterprise, a joint EPA–state initiative to improve environmental performance and enhance services to the regulated community, environmental agencies and the public. E-Enterprise will increase transparency and efficiency, develop new environmental-management approaches and employ advanced information and monitoring technologies in a coordinated effort to manage and modernize environmental programs. This initiative will significantly transform the way we work by allowing two-way business transactions, reducing reporting burden and improving data quality.

For the EPA to engage fully in the U.S. environmental-protection enterprise we envision, we must fulfill our mission while operating as a high-performing organization focused on efficiency. We are committed to this effort and are already making progress to attract and retain the work force of the future, modernize our business practices and more fully employ new tools and technologies. We are modernizing our business practices to enhance the EPA's overall effectiveness, including making our data more accessible, efficient and transpar-

ent. For example, we are accelerating our efforts under both E-Enterprise and Next Generation Compliance to reflect advances in pollutant monitoring and information technology. These advances, combined with a focus on designing rules and permits that are easier to implement, will result in reduced pollution and improved environmental results.

It is my privilege as Administrator to help advance the themes encompassed by the goals, cross-agency strategies and core values in this strategic plan. I look forward to working with all of you to create a healthier, sustainable and prosperous future for every community for generations to come.



Gina McCarthy

# Introduction

The U.S. Environmental Protection Agency's (EPA's) mission is to protect human health and the environment. The FY 2014–2018 EPA Strategic Plan (the Plan) advances this mission, supports implementation of the Administration's and the EPA's priorities, and will be used routinely by the Agency's senior leadership as a management tool to guide our path forward. Administrator McCarthy identified seven themes (see "Administrator's Message") that will drive the Agency's efforts over the next 4 years, and this Plan encompasses these themes as we work toward achieving our five strategic goals, four cross-agency strategies, and overarching core values.



In implementing this FY 2014–2018 Plan, EPA will focus on developing and using creative, flexible, cost-effective, and sustainable actions that deliver significant benefits on the ground to protect and improve human health and the environment. In support of the President's *Climate Action Plan* (June 2013), we will implement strategies to cut carbon pollution while promoting innovation to drive economic growth, building resilience to extreme weather events, and adapting to a changing climate. We will strengthen our partnerships by building new tools and strategies that enhance coordination and joint priority setting with our state and tribal partners and other federal agencies. We also will focus our grant and incentive-based programs, and provide sound credible scientific advice and technical assistance, to help states, tribes, rural and urban communities, and the private sector address environmental and human health challenges that matter to them in ways that make sense to them. Additionally, EPA will continue to pursue advances in new tools and technologies and increase the transparency of our data to better serve our customers and deliver significant environmental progress. We will also continue to improve the way we do business as a high-performing organization for the benefit of both our workforce and the public we serve.

Our five strategic goals represent the programmatic mission results we hope to achieve on behalf of the American people. These strategic goals embody the measurable environmental

## EPA's Mission

To protect human health and the environment.

## EPA's Strategic Goals

- Goal 1: Addressing Climate Change and Improving Air Quality
- Goal 2: Protecting America's Waters
- Goal 3: Cleaning Up Communities and Advancing Sustainable Development
- Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution
- Goal 5: Protecting Human Health and the Environment by Enforcing Laws and Assuring Compliance

## EPA's Cross-Agency Strategies

- Working Toward a Sustainable Future
- Working to Make a Visible Difference in Communities
- Launching a New Era of State, Tribal, Local, and International Partnerships
- Embracing EPA as a High-Performing Organization

## EPA's Core Values

Science, Transparency, Rule of Law

and human health outcomes the public can expect over the next 4 years and describe how we intend to achieve those results. Although we have made significant progress over the last few years, our five strategic goals highlight the increasingly complex environmental and human health concerns we are facing at a time of continuing fiscal constraints. With this in mind, we have focused on identifying targeted opportunities and adjustments to ongoing work under our strategic goals to increase efficiencies and leverage and support efforts at all levels to achieve our mission results.

Our four cross-agency strategies are designed to fundamentally change how we work, both internally and externally, to achieve the outcomes articulated in the *FY 2014–2018 Plan*. We are committed to achieving the longer-term vision for these strategies by focusing our efforts and making tangible, measurable progress to transform the way we deliver environmental and human health protection. For example, we will incorporate sustainability principles into regulatory, enforcement, incentive-based, and partnership programs. We will strive to enhance the livability and economic vitality of all communities, especially those most in need and facing environmental justice concerns, including millions of minority, low-income, tribal, and indigenous persons. And, we will work in concert with the states, tribes, local governments,

and sister federal agencies that constitute our country's environmental protection enterprise to ensure the efficiency, efficacy, and coordination of our mutual efforts. We will streamline our processes, increase effectiveness, and reduce costs by modernizing business practices to make EPA a high-performing organization.

We anticipate that these approaches will foster a renewed commitment to accountability, transparency, and inclusion, expanding the conversation and engaging with a broad range of stakeholders—federal, state, and local agencies, tribes, agricultural and manufacturing sectors, small businesses, industry, and other stakeholders, including those with whom we have not traditionally worked. The continuing transformational changes to improve how we work together and take advantage of advances in technology, expanded access to environmental data, and enhanced outreach to communities and stakeholders through environmental education will usher in a new era of partnerships and broad-based participation in managing human health and environmental risks.

We will continue to affirm the core values of science, transparency, and the rule of law in addressing our environmental challenges. Our work will be guided by the best possible data and research and a commitment to transparency and accountability. Science

## Consultation Efforts

Consultation with our federal, state, local, and tribal government partners and our many stakeholders is an integral part of the Agency's strategic planning process. The importance of consultation is also reflected in the GPR (Government Performance and Results Act) Modernization Act of 2010, which directs agencies to consult with the Congress and requires that they solicit and consider the views and suggestions of those entities potentially affected by or interested in a strategic plan. During the development of the *FY 2014–2018 EPA Strategic Plan*, EPA:

- Engaged with key partners and co-regulators throughout the effort to develop the *Draft Plan*.
- Issued a *Federal Register Notice* and used [www.regulations.gov](http://www.regulations.gov) to encourage and share feedback on the *Draft Plan*.
- Sent notification of the availability of the *Draft Plan* for review to over 800 organizations and individuals to request input. These entities included leaders of the Agency's Congressional authorizing, appropriations, and oversight committees; states and state associations; all federally recognized tribes; tribal organizations; local government representatives; other federal agencies; environmental, public interest, and public policy groups; and representatives of the regulated community.
- Engaged the public on the *Draft Plan* through the use of social media through Twitter and Facebook posts as well as blogs by senior managers.

Our outreach efforts resulted in unique comments from approximately 200 organizations and individuals.

and research are the foundation of all our work at the EPA and the scientific underpinning of decisions and regulatory actions. We have incorporated science and research efforts over the next 4 years throughout the Plan in both our strategic goals and cross-agency strategies. Our research will continue to be focused on the most critical issues facing the Agency and finding more sustainable solutions for addressing human health and environmental problems.

With advances in both monitoring and information technology, we are developing new methods for targeting the most serious violations and improving compliance. E-Enterprise is a joint EPA and state initiative to modernize our business practices to increase accessibility, efficiency, and responsiveness. Additionally, through Next Generation Compliance, we are promoting the use of advanced monitoring and electronic reporting, designing rules that are easier to implement, expanding transparency and sharing of data, and using innovative enforcement approaches to increase compliance and reduce pollution.

While developing this revised *Plan*, we are also identifying six new FY 2014–2015 Agency Priority Goals (APGs), which are a major cornerstone of this Administration's performance management agenda and championed by Agency senior leadership to advance our mission results. These six APGs are listed in the introduction to the "Strategic Measurement Framework" and discussed in relevant sections throughout the *Plan*. Completion of our five FY 2012–2013 APGs informed the development of this new set of two-year APGs. EPA also contributes to Cross-Agency Priority (CAP) Goals that are led by the White House Policy Council.<sup>1</sup> Additional information on the APGs and CAP Goals is available on <http://www.performance.gov/>.

To achieve the strategic goals, objectives, and measures set out in this *Plan*, we will track progress

through annual performance measures which are presented in EPA's *Annual Performance Plans and Budgets*. We will report on our performance against these annual measures in our *Annual Performance Reports* and use this performance information as we establish priorities, develop future budget submissions, and manage programs.

Our measures for the *FY 2014–2018 EPA Strategic Plan* draw upon some of the indicators contained in EPA's *Report on the Environment* (ROE).<sup>2</sup> The indicators help us to monitor trends in the condition of the nation's environment and environmental influences on human health. They are intended to inform strategic planning, priority setting, and decision making across EPA and provide information for the public on the state of the environment.

To advance the cross-agency strategies in this *Plan*, we have strengthened senior leadership engagement in developing and implementing annual action plans, designed to make measurable progress in transforming the way we work to advance our mission results. Agency senior leadership will work closely with program and regional managers and staff in accomplishing the annual action plans and routinely assess progress. And EPA will report its results in advancing the strategies in the *Annual Performance Report*, presented along with the budget.

As we work to implement the *FY 2014–2018 EPA Strategic Plan* over the next 4 years, we recognize that the Agency and numerous entities vital to our success—federal, tribal, state, and local governments, and other cooperating partners and stakeholders—are all operating under resource constraints that could impede our mutual progress. We will collaborate in new ways to address the environmental and human health challenges that lie ahead of us, leverage resources to the greatest extent possible, and continually seek new opportunities to work more effectively and efficiently.

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## End Notes

1. Per the GPRM Modernization Act requirement to address Cross-Agency Priority (CAP) Goals in the Agency *Strategic Plan*, the *Annual Performance Plan*, and the *Annual Performance Report*, please refer to [www.performance.gov](http://www.performance.gov/) for the Agency's contributions to those goals and progress, where applicable. EPA is currently a major contributor to the CAP Goals on Infrastructure Permitting Modernization and Science, Technology, Engineering and Mathematics (STEM) Education.
2. See <http://www.epa.gov/roe/indicators.htm>.

# Goal 1: Addressing Climate Change and Improving Air Quality



***Reduce greenhouse gas emissions and develop adaptation strategies to address climate change and protect and improve air quality.***

**C**limate change poses risks to human health, the environment, cultural resources, the economy, and quality of life.<sup>1</sup> These changes are expected to create further challenges to protecting human health and welfare. Many effects of a changing climate are already evident and will persist into the future regardless of future levels of greenhouse gas (GHG) emissions. For example, average U.S. temperatures are rising, snow and rainfall patterns are shifting, and more extreme climate events—like heavy rainstorms and record high temperatures—are already affecting society, human health, and the environment. Potential climate change impacts may also make it more difficult to achieve clean air goals. To better protect human health and the environment, EPA must recognize and consider the challenge a changing climate poses to the environment.

Notwithstanding this challenge, since passage of the Clean Air Act Amendments in 1990, nationwide air quality has improved significantly.<sup>2</sup> Levels of those pollutants linked to the greatest health impacts continue to decline. From 2003 to 2011, population-weighted ambient concentrations of fine particulate matter (PM<sub>2.5</sub>) and ozone have decreased 26 percent and 16 percent, respectively. Even with this progress, in 2010 approximately 40 percent of the U.S. population lived in counties with air that did not meet health-based standards for at

## Objectives

- **Address Climate Change.** Minimize the threats posed by climate change by reducing greenhouse gas emissions and taking actions that help to protect human health and help communities and ecosystems become more sustainable and resilient to the effects of climate change.  
**FY 2014–2015 Agency Priority Goal:** Reduce greenhouse gas emissions from vehicles and trucks. Through September 30, 2015, EPA, in coordination with the Department of Transportation’s fuel economy standards program, will be implementing vehicle and truck greenhouse gas (GHG) standards that are projected to reduce greenhouse gas emissions by 6 billion metric tons and reduce oil consumption by about 12 billion barrels over the lifetime of the affected vehicles and trucks.
- **Improve Air Quality.** Achieve and maintain health- and welfare-based air pollution standards and reduce risk from toxic air pollutants and indoor air contaminants.
- **Restore and Protect the Ozone Layer.** Restore and protect the earth’s stratospheric ozone layer and protect the public from the harmful effects of ultraviolet (UV) radiation.
- **Minimize Exposure to Radiation.** Minimize releases of radioactive material and be prepared to minimize exposure through response and recovery actions should unavoidable releases occur.

*Strategic measures associated with this Goal are on pages 59 through 62. More information on Agency Priority Goals is available at <http://goals.performance.gov/agency/epa>.*

least one pollutant. Long-term exposure to elevated levels of certain air pollutants has been associated with increased risk of cancer, premature mortality, and damage to the immune, neurological, reproductive, cardiovascular, and respiratory systems.<sup>3</sup> Because people spend much of their lives indoors, the quality of indoor air is also a major health concern. Indoor allergens and irritants play a significant role in making asthma worse and triggering asthma attacks. The most recent data (2011) from the Centers for Disease Control and Prevention (CDC) tell us that 26 million Americans have asthma, and in 2010, CDC reports that asthma was the primary diagnosis for nearly 2 million hospital emergency visits.<sup>4</sup> In 2008, more than half of children and one-third of adults who had an asthma attack missed school or work because of asthma and total costs for Americans from asthma was \$56 billion in 2007.<sup>5</sup> Exposure to indoor radon is responsible for an estimated 21,000 premature lung cancer deaths each year.<sup>6</sup> Twenty percent of the population spends the day indoors in elementary and secondary schools, where potential problems with leaky roofs and with heating, ventilation, and air conditioning systems can trigger a host of health problems, including asthma and allergies.

## Address Climate Change

EPA's strategies to address climate change reflect the President's call to action in his *Climate Action Plan* (June 2013), which, among other initiatives, tasks EPA with setting carbon dioxide (CO<sub>2</sub>) standards for power plants and applying the Agency's authorities and other tools to address hydrofluorocarbons (HFCs) and methane. These strategies support the President's goal to reduce GHG emissions by 17 percent below 2005 levels by 2020.<sup>7</sup> EPA and its partners are developing and implementing approaches to reduce GHG emissions domestically and internationally through cost-effective, voluntary programs while pursuing additional regulatory actions as needed. Our efforts address the following areas:

### Mobile Sources

- ◆ Implementing three sets of GHG standards for vehicles and trucks, including: two sets of GHG standards for light-duty cars and trucks (model years 2012–2016 and 2017–2025); and the first set of standards for medium- and heavy-duty trucks

and buses (model years 2014–2018). These emission standards, finalized jointly with the National Highway Traffic Safety Administration (NHTSA) fuel economy standards, will result in substantial reductions in new vehicle GHG emissions from model years 2012 through 2025. (Reducing greenhouse gas emissions from cars and trucks is an FY 2014–2015 Agency Priority Goal.<sup>8</sup>)

- ◆ Carrying out the next phase of the GHG vehicle emission standards. Consistent with the President's *Climate Action Plan*, the Agency plans to propose in March 2015 a second phase of fuel efficiency and greenhouse gas emission standards for medium- and heavy-duty vehicles for model years 2018 and beyond, and plans to finalize the standards in March 2016. This second phase of regulations will build upon the success of the first phase and offer further opportunities to reduce greenhouse gas emissions and decrease transportation fuel consumption, and is expected to benefit consumers and business by reducing the cost of transporting goods while spurring job growth and innovation in the clean energy technology sector.
- ◆ Assessing GHG control options for non-road sources, including evaluating whether and when to commence work on standards setting for GHG emissions from a wide range of non-road equipment, locomotives, marine vessels and aircraft, and transportation fuels.

### Stationary Sources

- ◆ Using authority under Section 111(b) of the Clean Air Act, EPA issued a new proposal on September 20, 2013 for GHG performance standards for new power plants and will subsequently finalize that rule after consideration of public comment as appropriate. Using authority under Sections 111(b) and 111(d) of the Act, EPA will issue proposed GHG standards, regulations, or guidelines, as appropriate, for modified, reconstructed, and existing power plants by June 1, 2014, and finalize these standards, regulations, or guidelines by June 1, 2015.
- ◆ Collecting and publishing high-quality GHG emissions data from large direct emitters and suppliers of GHGs through the greenhouse gas reporting

program to inform the public and support sound, data-driven, policy decisions on climate change.

- ◆ Implementing permitting requirements for facilities that emit large amounts of GHGs to encourage design and construction of more sustainable, efficient, and advanced processes that will contribute to a clean energy economy.
- ◆ Applying the Significant New Alternatives Policy (SNAP) program to promote the use of low global warming potential HFCs and similar chemicals.

### International and Other Efforts

- ◆ Implementing proven voluntary programs that maximize GHG reductions through the greater use of technologies, products, and practices that promote energy efficiency, and renewables programs and policies that benefit the environment and human health.
- ◆ Identifying and assessing substitute chemical and ozone-depleting substances and processes for their global warming potential.
- ◆ Collaborating with countries and other international partners to reduce methane emissions and deliver clean energy to markets around the world through the Global Methane Initiative.
- ◆ Collaborating with international partners to reduce short-lived climate pollutants, including methane, black carbon, and hydrofluorocarbons, through the Climate and Clean Air Coalition.
- ◆ Educating the public about a changing climate and actions people can take to reduce GHG emissions.
- ◆ Collaborating with state, local, and tribal governments on regulatory and policy initiatives, technical assistance, and voluntary programs related to climate change mitigation and adaptation.

### Adaptation

Much of EPA's work is sensitive to weather and climate. Consequently, the various actions EPA takes to meet its obligations and achieve its goals, including promulgating regulations and implementing programs, take these variables into consideration. For

example, potential increases in ground-level ozone due to a changing climate could make attainment or maintenance of the National Ambient Air Quality Standards (NAAQS) more challenging. Similarly, attaining water quality standards will become more difficult as water temperatures increase in response to climate change.

EPA must adapt and plan for future changes in climate to continue fulfilling its statutory, regulatory, and programmatic requirements. The Agency will implement its Climate Change Adaptation Plan, and consider where it is appropriate to integrate and mainstream considerations of a changing climate into the full range of its programs to ensure they are effective under future climatic conditions. EPA will work with state, tribal, and local partners to enhance their capacity to adapt to a changing climate. Each of the EPA national programs and ten regional offices will implement new climate adaptation implementation plans to carry out the work called for in the Agency's Climate Change Adaptation Plan. EPA will also continue to collaborate with the U.S. Global Change Research Program and the Council on Climate Change Preparedness and Resilience to support the development and implementation of climate change adaptation plans by all federal agencies.<sup>9</sup>

Adaptation initiatives undertaken by EPA national programs and regional offices will carry out key elements of the President's *Climate Action Plan* (June 2013) and aim to increase the resilience of communities and ecosystems to climate change by increasing their ability to anticipate, prepare for, respond to, and recover from the impacts of a changing climate. EPA is encouraging and supporting smarter, more resilient investments by integrating considerations of climate change impacts and adaptive measures into major grant, loan, contract, and technical assistance programs, consistent with existing authorities. For example, EPA is integrating climate adaptation criteria into the Clean Water and Drinking Water State Revolving Loan Funds and grants for brown-fields cleanup. EPA is also partnering with states, tribes, and urban and rural communities to integrate climate change data, models, information, and other decision-support tools into their planning processes in ways that empower them to anticipate, prepare for, and adapt to a changing climate. As an example, EPA developed a stormwater calculator that will

enable users to evaluate the effectiveness of alternative strategies for limiting stormwater runoff that can overwhelm sewer systems and spill into rivers and streams, and to identify strategies that ensure the systems are effective under future climatic conditions.

### External Factors and Emerging Issues

External influences on EPA's efforts to improve air quality and address climate change issues include the evolution of state and local transportation and energy-related policies and the impacts of a changing climate, such as changes in rainfall amount and intensity, shifting weather and seasonal patterns, and increases in flood plain elevations and sea levels. Some of these external influences present significant challenges to the EPA's work, whereas others, such as the growth of alternative energy sources and increased investments in energy efficiency, can improve local air quality and reduce greenhouse gas emissions.

### Improve Air Quality

Taking into account the most current health effects research findings,<sup>10</sup> EPA has completed new, more health-protective national ambient air quality standards for particulate matter (December 2012), lead (October 2008), sulfur dioxide (June 2010), nitrogen dioxide (January 2010), and carbon monoxide (August 2011), and is currently reviewing the standard for ozone. Over the next 4 years, we will work with states and tribes to develop and implement plans to achieve and maintain these standards. Our efforts provide the tools and information necessary for EPA, states, and tribes to implement air quality standards and controls.

EPA will work with states and tribes to decrease the emissions that contribute to interstate transport of air pollution. These efforts will help many areas of the country attain the standards and achieve significant improvements in human health. Working with states and tribes, EPA will continue implementing cost-effective multi-state regional programs designed to control the significant contributions of power plant and other stationary source emissions of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxide (NO<sub>x</sub>) to air quality problems (i.e., nonattainment and interference with

maintenance of ozone and PM<sub>2.5</sub> NAAQS) in downwind areas. Operating programs in 2014 will include the Clean Air Interstate Rule (CAIR) or a replacement program for control of transported ozone and PM<sub>2.5</sub> pollution,<sup>11</sup> in addition to the national acid rain SO<sub>2</sub> and NO<sub>x</sub> emission reduction programs.

As we implement national air quality standards, we will seek ways to increase efficiency and maximize results. These efforts include: working with states to improve the state implementation plan approval process, including the use of full-cycle analysis (i.e., identifying specific actions along a time line needed to facilitate the timely issuance of implementation rules and guidelines); modernizing our training program for state, local, and tribal agencies through an e-learning system; and implementation of electronic emission reporting as part of the Agency's E-Enterprise initiative.

Additionally, EPA will work to ensure that our efforts to improve air quality consider low-income and minority communities that are disproportionately impacted by pollution. The Agency will continue to implement the goals of the Environmental Justice (E) 2014 strategy that focus on protecting health in communities overburdened by pollution, empowering communities to take action to improve their health and environment, and establishing partnerships with local, state, tribal, and federal organizations to achieve healthy and sustainable communities.

EPA has finalized a number of air pollution control standards over the last decade that have substantially reduced, and will continue to reduce, PM, NO<sub>x</sub>, volatile organic chemicals (VOCs), air toxics, and GHG emissions. These standards will cut emissions from new vehicles and engines by over 90 percent, with an estimated \$290 billion in net health benefits by 2030. In addition, EPA partnership programs such as the SmartWay Transport program, are achieving important reductions in emissions from the existing fleet of diesel engines that are not subject to the new standards.<sup>12</sup>

Looking forward, EPA will collect and evaluate mobile source emission data to help guide future program priorities. Other factors to consider include the health and environmental effects of emissions and

future advancements in technology that could provide opportunities for further emission reductions.

The Agency also recognizes the importance of fuels work and the critical need to understand the challenges and opportunities this work presents. EPA will continue to coordinate with the Department of Energy (DOE), Department of Agriculture (USDA), and other interagency partners on these issues as appropriate. The Agency plans to focus on streamlining the implementation processes of the renewable fuel standard (RFS) program, including the annual standard-setting process and new fuel pathway approvals. EPA will also strengthen its oversight of industry compliance with RFS standards and core fuels and fuels additive registration mandates through a voluntary third-party quality assurance program to verify that renewable identification numbers (RINs) have been validly generated. In addition, proposed modifications to the exporter provisions of the RFS program will help to ensure that an appropriate number and type of RINs are retired whenever renewable fuel is exported.



Air toxics and other air pollutants can be widespread and/or community specific. They are emitted by large industry, small businesses, motor vehicles, and many other common activities. Although certain chemicals are ubiquitous throughout the country, in some areas of concentrated industrial and/or mobile source activity, concentrations may be significantly greater. To support effective air toxics reduction policies, EPA uses data from our national toxics monitoring network and from national and local assessments to provide key information to better characterize risks and assess priorities. EPA also leverages pollution prevention and green expertise to reduce air toxics emissions and associated risk.

EPA recognizes that air toxics pose unique challenges both nationally and at the community level, and we

focus on relatively high-risk sources, pollutants, and exposure situations. EPA will continue to set and enforce control technology-based air toxics emissions standards and, where needed, amend those standards to address residual risk and technology advancements. These regulations are aimed at reducing toxic air pollution from stationary sources and targeted priority source categories, reducing pollution in communities, utilizing a more cost-effective “sector-based” approach, and providing tools to help communities and other stakeholders participate in rulemaking. Priority categories include petroleum refining, iron and steel manufacturing, chemical manufacturing, and Portland cement. EPA takes advantage of the natural overlap of certain air toxics and criteria pollutant rules and coordinates the development and implementation of Maximum Achievable Control

Technology (MACT) standards and New Source Performance Standards (NSPSs) where appropriate. By coordinating MACT standard development for specific source categories with other rulemaking efforts, EPA can substantially reduce the resources needed to develop standards; provide

more certainty and lower cost for industry; simplify implementation for state, local, and tribal agencies; and enhance cost-effective regulatory approaches. To address unacceptable risks that may remain after implementing national strategies, EPA works with states, tribes, and local agencies and organizations to understand the risks at the local level, target the problem areas, and tailor reduction strategies and approaches to the unique situations in those areas.

To improve indoor air quality, EPA deploys programs that educate the public about indoor air quality concerns, including radon, and promotes public action to reduce potential risks in homes, schools, and workplaces. Included among the people most exposed to indoor air pollutants are those most susceptible to the effects—the young, the elderly,

and the chronically ill. In addition, EPA collaborates with state and tribal organizations, environmental and public health officials, housing, energy, and building organizations, school personnel who manage school environments, and health care providers who treat children prone to or suffering disproportionately from asthma. The focus of these efforts is to create, expand, and leverage systems already in place to support community efforts to address indoor air quality health risks.

### External Factors and Emerging Issues

External factors that will affect air quality program implementation include the outcome of the appeal of the Cross-State Air Pollution Rule (CSAPR) decision and continuing legal challenges to stationary source rules.<sup>13</sup> Also, impacts from a changing climate may worsen existing indoor environmental problems and introduce new ones as temperatures change and the frequency and/or severity of adverse outdoor events increase. These impacts include increased mold from water damage and more time spent indoors where air may be of poorer quality.

## Restore and Protect the Ozone Layer

EPA will implement programs that reduce and control ozone-depleting substances (ODS), enforce rules on their production, import, and emission, and facilitate the transition to alternative products that reduce GHG emissions and save energy. EPA's contributions to the Multilateral Fund for the Implementation of the Montreal Protocol will help to continue support for cost-effective projects designed to build capacity and eliminate ODS production and consumption in over 60 developing countries. EPA will also continue partnership programs that educate the public about the importance of protection from harmful ultraviolet radiation.

### External Factors and Emerging Issues

Protection of the ozone layer is a global problem that cannot be solved by domestic action alone—all nations must also phase out the use of ODS. Much remains to be done in the U.S. and in the global community at large before the ozone layer will be considered safe for current and future generations.

Critical emerging issues include the need to ensure that:

- ◆ Ozone depleting substances are replaced by alternatives that reduce overall risk to human health and the environment;
- ◆ Use of the agricultural fumigant methyl bromide is phased out in a manner that provides continued control of pests that threaten food supplies and other economically important products traded internationally by the U.S.;<sup>14</sup> and
- ◆ Remaining ODS phaseout, including the 2013 and 2015 developing-country ODS reduction requirements, is appropriately supported in a manner that is both cost effective and climate friendly.<sup>15</sup>

## Minimize Exposure to Radiation

Recognizing the potential hazards of radiation, Congress charged EPA with the primary responsibility for protecting people and the environment from harmful and avoidable exposures. In fulfilling this responsibility, the Agency will review and update its radiation protection regulations and guidance and operate RadNet, the Agency's national environmental radiation monitoring system. EPA will also maintain personnel expertise, capabilities, and equipment readiness of the radiological emergency response program, including the Agency's Radiological Emergency Response Team. In addition, EPA will provide regulatory oversight of DOE's Waste Isolation Pilot Plant (WIPP), inspect WIPP waste generator facilities, and evaluate DOE's compliance with EPA's radioactive waste disposal standards and applicable environmental laws and regulations.

### External Factors and Emerging Issues

There are several emerging issues and external factors that will have an impact on how we carry out our radiation program, including new designs and technologies for nuclear power plant facilities as well as new uranium extraction and processing technologies.

## Applied Research

Protecting human health and the environment from the impacts of a changing climate and air quality in a sustainable way are central 21st century challenges.

These challenges are complicated by the interplay between air quality, the changing climate, and emerging energy options. EPA's air, climate, and energy research will provide cutting-edge scientific information and tools to support air quality and climate change efforts. In particular, EPA will:

- ◆ Conduct integrated science assessments of criteria air pollutants and provide new data and approaches for improving these assessments;
- ◆ Develop credible models and tools to inform sustainable policies, decisions, and responses to a changing climate by EPA national and regional offices, state, tribal, and local governments, and others;
- ◆ Conduct research to change the paradigm for air pollution monitoring, with a focus on lower cost measurements;
- ◆ Develop and evaluate models and decision support tools to integrate multimedia processes and systems;
- ◆ Develop approaches to assess multi-pollutant exposures and the resulting human and ecological effects of air pollutant mixtures; and
- ◆ Conduct research to inform policies protecting human and ecosystem health in an evolving energy landscape, including impacts of unconventional oil and gas and low-carbon energy sources.

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## End Notes

1. Thomas R. Karl, Jerry M. Melillo, and Thomas C. Peterson (eds.). 2009. *Global Climate Change Impacts in the United States* (New York, New York: Cambridge University Press). Available at <http://downloads.globalchange.gov/usimpacts/pdfs/climate-impacts-report.pdf>.
2. U.S. EPA, 2012. *Our Nation's Air—Status and Trends through 2010*. EPA-454/R-12-001. Available at <http://www.epa.gov/airtrends/2011/>.
3. U.S. EPA, 2007. *The Plain English Guide to the Clean Air Act*. EPA-456/K-07-001. Available at <http://www.epa.gov/air/peg/peg.pdf>.
4. Twenty-six million Americans have asthma (actual data point is 25,943,000): National Health Interview Survey (NHIS) Data, 2011, available at <http://www.cdc.gov/asthma/nhis/2011/data.htm>. Year 2010 data for nearly 2 million emergency department visits with primary diagnosis of asthma (actual data point is 1,754,000): National Hospital Ambulatory Medical Care Survey: 2010 Emergency Department Summary Tables, available at [http://www.cdc.gov/nchs/data/ahcd/nhamcs\\_emergency/2010\\_ed\\_web\\_tables.pdf](http://www.cdc.gov/nchs/data/ahcd/nhamcs_emergency/2010_ed_web_tables.pdf).
5. Costs: Centers for Disease Control and Prevention (2011, May). Asthma in the U.S. Vital Signs. Retrieved from <http://cdc.gov/vitalsigns/asthma>.
6. U.S. EPA, 2003. *EPA's Assessment of Risks from Radon in Homes*. EPA 402-R-03-003. Available at <http://www.epa.gov/radiation/docs/assessment/402-r-03-003.pdf>.
7. See [http://unfccc.int/files/meetings/cop\\_15/copenhagen\\_accord/application/pdf/unitedstatescphaccord\\_app.1.pdf](http://unfccc.int/files/meetings/cop_15/copenhagen_accord/application/pdf/unitedstatescphaccord_app.1.pdf).
8. FY 2014–2015 Agency Priority Goal: Reduce greenhouse gas emissions from vehicles and trucks: Through September 30, 2015, EPA in coordination with Department of Transportation's fuel economy standards program will be implementing vehicle and truck greenhouse gas (GHG) standards that are projected to reduce greenhouse gas emissions by 6 billion metric tons and reduce oil consumption by about 12 billion barrels over the lifetime of the affected vehicles and trucks.
9. The U.S. Global Change Research Program coordinates and integrates federal research on changes in the global environment and the implications of these changes for society, as mandated in the Global Change Research Act of 1990 (PL. 101-606) (<http://www.globalchange.gov/about/global-change-research-act.html>). In 2009, the White House Council on Environmental Quality, the Office of Science and Technology Policy, and the National Oceanic and Atmospheric Administration initiated the Interagency Climate Change Adaptation Task Force. When the President signed Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance, in October 2009, he called on the Task Force to develop federal recommendations for adapting to climate change impacts both domestically and internationally. Executive Order 13514 is available at [http://www.whitehouse.gov/the\\_press\\_office/President-Obama-signs-an-Executive-Order-Focused-on-Federal-Leadership-in-Environmental-Energy-and-Economic-Performance](http://www.whitehouse.gov/the_press_office/President-Obama-signs-an-Executive-Order-Focused-on-Federal-Leadership-in-Environmental-Energy-and-Economic-Performance).

10. U.S. EPA, 2006. *Air Quality Criteria for Lead (2006) Final Report*. EPA/600/R-05/144aF-bF. Available at <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=158823>.  
  
U.S. EPA, 2008. *Integrated Science Assessment (ISA) for Sulfur Oxides—Health Criteria (Final Report)*. EPA/600/R-08/047F. Available at <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=198843>.  
  
U.S. EPA, 2008. *Integrated Science Assessment for Oxides of Nitrogen—Health Criteria (Final Report)*. EPA/600/R-08/071. Available at <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=194645>.
11. In 2008, the U.S. Court of Appeals for the D.C. Circuit remanded CAIR to EPA, but allowed the rule to remain in effect pending replacement by a valid rule. In August 2012, the same court vacated EPA's replacement rule (CSAPR). The Agency successfully petitioned the U.S. Supreme Court to hear an appeal of the D.C. Circuit's decision, and the Supreme Court is expected to issue its opinion on the merits by June 2014. Depending on the outcome of that appeal, CAIR's ultimate replacement could be either CSAPR or the product of a new EPA rulemaking effort.
12. Recent air pollution control standards include the Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements (February 2001); the 2007 Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Highway Rule (January 2001); the Tier 4 Emission Standards (June 2004); and Locomotive Engines and Marine Compression-Ignition Engines rule (June 2008).
13. In an August 21, 2012 opinion, the U.S. Court of Appeals for the D.C. Circuit vacated the CSAPR and ordered EPA to continue implementing CAIR pending development of a valid replacement. The Agency successfully petitioned the U.S. Supreme Court to hear an appeal of the D.C. Circuit's decision, and the Supreme Court is expected to issue its opinion on the merits by June 2014. Please see <http://www.epa.gov/crossstaterule/> for updates on CSAPR.
14. Use of the agricultural fumigant methyl bromide was phased out in 2005. However, two exemptions allow the production and use of methyl bromide to control pests related to food production and international trade. The Critical Use Exemption is used in limited cases where a showing has been made, and agreed to by the Parties subsequent to review by technical review bodies of the Montreal Protocol, that no technically and economically feasible alternative exists.
15. All countries that are Parties to the Montreal Protocol have agreed to phase out their production and consumption of ozone depleting substances (ODS). The Multilateral Fund was set up by agreement among the Parties, and the Fund's purpose is to assist developing countries to comply with these obligations. Contributions are made to the Multilateral Fund by developed countries, also referred to as donor countries under the Treaty.

# Goal 2: Protecting America's Waters



***Protect and restore waters to ensure that drinking water is safe and sustainably managed, and that aquatic ecosystems sustain fish, plants, wildlife, and other biota, as well as economic, recreational, and subsistence activities.***

**T**he nation's water resources are the lifeblood of our communities, supporting our economy and way of life. Across most of the country, we enjoy and depend upon reliable sources of clean and safe water. Just a few decades ago, many of our drinking water systems provided very limited treatment to water coming through the tap. Drinking water was often the cause of illnesses linked to microbiological and other contaminants. Many of our surface waters would not have met today's water quality standards. Some of the nation's rivers were open sewers, posing health risks, and many water bodies were so polluted that safe swimming, fishing, and recreation were not possible.

We have made significant progress since enactment of the landmark Clean Water Act (CWA), Safe Drinking Water Act (SDWA), and Marine Protection, Research, and Sanctuaries Act approximately 40 years ago. Today, although the enhanced quality of our surface waters and the greater safety of our drinking water are testaments to

## Objectives

- **Protect Human Health.** Achieve and maintain standards and guidelines protective of human health in drinking water supplies, fish, shellfish, and recreational waters, and protect and sustainably manage drinking water resources.

**FY 2014–2015 Agency Priority Goal:** Improve public health protection for persons served by small drinking water systems, which account for more than 97 percent of public water systems in the U.S., by strengthening the technical, managerial, and financial capacity of those systems. By September 30, 2015, EPA will engage with an additional ten states (for a total of 30 states) and three tribes to improve small drinking water system capability to provide safe drinking water, an invaluable resource.

- **Protect and Restore Watersheds and Aquatic Ecosystems.** Protect, restore, and sustain the quality of rivers, lakes, streams, and wetlands on a watershed basis, and sustainably manage and protect coastal and ocean resources and ecosystems.

**FY 2014–2015 Agency Priority Goal:** Improve, restore, and maintain water quality by enhancing nonpoint source program leveraging, accountability, and on-the-ground effectiveness to address the nation's largest sources of pollution. By September 30, 2015, 100 percent of the states will have updated nonpoint source management programs that comport with the new Section 319 grant guidelines that will result in better targeting of resources through prioritization and increased coordination with USDA.

*Strategic measures associated with this Goal are on pages 63 through 66. More information on Agency Priority Goals is available at <http://goals.performance.gov/agency/epa>.*

decades of environmental protection and investment, serious challenges remain. Many small drinking water systems are particularly challenged by the need to improve and maintain infrastructure and develop the capacity to comply with new and existing standards. Tens of thousands of homes, primarily in tribal and disadvantaged communities and the territories, still lack access to basic sanitation and drinking water. The rate at which new waters are listed for water quality impairments exceeds the pace at which restored waters are removed from the list.

For many years, nonpoint source pollution, principally nitrogen, phosphorus, and sediments, has been recognized as the largest remaining impediment to improving water quality. Recent national surveys have found that our waters are stressed by nutrient pollution, excess sedimentation, and degradation of shoreline vegetation, which affect upwards of 50 percent of our lakes and streams.<sup>1</sup> Pollution discharged from industrial, municipal, agricultural, and stormwater sources continue to be causes of water quality problems, as does the degradation of watersheds and their natural plant communities and hydrologic structure, which help protect water quality. A changing climate will compound these problems, highlighting the need to work with our partners to evaluate options for protecting infrastructure, conserving water, reducing energy use, adopting green infrastructure and locally driven watershed-based practices, and improving the resilience of infrastructural and natural systems, including utilities, watersheds, and estuaries.<sup>2</sup>

Over the next 4 years, EPA will reinvigorate efforts to improve water quality, working with states, territories, and tribes to better safeguard human health and make America's water systems sustainable and secure. We will:

- ◆ Assess the status of and changes in water quality through the National Aquatic Resource Surveys;
- ◆ Strengthen the protection of our aquatic ecosystem;
- ◆ Improve watershed-based approaches to reduce pollution;
- ◆ Implement innovative technologies;

- ◆ Carry out comprehensive approaches to help maintain healthy watersheds;
- ◆ Foster increased protection of drinking water sources through improved coordination between CWA and SDWA programs at the national, regional, state, and watershed scales;
- ◆ Focus efforts in key geographic areas;<sup>3</sup> and
- ◆ Take measures to incorporate climate change considerations into clean water and drinking water program planning and implementation.

EPA is establishing two Agency Priority Goals for FY 2014–2015 that are continuations from FY 2012–2013: (1) to improve public health protection for persons served by small drinking water systems by strengthening the technical, managerial, and financial capacity of those systems;<sup>4</sup> and (2) to improve, restore, or maintain water quality by enhancing nonpoint source program accountability, incentives, and effectiveness.<sup>5</sup>

In the first Priority Goal, EPA will continue to partner with the states and pilot with several tribes to enhance their capacity development, operator certification, and treatment optimization programs. These efforts are intended to build upon or reinvigorate efforts already underway across the country. The Agency is continuing to partner with the U.S. Department of Agriculture's (USDA's) Rural Utilities Service to promote drinking water and wastewater system sustainability, foster water sector workforce opportunities in rural America, and coordinate infrastructure funding as appropriate. EPA will continue to provide states and tribes with funding to assist utilities with financing drinking water infrastructure needs. In the second Priority Goal, EPA is implementing a strengthened nonpoint source (CWA Section 319) grant program<sup>6</sup> to continue yielding on-the-ground water quality results in watersheds nationwide. A significant component of this effort is working with state partners to update their nonpoint source programs, which guide overall priorities and investments for Section 319 funds. Updated nonpoint source programs, combined with collaboration efforts with USDA, state departments of agriculture, and other partners, will result in better protection of water quality from nonpoint sources of pollution.

Working with our partners, the Agency's effort to protect our waters has two objectives—protecting human health and protecting and restoring watersheds and aquatic ecosystems.

## Protect Human Health

Sustaining the quality and supply of our water resources is essential to safeguarding human health. More than 300 million people living in the United States rely on the safety of tap water provided by public water systems that are subject to national drinking water standards. Over the next 4 years, EPA will help protect human health and make America's water systems sustainable and secure by:

- ◆ Providing financial assistance for public water system infrastructure to protect and maintain drinking water quality;
- ◆ Strengthening compliance with drinking water standards;
- ◆ Continuing to protect sources of drinking water from contamination and ensuring reliable supplies of drinking water as water temperatures increase (including addressing the harmful effects of algal blooms);
- ◆ Developing new and revising existing drinking water standards to address known and emerging contaminants that endanger human health; and
- ◆ Supporting states, tribes, and territories in their oversight of public water systems in implementing these standards, and supporting water systems directly through provision of guidance, training, and information.

While promoting sustainable management of drinking water infrastructure, we will provide needed oversight and technical assistance to states, tribes, and territories, so that their water systems

comply with or exceed existing standards and are able to comply with new standards. We will also promote the construction of infrastructure that brings safe drinking water into the homes of small, rural, and disadvantaged communities and increase efforts to guard the nation's critical drinking water infrastructure.

In addition, EPA is actively working Agency-wide and with external partners and stakeholders to implement a multi-faceted drinking water strategy. With this approach, EPA seeks to: address chemicals and contaminants by group, as opposed to working on a chemical-by-chemical basis; foster the development of new drinking water treatment technologies; use the authority of multiple statutes in addressing drinking water contamination; and encourage collaboration with states and tribes to share more complete



data from monitoring at public water systems. To this end, the Agency is replacing the federal and state components of EPA's Safe Drinking Water Information System (SDWIS) with a new system. SDWIS Prime is designed to assist regulatory agencies with their implementation of the public water system supervision (PWSS) program, as well

as improve the efficiency of sharing drinking water data among states, tribes, and the Agency. This will allow for better targeting of federal and state funding and technical assistance resources, and improve data quality while increasing public access to drinking water data.

Science-based water quality criteria are essential to protect our public water systems, groundwater and surface water bodies, and recreational waters. These criteria are the foundation for state and tribal tools to safeguard human health such as public advisories for beaches, fish consumption, and drinking water. Over the next 4 years, we will expand that science to improve our understanding of emerging potential

waterborne threats to human health, develop new criteria, and validate testing methods that provide quicker results and enable faster action on beach safety.

### External Factors and Emerging Issues

EPA's underground injection control (UIC) program provides a framework to ensure protection of underground sources of drinking water from endangerment related to the construction, operation, permitting, and closure of injection wells that place fluids underground for storage, disposal, enhanced recovery of oil and gas, or minerals recovery. Natural gas plays a key role in our clean energy future. Hydraulic fracturing is a key way to recover natural gas from sources. EPA will ensure proper oversight of hydraulic fracturing operations in cases where diesel fuel is used by implementing permitting guidance under SDWA's Class II UIC program for hydraulic fracturing. EPA is working with state and tribal organizations, along with other federal agencies, to develop and implement voluntary strategies for encouraging the use of alternatives to diesel in hydraulic fracturing and improving compliance with other Class II regulations, including possible risks from induced seismic events and the risk from radionuclides in disposal wells. EPA is also continuing to work with state, tribal, and industry representatives to make UIC Class II regulations and information more transparent and to implement best practices and promote coordination between UIC and oil and gas agencies.

### Protect and Restore Watersheds and Aquatic Ecosystems

People and the ecological integrity of aquatic systems rely on healthy watersheds. EPA employs a suite of programs to protect and improve water quality in the nation's watersheds—rivers, lakes, wetlands, and streams—as well as in our estuarine, coastal, and ocean waters. In partnership with states, territories, local governments, and tribes, EPA's core water programs help:

- ◆ Protect, restore, maintain, and improve water quality by financing wastewater treatment infrastructure;
- ◆ Conduct monitoring and assessment;

- ◆ Establish pollution reduction targets;
- ◆ Update water quality standards;
- ◆ Issue and enforce discharge permits; and
- ◆ Implement programs to prevent or reduce non-point source pollution.

While promoting sustainable management of municipal wastewater and stormwater infrastructure, we will work with federal, state, and local partners to bring appropriate and effective solutions to small, rural, and disadvantaged communities. EPA will continue to promote robust planning that includes an assessment of green, sustainable alternatives, and will continue to work with municipalities on implementing the integrated planning process for wastewater and stormwater management on a case-by-case basis.<sup>7</sup>

We will also work more aggressively to reduce and control pollutants that are discharged from industrial, municipal, agricultural, and stormwater sources, and vessels, as well as to implement programs to prevent and reduce pollution that washes off the land during rain events. By promoting green infrastructure and sustainable landscape management, EPA will help restore natural hydrologic systems and the health of aquatic ecosystems to reduce pollution from stormwater events.<sup>8</sup> The Agency is exploring innovative approaches to meeting the 21st century water quality challenges with streamlined permitting and oversight processes supported by modernized data management and technologies.

To provide information on the ecological and recreational condition of the nation's waters and the key stressors impacting those waters, EPA will continue to work with states and tribes to implement the National Aquatic Resource Surveys, including the National Rivers and Streams Assessment, the National Coastal Condition Assessment, the National Wetland Condition Assessment, and the National Lakes Assessment.<sup>9</sup> These probability-based surveys provide nationally consistent and scientifically defensible assessments of our nation's waters. These data will support EPA and our partners in identifying priority actions to protect and restore water quality and in assessing whether collective efforts are improving water quality over time as water conditions are altered in response to climate change.

Over the next 4 years, EPA will continue efforts to restore water bodies that do not meet water quality standards, preserve and protect high-quality aquatic resources, and protect, restore, and improve wetland acreage and quality. The Agency will improve the way existing tools are used, explore how innovative tools can be applied, and enhance efforts and cross-media collaboration to protect and prevent water quality impairment in healthy watersheds. The Agency will use the National Aquatic Resource Survey to track the effectiveness of these combined efforts at protecting and improving water quality over time.

Results from the National Aquatic Resource Survey reinforce EPA's commitment to address nitrogen and phosphorus pollution as among the most serious and pervasive water quality problems. Programs for controlling nonpoint sources of pollution are key to reducing the number of impaired waters nationwide. The programs provide a multi-faceted approach to the problem, combining innovative development strategies to help leverage traditional tools. In addition to working with state, tribal, and local partners, EPA is collaborating with USDA to implement its National Water Quality Initiative (NWQI) and collaborating on other geographically based initiatives. Coordination of EPA's nonpoint source (CWA Section 319) grant funds and USDA Farm Bill funds is intended to protect water quality more effectively from runoff from agricultural lands and demonstrate improved effectiveness. USDA launched the NWQI in FY 2012, which targets 5 percent of USDA's Environmental Quality Incentives Program resources for water quality improvements in 165 specific watersheds across the nation. EPA is collaborating closely with USDA as it implements this program, and is now requiring states to assess water quality results in NWQI watersheds through Section 319 grant funds or other funding sources.

Development and implementation of total maximum daily loads (TMDLs) for CWA Section 303(d) listed impaired waterbodies is a critical tool for meeting water quality restoration goals. The CWA 303(d) listing and TMDL program has engaged with states to implement a new 10-year vision for the program to more effectively achieve the water quality goals of each state. The approach involves fostering effective integration across multiple programs, statutes, and agencies—CWA point and nonpoint source

programs, other statutory programs within EPA's jurisdiction (e.g., the Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA], Resource Conservation and Recovery Act [RCRA], SDWA, and Clean Air Act [CAA]), and the water quality efforts of other federal agencies (e.g., the Departments of Agriculture, Interior, and Commerce). As part of this effort, EPA will continue to encourage states to identify priority waters for assessment, for development of TMDLs and other restoration plans for impaired segments, and for pursuit of protection approaches for unimpaired waters. EPA will work with states and other partners to develop and implement activities and watershed plans to restore and protect these waters.

In partnership with states, tribes, and local communities, EPA is implementing a clean water strategy that explores ways to improve the condition of the urban waterways that may have been overlooked or under-represented in local environmental problem solving. The Agency will continue to play an active role as a member of the Urban Waters Federal Partnership to promote more efficient and effective use of federal resources and build new partnerships with states, tribes, local entities, and the private sector.

EPA will also lead efforts to restore and protect aquatic ecosystems and wetlands, particularly in key geographic areas, to address complex and cross-boundary challenges. Key geographic areas in the national water program include the Chesapeake Bay, the Great Lakes, the Gulf of Mexico, the U.S.–Mexico Border region, the Pacific Islands, Long Island Sound, the South Florida Ecosystem, the Puget Sound Basin, the Columbia River Basin, and the San Francisco Bay Delta Estuary. EPA will continue to work with and involve states, tribes, and interested stakeholders to set and achieve goals in these geographic areas.

EPA is heading up a multi-agency effort to restore and protect the Great Lakes through the Great Lakes Restoration Initiative.<sup>10</sup> In other parts of the nation, we will focus on nutrient pollution, which threatens the long-term health of important ecosystems such as the Chesapeake Bay. EPA will continue to work with states, tribes, and stakeholders in the Mississippi River Basin on nutrient pollution that is affecting the health of the Gulf of Mexico. Further, given the environmental catastrophe resulting from the

Deepwater Horizon BP oil spill, EPA will continue to take necessary actions to support efforts of federal and state trustees in the natural resource damage assessment to restore the Gulf of Mexico ecosystem. EPA shares in the role of being a Natural Resource Trustee with responsibility to conduct the natural resource damage assessment for the spill. In addition, EPA is also a member of the Gulf Coast Ecosystem Restoration Council, established under the RESTORE Act,<sup>11</sup> to restore the ecosystem and economy of the Gulf Coast region. Monitoring in the Gulf of Mexico under the National Aquatic Resource Survey will be important to fully document the long-term impacts of the spill and track the recovery of wetland and near-shore estuarine resources. This long-term effort by EPA and the states is an important complement to the project-specific and special-focus monitoring efforts underway as part of the Natural Resource Damage Assessment and BP Research funds.

To respond and adapt to the current and potential impacts of a changing climate on aquatic resources, including the current and potential impacts associated with warming temperatures, changes in rainfall amount and intensity, and sea level rise,

EPA has developed a "National Water Program 2012 Strategy: Response to Climate Change." This strategy sets out long-term goals and specific actions contributing to national efforts to prepare for, and build resilience to, impacts of a changing climate on water resources. EPA is working with state, tribal, and local governments, as well as other partners, to implement actions addressing climate change challenges to the protection of water infrastructure, coastal and ocean waters, watersheds, and water quality.<sup>12</sup> For example, EPA has developed the Climate Resilience Evaluation and Assessment Tool (CREAT) to help water utilities assess vulnerability to a changing climate and take response actions. EPA is also defining actions that states can take starting in 2015 to adapt core clean water and drinking water programs (e.g., state revolving loan funds, water quality standards, and drinking water sanitary surveys) to a changing climate.



## External Factors and Emerging Issues

**Water Quality.** Water quality programs face challenges such as increases in nutrient loadings and stormwater runoff, aging infrastructure, and population growth (which can increase water consumption and place additional stress on aging water infrastructures). The Agency is carefully examining the potential impacts of and solutions to these issues, including effects on water quality and quantity that could result in the long term from a changing climate. The Agency will continue implementing the National Aquatic Resource Surveys to support collection of nationally consistent data to support these efforts. The Agency will also continue to implement the WaterSense program as a means to help communities address challenges posed by water scarcity through demand management.<sup>13</sup>

**Population Density.** In 2010, 52 percent of the U.S. population lived in coastal watershed counties which comprise less than 20 percent of the total land area of the U.S., excluding Alaska. The population density of coastal watershed counties is over five times greater than the corresponding inland counties.

If current population trends continue, the already crowded U.S. coast will see population grow from 123 million people to nearly 134 million people by 2020, placing more of the population at increased risk from a changing climate and exposing these fragile coastal ecosystems to greater pressures. Population growth in coastal watershed counties is impacting water quality and other coastal resources within National Estuary Program (NEP) study areas. NEPs work to address the impacts of growth by focusing their long-term management and annual work plans on priorities such as stormwater management, reduction of excess nutrient loadings, and promotion of low-impact development and green infrastructure. Also, EPA's climate-ready estuaries program provides the capacity for NEPs and coastal stakeholders to develop vulnerability assessments.<sup>14</sup>

**Technology Market Opportunities.** EPA is working both internally and with external partners and stakeholders to discuss plans for advancing innovative technologies that will be important to the continued protection and restoration of waters. Some key market opportunities for innovative technology to help address current and emerging water resource issues were identified in EPA’s “Blueprint for Integrating Technology Innovation into the National Water Program.”<sup>15</sup> They include:

- ◆ Energy reduction and recovery at drinking water and wastewater facilities;
- ◆ Nutrient recovery from wastewater;
- ◆ Improving and “greening” the nation’s infrastructure;
- ◆ Water reuse;
- ◆ Improved and less expensive monitoring;
- ◆ Improving reliability of small drinking water systems;
- ◆ Technology evaluation and performance;
- ◆ Reducing water impacts from domestic energy production;
- ◆ Resiliency of water infrastructure; and
- ◆ Improving water quality of oceans, estuaries, and watersheds.

## Applied Research

EPA’s research will help ensure that natural and engineered water systems have the capacity and resiliency to meet current and future water needs for the range of water use and ecological requirements. These efforts will help position the Agency to meet the future needs in water resources management by:

- ◆ Gathering, synthesizing, and mapping the necessary environmental, economic, and social information of watersheds, from local to national scales, to determine the condition, future prospects, and restoration potential of the nation’s watersheds;
- ◆ Conducting and integrating EPA nitrogen and co-pollutant research efforts across multiple media and various temporal and spatial scales, including support for developing numeric nutrient criteria, decision-support tools, and cost-effective approaches to nutrient reduction;
- ◆ Promoting the economic recovery of water, energy, and nutrient resources through innovative municipal water services and whole-of-system assessment tools;
- ◆ Developing innovative tools, technologies, and strategies for managing water resources (including stormwater) today and over the long term as the climate and other conditions change; and
- ◆ Evaluating individual and groups of contaminants for the protection of human health and the environment.

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## End Notes

1. U.S. EPA, 2006. *Wadeable Streams Assessment: A Collaborative Survey of the Nation’s Streams*. EPA 841-B-06-002. Available at <http://www.epa.gov/owow/streamsurvey>. See also EPA, 2010. *National Lakes Assessment: A Collaborative Survey of the Nation’s Lakes*. EPA 841-R-09-001. Available at [http://www.epa.gov/lakessurvey/pdf/nla\\_chapter0.pdf](http://www.epa.gov/lakessurvey/pdf/nla_chapter0.pdf).
2. Resilience is the ability of a system to absorb change and disturbance and retain its fundamental function and/or structure.
3. For more information on these programs and their performance measures, see the annual National Water Program Guidance, available at <http://www.epa.gov/water/waterplan/index.html>.
4. FY 2014–2015 Agency Priority Goal: Improve public health protection for persons served by small drinking water systems, which account for more than 97 percent of public water systems in the U.S., by strengthening the technical, managerial, and financial capacity of those systems. By September 30, 2015, EPA will engage with an additional ten states (for a total of 30 states) and three tribes to improve small drinking water system capability to provide safe drinking water, an invaluable resource.

5. FY 2014–2015 Agency Priority Goal: Improve, restore, and maintain water quality by enhancing nonpoint source program leveraging, accountability, and on-the-ground effectiveness to address the nation’s largest sources of pollution. By September 30, 2015, 100 percent of the states will have updated nonpoint source management programs that comport with the new Section 319 grant guidelines that will result in better targeting of resources through prioritization and increased coordination with USDA.
6. For information visit <http://water.epa.gov/polwaste/nps/cwact.cfm>.
7. For information on the Integrated Planning process, see <http://cfpub.epa.gov/npdes/integratedplans.cfm>.
8. For information on managing wet weather with green infrastructure, see [http://cfpub.epa.gov/npdes/home.cfm?program\\_id=298](http://cfpub.epa.gov/npdes/home.cfm?program_id=298).
9. For information on National Aquatic Resource Surveys, see [http://water.epa.gov/type/watersheds/monitoring/aquaticsurvey\\_index.cfm](http://water.epa.gov/type/watersheds/monitoring/aquaticsurvey_index.cfm).
10. Great Lakes Restoration Initiative is focused on toxic substances and areas of concern, invasive species, nearshore health and nonpoint source pollution, habitats and species, and integrated solutions to cross-cutting issues. Information is available at <http://greatlakesrestoration.us/>.
11. Please see <http://www.restorethegulf.gov/council/about-gulf-coast-ecosystem-restoration-council>.
12. EPA National Water Program 2012 Strategy: Response to Climate Change, information available at <http://water.epa.gov/scitech/climatechange/2012-National-Water-Program-Strategy.cfm>. United States Global Change Research Program, information available at <http://www.globalchange.gov/resources/reports>.
13. For information on WaterSense, see <http://www.epa.gov/watersense/>.
14. For information on climate-ready estuaries, see <http://water.epa.gov/type/oceb/cre/index.cfm>.
15. “Blueprint for Integrating Technology Innovation into the National Water Program,” information is available at <http://water.epa.gov/blueprint.cfm>.

# Goal 3: Cleaning Up Communities and Advancing Sustainable Development



***Clean up communities, advance sustainable development, and protect disproportionately impacted low-income and minority communities. Prevent releases of harmful substances and clean up and restore contaminated areas.***

Uncontrolled releases of waste and hazardous substances can contaminate our drinking water and land and threaten healthy ecosystems. Local land use and infrastructure investments can also generate unanticipated environmental consequences, such as increased stormwater runoff, loss of open space, and increased greenhouse gas emissions. EPA leads efforts to preserve, restore, and protect our land, air, and water so that these precious resources are available for both current and future generations. We will continue our work to prevent and reduce exposure to contaminants, accelerate the pace of cleanups, and reduce the environmental impacts associated with land use across the country. EPA works collaboratively with international, state, and tribal partners to achieve these aims. In addition, we will work with communities to address risks posed by intentional and accidental releases of hazardous substances into the environment

## Objectives

- **Promote Sustainable and Livable Communities.** Support sustainable, resilient, and livable communities by working with local, state, tribal, and federal partners to promote smart growth, emergency preparedness and recovery planning, redevelopment and reuse of contaminated and formerly contaminated sites, and the equitable distribution of environmental benefits.
- **Preserve Land.** Conserve resources and prevent land contamination by reducing waste generation and toxicity, promoting proper management of waste and petroleum products, and increasing sustainable materials management.
- **Restore Land.** Prepare for and respond to accidental or intentional releases of contaminants and clean up and restore polluted sites for reuse.
- **Strengthen Human Health and Environmental Protection in Indian Country.** Directly implement federal environmental programs in Indian country and support federal program delegation to tribes. Provide tribes with technical assistance and support capacity development for the establishment and implementation of sustainable environmental programs in Indian country.

*Across multiple objectives:*

**FY 2014–2015 Agency Priority Goal:** Clean up contaminated sites to enhance the livability and economic vitality of communities. By September 30, 2015, an additional 18,970 sites will be made ready for anticipated use protecting Americans and the environment one community at a time.

*Strategic measures associated with this Goal are on pages 67 through 70. More information on Agency Priority Goals is available at <http://goals.performance.gov/agency/epa>.*

and ensure that communities have an opportunity to participate in environmental decisions that affect them. Our efforts are guided by scientific data, research, and tools that alert us to emerging issues and inform decisions on managing materials and addressing contaminated properties.

## Promote Sustainable and Livable Communities

EPA supports the goals of urban, suburban, and rural communities to grow in ways that improve the environment, human health, and quality of life for their residents.<sup>1</sup> With the support of partners working hand in hand across all levels of government, communities can grow in ways that also strengthen the economy, help them adapt to a changing climate, improve their resiliency to disasters, use public resources more efficiently, revitalize neighborhoods, and improve access to jobs and amenities. By making sustainable infrastructure investments, communities can successfully build innovative and functional systems on neighborhood streets and sidewalks to deal with the runoff from stormwater and still provide easy access for pedestrians, bicyclists, on-street parking, and other beneficial uses. By adopting local planning and zoning codes that account for the environmental impacts of development, the private sector can more easily construct market-ready green buildings serving a range of housing needs. Communities also can benefit from tools, technology, and research that better engage citizens and inform local decision making to support smart and sustainable growth.

EPA recognizes environmental justice, children's health, and sustainable development are all at the intersection of people and place. These goals are not mutually exclusive. Throughout all our work to achieve more livable communities, EPA is committed to ensuring we focus on children's health and environmental justice.<sup>2</sup> Recognizing that minority or low-income communities may face disproportionate environmental risks, we work to protect these communities from adverse health and environmental effects and to ensure they are given the opportunity to participate meaningfully in environmental decisions and efforts to plan for future growth and development that directly affect residents.<sup>3</sup> EPA's

ability to optimize the benefits of sustainability requires making environmental justice a normal part of how EPA does business rather than an ad hoc activity.

Sustainable and livable communities balance their economic and natural assets so that the diverse needs of residents can be met with limited environmental impacts. EPA's community-based programs help to accomplish these goals by working with communities, other federal agencies, state, tribal, and regional governments, private and nonprofit sectors, and national experts to encourage equitable development strategies that have better outcomes for air quality, water quality, and land preservation and revitalization. In particular, EPA's smart growth program delivers technical assistance to communities through contract- and grant-based programs to help them base their growth and development decisions on strategies that are smart, sustainable, and supportive of improved environmental, public health, and economic outcomes.

For example, EPA has been working with the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Transportation (DOT) since 2009 to align federal resources and improve the environmental outcomes from development. Through technical assistance, grants, and training, these three agencies have worked together to assist hundreds of communities to plan for and invest in growth that improves access to affordable housing, increases transportation options, and expands choices for all citizens.<sup>4</sup> All three agencies use a common set of "livability principles" to better coordinate their efforts and investments in a manner that will better protect the environment, promote equitable development, and help address the challenges of a changing climate.

EPA's brownfields program emphasizes environmental and human health protection in a manner that stimulates economic development and job creation by awarding competitive grants to assess and clean up brownfield properties that are contaminated, or perceived to be contaminated, with hazardous substances and/or petroleum contamination and by providing job training opportunities, particularly in underserved communities.<sup>5</sup> A 2012 EPA program evaluation concluded that cleaning up brownfield

properties leads to residential property value increases of 5.1 to 12.8 percent.<sup>6</sup> In addition, a 2011 study of five pilot projects revealed that cleaning up contaminated properties for neighborhood commercial use may contribute to a 32 to 57 percent reduction in vehicle miles traveled compared to alternative development scenarios.<sup>7</sup> This reduction results from increased accessibility of neighborhood-based services and goods, requiring less frequent trips by residents outside the immediate area.

The brownfields program also provides funding for state and tribal environmental response programs as well as outreach and technical assistance to communities. Area-wide planning approaches for brownfields work help to identify important local factors in a coordinated manner: viable end uses of individual or groups of brownfield properties; beneficial air and water infrastructure investments in these areas; and added environmental improvements in the surrounding area to revitalize the community. Taken together, these efforts will enhance the livability and economic vitality of neighborhoods in and around brownfield properties.

In addition to the brownfields activities, EPA promotes livable communities through its efforts to prevent chemical accidents. EPA's risk management program requires facilities with one or more covered chemicals in a process to analyze the potential for accidental releases and possible consequences, develop an accident prevention program, and coordinate with the community to ensure that all are prepared for responding to a release. The facility must include this information in a Risk Management Plan (RMP) and submit this RMP electronically to EPA, which makes the information available to federal, state, and local officials (e.g., fire fighters) who work on chemical accident preparedness, prevention, and response. There are approximately 13,000 active RMPs currently on file.

### External Factors and Emerging Issues

There are several external factors and emerging issues that may affect the overall success of the Agency's brownfields, chemical risk management, and smart growth programs. These include:

- ◆ The continued challenges posed by foreclosures and vacant, blighted, and neglected properties.

Increased attention may be required for the siting of new domestic manufacturing in formerly abandoned or blighted areas and the potential impacts on local communities.

- ◆ The impacts of increased extremes of weather on a community's redevelopment and revitalization plans, including whether these projects are resilient enough to withstand the threat of flooding or loss of power from natural or man-made disasters.
- ◆ The lack of capacity in many tribal, local, regional, and state governments to adequately identify the environmental outcomes associated with land use and infrastructure decisions, particularly given the demands on already tight budgets.
- ◆ The importance of engaging in efforts that involve stakeholders beyond federal agencies. These efforts include supporting local responders, advancing additional chemical plant safety measures, and standardizing the best practices of industry leaders.
- ◆ The need to explore how EPA's legal authorities and policies can be used to further improve coordination among federal agencies and stakeholders in our efforts to identify and address the potential hazards in chemical plant safety.

### Preserve Land

To prevent future environmental contamination and to protect the health of the estimated 20 million people living within a mile of hazardous waste management facilities,<sup>8</sup> EPA and its state partners continue their efforts to issue, update, or maintain Resource Conservation and Recovery Act (RCRA) permits for approximately 20,000 hazardous waste units (such as incinerators and landfills) at these facilities. EPA also will issue polychlorinated biphenyl (PCB) cleanup, storage, and disposal approvals each year since this work cannot be delegated to the states or tribes. With the October 2012 promulgation of the Hazardous Waste Electronic Manifest Establishment Act, improving and modernizing hazardous waste transportation and tracking has become an important Agency focus. EPA will be working with state agencies, other partners and stakeholders, and the public to implement the requirements of the new law. These include the use of electronic tracking

(e-Manifest), which will provide superior data availability, transparency, and cost savings when compared with the use of paper manifests, and the establishment of an advisory board to provide recommendations to the Agency on the implementation of this new e-Manifest approach.

As part of its sustainable materials management program, EPA is currently promoting three national strategies—the Federal Green Challenge, the Electronics Challenge, and the Food Recovery Challenge. These strategies are focused on using less environmentally intensive and toxic materials and employing downstream solutions, like reuse and recycling, to conserve our resources for future generations.<sup>9</sup> EPA is working with other federal agencies, state and tribal governments, and non-governmental organizations to promote sustainability goals through these and other initiatives. For example, EPA and USDA are partnering through the U.S. Food Waste Challenge to address sustainable food management from farm to final disposition.<sup>10</sup> Through this partnership, EPA is working to reduce food waste, which is the largest component (21 percent) of municipal solid waste discarded.<sup>11</sup> In keeping with the RCRA mandate to conserve resources and energy, and recognizing that an estimated 42 percent of greenhouse gas (GHG) emissions are attributable to materials management activities, EPA continues to create innovative strategies that emphasize sustainable materials management. These efforts—to identify and reduce or minimize the impact of waste and capture resultant GHG benefits through more sustainable materials management throughout all life-cycle stages (from extraction of raw materials through end of life)—are critical, along with other activities, for offsetting the use of virgin materials.<sup>12,13</sup>

To reduce the risk posed by underground storage tanks (USTs) located at more than 200,000 facilities throughout the country, EPA and states are working to ensure that every UST system is inspected at least once every 3 years and all facility operators are trained. As fuel types change, UST systems must be equipped to safely store the new fuels. For example, EPA is working to ensure biofuels are stored in compatible UST systems.

## External Factors and Emerging Issues

EPA must be prepared to address significant waste management issues anticipated for the future.

- ◆ The potential impacts of a changing climate, including extreme weather events, such as tornadoes and hurricanes.
- ◆ Continued changes in technology and the emergence of new waste streams that result from new methods of domestic energy development, among other contributing sources.
- ◆ General trend away from landfills and toward the recycling of materials using new technologies that will require further evaluation.

## Restore Land

Challenging and complex environmental problems persist at many contaminated properties. These include contaminated soil, sediment, and groundwater that can cause human health concerns. Together with our federal, state, and tribal partners, EPA's Superfund program, RCRA corrective actions, leaking underground storage tank and brownfields cleanup programs, and the Toxic Substances Control Act (TSCA) cleanups of PCBs reduce risks to human health and the environment through site cleanup and the return of restored land to productive use. EPA is establishing an Agency Priority Goal for FY 2014–2015, which is a continuation of the Priority Goal for FY 2012–2013, to measure and report sites ready for anticipated use (RAU). RAU is an indicator that the local, state, or federal agency has determined that the necessary cleanup goals, engineering controls, and institutional controls have been implemented at the site to make it available for a community's current or reasonably anticipated future use or reuse. EPA's Superfund, RCRA corrective action, leaking underground storage tank (LUST), and brownfields cleanup programs all contribute to the Priority Goal to make sites ready for anticipated use.<sup>14</sup> Although each program establishes its own targets, the collective nature and combined overall target of the RAU Priority Goal offers an opportunity for EPA cleanup programs to work together to identify lessons learned, efficiencies, and opportunities to advance site cleanup. From the inception of the respective programs to the end of FY

2013, 441,333 sites were made RAU, corresponding to over 2.3 million acres.<sup>15</sup>

There are multiple benefits associated with cleaning up contaminated sites: reducing mortality and morbidity risk; preventing and reducing human exposure to contaminants; making land available for commercial, residential, industrial, or recreational reuse; and promoting community economic development. A 2011 study suggests that Superfund cleanups reduce the incidence of congenital anomalies in infants of mothers living within 2,000 meters of a site by roughly 20–25 percent.<sup>16</sup> In another case, EPA contracted with researchers at Duke University and the University of Pittsburgh to conduct a study to determine the effects of Superfund site status on housing values. The study found that when sites are cleaned up and deleted from the National Priorities List (NPL), properties within 3 miles of the sites experience an 18.6–24.5 percent increase in value.<sup>17</sup>

Over the past 3 years, EPA has implemented the Integrated Cleanup Initiative (ICI) in an effort to improve the efficiency and effectiveness of its land cleanup programs. More than 150 different actions were conducted under ICI from FY 2010 through FY 2012 by the various land cleanup programs involved in the effort. These actions to improve efficiency and effectiveness are now part of current business procedures and cleanup processes. For example, EPA initiated a series of project management pilots to explore options for accelerating the pace of Superfund site cleanups from the remedial investigation/feasibility study (RI/FS) phase of cleanup through site completion. Three of these pilots improved the remedial design/remedial action (RD/RA) process and were completed in FY 2012. EPA's Superfund program will consider applying the time- and cost-saving approaches examined in these pilots wherever appropriate.<sup>18</sup>

EPA's Superfund program is undertaking a comprehensive review of all aspects of the program. The goal

of this review is to determine the best way to maintain the program's effectiveness in protecting human health and the environment by more efficiently managing its site cleanup process and program resources. In the same spirit, in early 2013, EPA worked with state partners and stakeholders to pilot an ambitious effort to apply "Lean" principles to the facility investigation phase of RCRA corrective action cleanup as a means to accelerate the process for a typical facility by several years.<sup>19</sup> By applying Lean techniques, EPA expects to achieve performance improvements and to continue setting and achieving ambitious goals for environmental progress. The Agency will continue to solicit new ideas and practices to improve EPA's cleanup programs.

Another challenge to protecting our land resources from contamination is pollution from leaking

underground storage tanks (USTs). While considerable progress has been made to clean up leaks from USTs, a backlog of over 80,000 sites remains and the number of cleanups per year is decreasing. To understand the makeup of remaining UST releases and the decline in the number of cleanups per year, EPA conducted a two-phase,

data-driven analysis of UST cleanups as of 2006 and 2009. The study compiled and analyzed available data from 14 state [L]UST programs and identified key findings and potential opportunities to help reduce the number of remaining UST cleanups. To address new and existing LUST sites, EPA, in partnership with state and tribal programs, is developing and implementing strategies to address technical challenges, leverage best practices, and support management, oversight, and enforcement activities. In addition, EPA has implemented improvements in the LUST prevention program by increasing inspection frequency and other prevention efforts, and there has been a corresponding decrease in new confirmed releases. The efforts of the prevention program and the continued reduction in new confirmed releases, along with the earlier detection of releases, will remain critical factors in backlog reduction.<sup>20</sup>



In addition to cleanup and revitalization, EPA's hazardous waste programs also are working to reduce the energy use and environmental footprint during the investigation and remediation of hazardous waste sites. As part of this effort, EPA's Superfund program evaluated its green remediation strategy to assess its experiences in implementing the strategy, to determine a baseline against which to measure future progress, and to develop the best metrics for measuring the program's success. The evaluation's findings are being used to prepare the next phase of the strategy to reduce the energy, water, and materials used during site cleanups while at the same time ensuring that protective remedies are implemented.<sup>21</sup>

Throughout this work, EPA is enhancing its engagement with local communities and stakeholders so that they may meaningfully participate in decisions on land cleanup, emergency response, and management of hazardous substances and waste. Enhancing community engagement helps to ensure transparent and accessible decision-making processes, to deliver information that communities can use to participate effectively, to improve EPA responsiveness to community perspectives, and to ensure timely cleanup decisions.

National preparedness is an essential component in EPA's work that entails responding to large-scale emergencies that may involve chemicals, oil, biological agents, radiation, weapons of mass destruction, or natural catastrophes. In recent years, the U.S. has faced considerable challenges in responding to nationally significant incidents and large-scale emergencies, including Hurricane Katrina, the Deepwater Horizon oil spill, the Fukushima Daiichi nuclear power plant emergency in Japan, and Hurricane Sandy. Maintaining our preparedness level and ensuring that emergency responders are able to address chemical spills, unplanned releases of other hazardous materials, and other catastrophes are vital responsibilities. Consistent with the government-wide National Response Framework and the National Disaster Recovery Framework, EPA prepares for the possibility of multiple, simultaneous, nationally significant incidents across several regions and provides guidance and technical assistance to state, tribal, and local planning and response organizations. EPA recognizes the important role of state and local emergency responders and works with them to strengthen their

preparedness and provide technical assistance when significant man-made or natural incidents strain their staffing and budget resources.

### External Factors and Emerging Issues

Hazardous waste programs are intended to provide permanent solutions to contamination at sites or facilities to the extent practicable. As appropriate, EPA must incorporate emerging science into decision making to maintain its commitment to provide permanent solutions.

- ◆ Complications can arise when new scientific information (e.g., new toxicity information or a new analytical method) calls into question previous determinations about the need for or the scope and methods of cleanup at a site. Such scientific and technological developments may complicate relations with affected communities, risk communication, site investigation, remedy selection, and resource allocation within the program.
- ◆ Changes in precipitation, sea level rise, and storm surge, for example, may impact remedies and alter their effectiveness. Some evidence of this was apparent during the Hurricane Sandy event along the coasts and waterways of New Jersey, New York, Connecticut, and Rhode Island. EPA might appropriately consider the effects on planned, current, and completed cleanups that will occur from the impacts of a changing climate.

### Strengthen Human Health and Environmental Protection in Indian Country

Under federal environmental statutes, EPA is responsible for protecting human health and the environment in Indian country. EPA's commitment to tribal environmental and human health protection has been steadfast for nearly 30 years, as formally established in the Agency's 1984 Indian Policy.<sup>22</sup> EPA works with over 560 federally recognized tribes located across the United States to improve environmental and human health outcomes. Approximately 56 million acres are held in trust by the United States for various Indian tribes and individuals. Over 10 million acres of individually owned lands are still held in trust for allottees and their heirs.<sup>23</sup> Difficult

environmental and health challenges remain in many of these areas, including lack of access to safe drinking water, sanitation, adequate waste facilities, and other environmental safeguards taken for granted elsewhere.

In collaboration with our tribal government partners, EPA will engage in a two-part strategy for strengthening human health and environmental protection in Indian country. First, EPA will ensure that its environmental protection programs are implemented in Indian country either by EPA or through implementation of environmental programs by tribes themselves. Second, EPA will provide resources through grant funds and technical assistance for federally recognized tribes to create and maintain effective environmental program capacity.

### External Factors and Emerging Issues

Tribal environmental and human health needs are significant. For example, the lack of access to safe drinking water and basic sanitation for tribes continues to threaten the public health of American Indian and Alaska Native (AI/AN) communities. Approximately 12 percent of AI/AN homes do not have safe water and/or basic sanitation facilities.<sup>24</sup> This is high compared to the non-native homes in the U.S. that lack such infrastructure. EPA, along with over four federal departments and agencies, provides a range of federal water infrastructure programs to tribes, consistent with our legal authorities and the federal trust responsibility.

There is a broad spectrum among tribes with respect to population, culture, income, geography, economic development, environmental program management expertise, and priorities. EPA also recognizes that many tribes may not have the capacity to implement

programs in a manner similar to a state, where programmatically available. Further, the decision to be treated in a manner similar to a state (TAS) is voluntary, and may not be a priority to a tribe. Currently, over 200 tribes are not eligible for jurisdictional reasons to receive a TAS designation to implement federally authorized environmental protection programs, yet they are partnering with EPA to build programmatic capacity in other ways. EPA continues to play a critical role in ensuring environmental protection in Indian country.

### Applied Research

In the area of cleaning up communities, research will allow EPA to identify and apply approaches that better inform and guide environmentally sustainable behavior, protect and promote human health and ecosystems, and provide the products and services needed for mitigation, management, remediation and long-term stewardship of contaminated sites. Research will provide Agency, state, tribal, and local decision makers with the knowledge needed to make smart, systems-based decisions that will inform a balanced approach to their cleanup and development needs, resulting in:

- ◆ More options for eliminating waste, safer options for disposal of unavoidable waste, and access to more options for beneficial re-use and recovery of materials and energy from waste.
- ◆ Reduced risk from contaminated sites, less costly remediation, faster return of property to economic use, and more comprehensive protection of valuable ground water resources.
- ◆ Enhanced ability to adequately consider children's unique susceptibilities and vulnerabilities.

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### End Notes

1. For more information about the impact of the built environment on the natural environment and public health, see "Our Built and Natural Environments: A Technical Review of the Interactions Between Land Use, Transportation, and Environmental Quality (Second Edition, 2013)" at <http://www.epa.gov/smartgrowth/built.htm>.
2. For more information about EPA's focus on Environmental Justice, see <http://www.epa.gov/environmentaljustice/index.html>.
3. For more information about the connections between smart growth and environmental justice, see "Creating Equitable, Healthy, and Sustainable Communities: Strategies for Advancing Smart Growth, Environmental Justice, and Equitable Development" (EPA 231-K-10-005, 2013) at [http://epa.gov/smartgrowth/equitable\\_development\\_report.htm](http://epa.gov/smartgrowth/equitable_development_report.htm).
4. For more information about the HUD-DOT-EPA Partnership for Sustainable Communities, see [www.sustainablecommunities.gov](http://www.sustainablecommunities.gov).

5. For more information about EPA's brownfields program, see <http://www.epa.gov/brownfields>.
6. Kevin Haninger, Lala Ma, and Christopher Timmins. 2012. "Estimating the Impacts of Brownfields Remediation on Housing Property Values." *Duke Environmental Economics Working Paper Series*. Working Paper EE12-08. The program evaluation is available at <http://sites.nicholasinstitute.duke.edu/environmentaleconomics/files/2013/01/WP-EE-12-08.pdf>.
7. U.S. EPA, Office of Brownfields and Land Revitalization, *Air and Water Impacts of Brownfields Redevelopment: A Study of Five Communities*, April 2011, EPA-560-F-10-232.
8. Estimate drawn from OSWER Near Site Population Database, an internal EPA database that merges facility size and location information from RCRAInfo with population data, at the block and block group levels, from the U.S. Census Bureau's 2000 Census. The demographics were captured around the total number of facilities that have approved controls in place that result in the protection of this population (20 million people).
9. For more information on the Federal Green Challenge, see <http://www.epa.gov/federalgreenchallenge>.  
For more information on the Electronics Challenge, see <http://www.epa.gov/wastes/conservesmm/electronics/>.  
For more information on the Food Recovery Challenge, see <http://www.epa.gov/wastes/conservesmm/foodrecovery/>.
10. For more information on the U.S. Food Waste Challenge, see <http://www.usda.gov/oce/foodwaste/index.htm>.
11. For more information, see EPA report, "Municipal Solid Waste Generation, Recycling, and Disposal in the United States: Facts and Figures for 2011," at [http://www.epa.gov/waste/nonhaz/municipal/pubs/MSWcharacterization\\_508\\_053113\\_fs.pdf](http://www.epa.gov/waste/nonhaz/municipal/pubs/MSWcharacterization_508_053113_fs.pdf).
12. U.S. EPA, Opportunities to Reduce or Avoid Greenhouse Gas Emissions through Materials and Land Management Practices, September 2009.
13. For more information on sustainable materials management, see *Sustainable Materials Management: The Road Ahead*. EPA 530R-09-009. Available at <http://www.epa.gov/smm/pdf/vision2.pdf>.
14. FY 2014–2015 Agency Priority Goal: Clean up contaminated sites to enhance the livability and economic vitality of communities. By September 30, 2015, an additional 18,970 sites will be made ready for anticipated use, protecting Americans and the environment one community at a time. For the LUST program, data as to whether institutional controls are in place are unavailable. EPA is exploring with states whether the data can be made available.
15. Although separate performance targets are not developed for the number of acres RAU, the acres RAU are reported at the end of each fiscal year.
16. Janet Currie, Michael Greenstone, and Enrico Moretti. 2011. "Superfund Cleanups and Infant Health." *American Economic Review*, 101(3): 435-41.
17. S. Gamper-Rabindran and C. Timmins. 2013. "Does cleanup of hazardous waste sites raise housing values? Evidence of spatially localized benefits," *Journal of Environmental Economics and Management*.
18. A recent directive from EPA's Superfund program shares the lessons learned from these RD/RA pilot studies. This directive can be found at [http://www.epa.gov/oswer/docs/ici/broader\\_applications\\_rd\\_ra\\_pilot\\_project\\_lessons\\_learned.pdf](http://www.epa.gov/oswer/docs/ici/broader_applications_rd_ra_pilot_project_lessons_learned.pdf).
19. Lean principles focus on identifying and enhancing valuable process steps while reducing wasteful steps. See also <http://www.epa.gov/lean/government/index.htm>.
20. For more information, please see *The National LUST Cleanup Backlog: A Study of Opportunities* at <http://www.epa.gov/swerust1/cat/backlog.html>.
21. More information about Superfund and green remediation at EPA is available at <http://www.epa.gov/superfund/greenremediation>.
22. The "EPA Policy for the Administration of Environmental Programs on Indian Reservations" can be found at <http://www.epa.gov/tp/pdf/indian-policy-84.pdf>.
23. For more information, please see <http://www.bia.gov/FAQs/index.htm>.
24. Indian Health Service, Sanitation Facilities Construction Program 2011 Annual Report.

# Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution



***Reduce the risk and increase the safety of chemicals and prevent pollution at the source.***

**T**he Agency's chemical safety and pollution prevention programs are at the forefront of EPA's efforts to advance a sustainable future. Chemicals are often released into the environment as a result of their manufacture, processing, use, and disposal. The Agency uses a variety of approaches and tools to assess, prevent, and reduce chemical releases and exposures (e.g., conducting risk assessments, assessing chemical alternatives, and taking other risk management actions). The Agency engages and empowers a variety of stakeholders and partners to drive innovation and address related social and economic issues, especially in communities with vulnerable populations or environmental justice concerns. Vulnerable populations, including low-income and minority and indigenous populations, may be disproportionately impacted by, and thus particularly at risk from, exposure to chemicals. In addition, research shows that children receive greater relative exposures to chemicals because they inhale or ingest more air, food, and water on a body-weight basis than adults do.<sup>1</sup> The Agency empowers stakeholders by working to ensure access to chemical data and other information, analytical tools, and other forms of expertise. The Agency communicates frequently with other federal agencies to share information and coordinate proposed and ongoing activities and will continue to expand these efforts for more effective governance.

## Objectives

- **Ensure Chemical Safety.** Reduce the risk and increase the safety of chemicals that enter our products, our environment, and our bodies.  
**FY 2014–2015 Agency Priority Goal:** Assess and reduce risks posed by chemicals and promote the use of safer chemicals in commerce. By September 30, 2015, EPA will have completed more than 250 assessments of pesticides and other commercially available chemicals to evaluate risks they may pose to human health and the environment, including the potential for some of these chemicals to disrupt endocrine systems. These assessments are essential in determining whether products containing these chemicals can be used safely for commercial, agricultural, and/or industrial uses.
- **Promote Pollution Prevention.** Conserve and protect natural resources by promoting pollution prevention and the adoption of other sustainability practices by companies, communities, governmental organizations, and individuals.

*Strategic measures associated with this Goal are on pages 71 through 72. More information on Agency Priority Goals is available at <http://goals.performance.gov/agency/epa>.*

Chemicals are involved in the production of everything from our homes and cars to the cell phones we carry and the food we eat. Thousands of chemicals have become ubiquitous in our everyday lives and everyday products, and are present in our environment and our bodies. The Agency continues to believe that the Toxic Substances Control Act (TSCA) should be modernized to strengthen the tools available in TSCA and give EPA the mechanisms and authorities to expeditiously target and promptly assess and regulate new and existing chemicals.<sup>2</sup> There remain large, troubling gaps in the available data and state of knowledge on many widely used chemicals in commerce, and EPA's authority to require development and submission of information and testing data is limited by legal hurdles and procedural requirements. Accordingly, the Administration in September 2009 issued a statement on Essential Principles for Reform of Chemicals Management Legislation to help inform efforts by the Congress to reauthorize and strengthen TSCA.

Another statute that helps EPA in its work to address chemical risks is the 1990 Pollution Prevention Act (PPA).<sup>3</sup> Under this law, which established as a national policy the prevention of pollution before it is generated, EPA fosters the development of pollution prevention (P2) solutions and promotes increased use of those solutions. P2 solutions include safer, greener materials and products, and improved practices, such as conservation techniques and reuse and remanufacturing of hazardous secondary materials in lieu of their discard. These strategies have proven highly effective in advancing sustainability, resulting in major reductions in hazardous materials, greenhouse gases, and water use. These strategies have simultaneously increased the availability and use of safer chemicals and products, and helped businesses increase job growth and competitiveness. EPA will continue these successful strategies by: providing technical assistance and training to states, tribes, businesses, and others on P2 solutions; developing resources and tools, such as calculators and guidelines, to facilitate development and use of P2 solutions; and further enhancing the ability of the public and the business sector to make environmentally friendly purchasing decisions.

## Ensure Chemical Safety

Chemical safety remains one of EPA's highest priorities. EPA employs a variety of strategies under several statutes to ensure the safety of chemicals, adequately protect against unreasonable public health or environmental risks, and foster sustainability. These include:

- ◆ Acting under TSCA to ensure that new industrial and commercial chemicals do not pose unreasonable risk before they are introduced into commerce;
- ◆ Assessing existing chemicals already in use before TSCA took effect (62,000 chemicals were already in use in commerce before 1978) and acting to reduce identified risks and to identify and promote safer alternatives;
- ◆ Empowering the public and decision makers by making chemical safety information more widely available and usable;
- ◆ Acting under the Federal Insecticide, Rodenticide, and Fungicide Act (FIFRA) and the Endangered Species Act to ensure that pesticides are used safely and effectively; and
- ◆ Developing and applying protocols to assess chemicals' potential to interact with the endocrine system.

EPA uses predictive techniques to assess the safety of new chemicals in the face of information limitations imposed by TSCA. More daunting has been the challenge of assessing and acting where needed on the more than 60,000 existing chemicals "grandfathered" under the statute.<sup>4</sup> On that front, the Agency has made considerable progress in recent years, working in cooperation with stakeholders by using all available information to put these chemicals through a prioritization methodology. This effort led to the identification of a set of more than 80 chemicals (TSCA work plan chemicals) for further assessment. EPA believes that these are the chemicals most in need of risk assessment and that adequate data exist for that purpose. The first five risk assessments for TSCA work plan chemicals were made available by EPA for public and peer review less than a year after they were publicly identified for assessment.

Assessments of 23 additional chemicals—including 20 flame retardants—were announced in 2013. Looking forward, EPA plans to assess all of the remaining work plan chemicals to initiate risk management actions as appropriate, and identify additional work plan chemicals for subsequent priority assessment. EPA is establishing an FY 2014–2015 Agency Priority Goal for this effort.<sup>5</sup>

Recognizing the crucial role that the public, state, tribal, and local partners, institutions, and industry play in ensuring chemical safety, EPA has expanded web access to the Agency's chemical information and assessment tools, with a focus on identifying safer chemicals. At the same time, two newly developed electronic tools will greatly improve data quality and public accessibility. These are the Chemical Information System (CIS), which will speed the Agency's transition to electronic reporting and processing for required chemical safety information, and the interactive ChemView Portal, which will enable both internal and external users to access TSCA chemical data stored in EPA systems quickly and easily. Planned enhancements to CIS will extend electronic reporting to nearly all required TSCA submissions and integrate the system with scientific tools, dashboards, and models used in making chemical management decisions. In addition, EPA is working to expand the ChemView Portal to further broaden public access to TSCA chemical information, and has plans to enable faster, automated posting of non-confidential TSCA data to EPA's public websites. These electronic tools are components of the Agency's Next Generation Compliance initiative, aimed at designing more effective regulations that are easier to implement for improving compliance and environmental outcomes throughout the life cycle of hazardous materials; shifting toward electronic reporting by regulated entities to ensure more accurate, complete, and timely information; and expanding transparency.

EPA will make major strides in guarding against exposure to chemicals that continue to pose potential risks to human health and the environment even after their hazards have been identified and certain uses have been phased out. For example, to continue to reduce childhood blood lead levels, EPA is working in partnership with states and tribes to certify hundreds of thousands of renovators and

contractors on lead hazard management. More than 461,000 individuals have been certified by EPA alone, and nearly 130,000 firms have been certified by EPA and the states through April 2013. Certification coupled with public outreach is intended to expand public awareness of lead-based paint risks as well as the requirements for the use of lead-safe practices in renovation, remodeling, and painting activities in millions of older homes.<sup>6,7</sup>

On a broader scale, EPA is looking comprehensively across statutes to determine the best tools to apply to specific problems. For example, the Agency is exploring how to use FIFRA and TSCA to ensure that drinking water is protected from pesticides and industrial chemicals, and that chemicals found in drinking water are being screened for endocrine disrupting properties using the authorities of the Safe Drinking Water Act (SDWA) (including issuance of test orders), the Federal Food, Drug, and Cosmetic Act (FFDCA), and FIFRA.

In addition, EPA is continuing its work to increase the safety of chemicals and prevent pollution on an international scale. This is being accomplished primarily through cooperative engagement with international bodies such as the United Nations Environment Programme (UNEP) and the Organization for Economic Cooperation and Development (OECD) on scientific and technical issues. The key focus areas include harmonization of chemical test guidelines, regulatory coordination, negotiation, and implementation of global/regional standards, and instruments and assistance on pollution prevention activities. EPA is working collaboratively with stakeholders both domestically and internationally to develop approaches to better assess nanomaterials,<sup>8</sup> including work with the OECD on internationally harmonized test guidelines.

Over the next 4 years, EPA will manage a comprehensive pesticide risk reduction program through science-based registration and reevaluation processes, a worker safety program, certification and training activities, and support for integrated pest management.

- ◆ EPA's current pesticide review processes focus on ensuring that pesticide registrations comply with the Endangered Species Act and achieve

broader Agency objectives for water quality protection. The review processes will continue to place emphasis on the protection of potentially sensitive populations, such as children, by reducing exposures from pesticides used in and around homes, schools, and other public areas.

- ◆ EPA's new data requirement rule for antimicrobial pesticides will ensure that pesticide risk management decisions are based on the best available science and will contribute to a more efficient and transparent registration process through increased certainty about the data requirements. EPA's review processes ensure that pesticides can be used safely and are available for use to maintain a safe and affordable food supply, to address public health outbreaks, and to minimize property damage that can occur from insects and pests.<sup>9</sup>
- ◆ EPA has reviewed its agricultural worker protection regulation and its pesticide applicator certification regulation and will publish for public comment proposed changes to both. The proposed rulemakings are designed to ensure improved pesticide worker safety standards and pesticide applicator competency standards in the coming years.
- ◆ EPA is implementing a comprehensive testing program to screen for chemicals' potential to interact with the endocrine system.<sup>10</sup> In response to a recently concluded program evaluation, EPA has developed a comprehensive management plan for the endocrine disruptor screening program, providing a clear workplan, projected milestones, and vision for developing a more efficient and effective screening and testing program through the application of computational toxicology methods. Use of these methods may have the added benefit of helping to reduce the need for animal testing when conducting chemical screening and risk assessment.

To ensure the continued effectiveness of the various chemical programs, EPA will conduct several evaluations over the next 4 years. In FY 2014, EPA will initiate a review of critical factors that have an impact on the effectiveness of the Agency's risk assessment efforts for TSCA work plan chemicals. In

FY 2015, the Agency will evaluate the effectiveness of recently implemented efficiencies to the registration review process to identify further enhancements and efficiencies to the process. EPA will also conduct biennial reviews in 2015 and 2017 to determine whether the level of fees charged to the submitters of New Chemical Pre-Manufacture Notices and to the applicants for certification to perform lead renovation, repair, and painting work and lead abatement work are appropriate.

### External Factors and Emerging Issues

As we look to the future, it is important to continue working together with Congress and stakeholders to modernize and strengthen the tools available under TSCA to prevent harmful chemicals from entering the marketplace and to increase confidence that those chemicals that remain are safe and do not endanger the environment or human health, especially for consumers, workers, and sensitive subpopulations like children. Potential legislative action to reauthorize TSCA is both a key external factor and a key emerging issue. Consistent with the Administration's essential principles, EPA's authority under TSCA should be modernized and strengthened to increase confidence that chemicals used in commerce are safe and do not endanger public health and welfare. EPA is committed to working with the Congress, members of the public, the environmental community, and industry to reauthorize TSCA.

On April 30, 2013, the National Academy of Sciences' National Research Council (NRC) released its recommendations for assessing risks from pesticides to listed species under the Endangered Species Act and FIFRA. The Environmental Protection Agency, U.S. Department of Agriculture, U.S. Fish and Wildlife Service, and National Marine Fisheries Service are working collaboratively and expeditiously to review the report and identify improvements in the current scientific procedures used in evaluating the potential impacts of pesticides to endangered and threatened species. On November 13, 2013, the federal agencies released a white paper detailing an interim approach for implementing the panel's recommendations.<sup>11</sup> We currently anticipate that implementation of the recommendations could take 18–36 months, which



could have an impact on our progress in developing preliminary risk assessments and completing decisions for pesticides as part of the registration review program.

Finally, a number of chemical safety programs are affected by changing levels of economic activity. For example, EPA's work in certifying firms to perform lead renovation, repair, and painting work depends partly on fluctuations in the level of demand for such services, which are related in turn to economic conditions in the housing market.

## Promote Pollution Prevention

The PPA established national policy for the use of P2 as the first choice in addressing pollution at the source. Time and experience have added to our understanding and appreciation of the value of preventing pollution before it occurs. P2 is central to all of EPA's sustainability strategies, and EPA will continue to incorporate P2 principles into its policies, regulations, and actions.<sup>12</sup>

EPA strives to prevent pollution by fostering the development of P2 solutions and promoting increased use of those solutions. The results of these strategies include significant reductions in the use of hazardous materials, energy, and water and in the generation of greenhouse gases, as well as significant increases in the availability and use of safer chemicals and safer chemical products. EPA's successful implementation of these strategies also enables businesses, governments, and other institutions to reduce their costs. These strategies are key elements of EPA's approach to achieving a sustainable future.

Specific activities conducted to implement these strategies include:

- ◆ Fostering the development of P2 innovations:
  - Promoting green chemistry and green engineering, and developing educational curricula;
  - Establishing technical criteria for chemical alternatives assessments;
  - Participating in the development of voluntary consensus standards and other safer chemical products criteria, including participating in international cooperative efforts;
  - Establishing greener purchasing and management practices (i.e., environmentally preferable purchasing); and
  - Incorporating P2 solutions in regulatory options or requirements.
  
- ◆ Promoting increased use of P2 innovations:
  - Providing and promoting technical assistance, such as establishing Economy, Energy, and Environment (E3) Partnerships (in conjunction with the Departments of Agriculture, Commerce, Energy, and Labor, and the Small Business Administration) or providing technical assistance on manufacturing, green sports, or other business sectors;
  - Demonstrating the benefits of P2 solutions;
  - Labeling safer products by working with key stakeholders through the Design for the Environment (DfE) program;
  - Leveraging the power of federal purchasing; and
  - Coordinating with other P2 offices across the Agency with shared audiences or sustainability approaches, including ENERGY STAR, WaterSense, the sustainable materials management program, and other complementary programs between Goal 3 and Goal 4.

## External Factors and Emerging Issues

The Agency's multimedia P2 efforts are affected by changes in economic conditions. Much of EPA's P2

work is voluntary, so success depends in part on participation levels by industry, government agencies, and members of the public.

## Applied Research

EPA chemicals research will provide the scientific foundation required to support safe, sustainable use of chemicals to promote human and environmental health, as well as to protect vulnerable species and populations. This work includes enhancing the Integrated Risk Information System (IRIS) program to ensure the highest quality human health assessments are produced in a timely fashion. Innovative research will provide the tools to:

- ◆ Assess safety of high-priority chemicals and advance our understanding of the cumulative risks that may result from multiple chemical and non-chemical stressors.
- ◆ Enhance chemical screening and testing approaches for priority setting and context-relevant chemical assessment and management.
- ◆ Inform Agency actions and help local decision makers manage and mitigate exposures to contaminants of greatest concern.

- ◆ Promote innovations in green chemistry and green engineering to help encourage use of safer chemicals in commerce.
- ◆ Evaluate human health and ecological risks associated with new chemical substitutes designed to promote safer alternatives.
- ◆ Provide the systems understanding needed to adequately protect the health of children and other vulnerable groups.

EPA homeland security research helps the Agency carry out its mission to prepare for and respond to man-made disasters (e.g., terrorism, industrial accidents) and natural disasters (e.g., hurricanes, floods), leading to more resilient communities. Specifically, EPA conducts research on:

- ◆ Improving the resiliency of the nation's water infrastructure to disasters.
- ◆ Cleanup of indoor and outdoor contamination following a disaster.
- ◆ Analytical methods for EPA's Environmental Response Laboratory Network that tests samples from disaster sites.

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## End Notes:

1. The following links are to selected government sources that provide useful information on environmental health risks to children:

*A Framework for Assessing Health Risk of Environmental Exposures to Children* (2006), available at <http://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=158363>.

*Child-Specific Exposure Factors Handbook* (2008), available at <http://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=199243>.

*Guidance on Selecting Age Groups for Monitoring and Assessing Childhood Exposures to Environmental Contaminants* (2005), available at <http://www.epa.gov/raf/publications/guidance-on-selecting-age-groups.htm>.

*Guide to Considering Children's Health When Developing EPA Actions: Implementing Executive Order 13045 and EPA's Policy on Evaluating Health Risks to Children* (2006), available at [http://yosemite.epa.gov/ochp/ochpweb.nsf/content/ADPguide.htm/\\$File/EPA\\_ADG\\_Guide\\_508.pdf](http://yosemite.epa.gov/ochp/ochpweb.nsf/content/ADPguide.htm/$File/EPA_ADG_Guide_508.pdf).

*Policy on Evaluating Risk to Children* (1995), available at <http://www.epa.gov/spc/2poleval.htm>.

*Summary Report of the Technical Workshop on Issues Associated with Considering Developmental Changes in Behavior and Anatomy when Assessing Exposure to Children* (2001), available at <http://www.epa.gov/raf/publications/sum-report-tech-wrkshp-development-changes-behavior.htm>.

*Supplemental Guidance for Assessing Susceptibility from Early-Life Exposure to Carcinogens* (2005), available at [http://www.epa.gov/raf/publications/cancer\\_guidelines/sup-guidance-early-life-exp-carcinogens.htm](http://www.epa.gov/raf/publications/cancer_guidelines/sup-guidance-early-life-exp-carcinogens.htm).

2. Essential Principles for Reform of Chemicals Management Legislation. Available at <http://www.epa.gov/oppt/existingchemicals/pubs/principles.html>.
3. The text of the Pollution Prevention Act (PPA) can be found at <http://www.epa.gov/p2/pubs/p2policy/act1990.htm>.
4. EPA chemical safety program information is available at <http://www.epa.gov/oppt/existingchemicals/>, <http://www.epa.gov/oppt/newchemicals/>, and <http://www.epa.gov/oppt/nano/>.
5. FY 2014–2015 Agency Priority Goal: Assess and reduce risks posed by chemicals and promote the use of safer chemicals in commerce. By September 30, 2015, EPA will have completed more than 250 assessments of pesticides and other commercially available chemicals to evaluate risks they may pose to human health and the environment, including the potential for some of these chemicals to disrupt endocrine systems. These assessments are essential in determining whether products containing these chemicals can be used safely for commercial, agricultural, and/or industrial uses.
6. Information about childhood lead poisoning is available at [www.epa.gov/lead](http://www.epa.gov/lead).
7. EPA Lead-Safe Certification Program, information available at <http://www.epa.gov/lead/pubs/toolkits.htm>.
8. Nanomaterials are chemical substances or materials manufactured and used at a very small scale—down to 10,000 times smaller than a human hair. See also, [www.nano.gov](http://www.nano.gov).
9. EPA pesticides program information is available at <http://www.epa.gov/pesticides>.
10. Information about the EPA endocrine disruptor screening program is available at <http://www.epa.gov/scipoly/oscpendo/index.htm>.
11. The white paper is available at <http://www.epa.gov/espp/2013/interagency.pdf>.
12. EPA pollution prevention program information is available at <http://www.epa.gov/p2/>.

# Goal 5: Protecting Human Health and the Environment by Enforcing Laws and Assuring Compliance



***Protect human health and the environment through vigorous and targeted civil and criminal enforcement. Use Next Generation Compliance strategies and tools to improve compliance with environmental laws.***

Vigorous enforcement supports EPA's ambitious mission to protect human health and the environment. Achieving our goals for water that is safe to drink, lakes and streams that are fishable and swimmable, air that is clean to breathe, and communities and neighborhoods that are free from chemical contamination requires both new strategies and compliance with the rules we already have. To help achieve these goals, EPA authorizes state, tribal, and territorial agencies to directly implement environmental laws. Federal, state, and tribal agencies work cooperatively together as co-regulators to achieve compliance, with delegated or authorized states conducting the vast majority of enforcement activities across the country. By addressing noncompliance swiftly and effectively, state, tribal, and EPA civil and criminal enforcement cases directly reduce pollution and risk, and deter others from violating the law.

EPA will continue to focus federal enforcement resources on the most important environmental problems where noncompliance is a significant contributing factor, and where federal enforcement attention can have a significant impact. This strategy means EPA's top enforcement priority will be pursuing large, complex cases that require significant investment and a long-term commitment. We anticipate this strategy will result in a higher level of public health protection because of the significant impacts associated with the large cases, and the precedent they set for performance of large facilities across the country.

## Objective

- **Enforce Environmental Laws to Achieve Compliance.** Pursue vigorous civil and criminal enforcement that targets the most serious water, air, and chemical hazards in communities to achieve compliance. Assure strong, consistent, and effective enforcement of federal environmental laws nationwide. Use Next Generation Compliance strategies and tools to improve compliance and reduce pollution.

*Strategic measures associated with this Goal are on pages 73 through 75.*

Our commitment to the largest most complex cases that have the biggest impact necessarily means that we will be doing fewer cases overall. This approach best protects public health not only by addressing the most serious pollution problems, but also by directing EPA's resources to important cases that may not be addressed by states because the environmental and human health risks or the patterns of noncompliance are broad in scope and scale such that EPA is best suited to take action. This strategy will also help maintain the enforcement program's effectiveness given limited resources. The 5-year targets for the enforcement program's strategic measures reflect the anticipated effects of this approach.

As an important supplement to a strong enforcement program, EPA is investing in “Next Generation Compliance” using advanced technologies and embracing new strategies for rule design and case targeting. Robust enforcement is critically important for addressing violations and promoting deterrence. But enforcement alone will not be enough to achieve compliance results that protect public health or to assure that businesses that comply with the law do not have to compete with companies that do not play by the rules. Next Generation Compliance takes advantage of new information and monitoring technologies as well as innovative strategies to make rules and permits more effective, enabling EPA, states, and tribes to get better compliance results and tackle today’s compliance challenges. Next Generation Compliance will help EPA and the states move toward achieving more reliable compliance with standards designed to protect the public and the environment. It is the right direction for the Agency regardless of resources because it will increase effectiveness, and it becomes more urgent in a time of challenging budgets, when we need to reduce pollution, improve compliance, and target our enforcement cases where they will make the most difference.

## Enforce Environmental Laws to Achieve Compliance

Effective targeting of compliance monitoring and vigorous civil and criminal enforcement play a central role in achieving the goals EPA has set for protection of health and the environment. Targets for most of the enforcement measures will remain steady over the life of this Strategic Plan. For some other measures, the strategic direction outlined in this Plan will affect the targets, as described in the “Strategic Measurement Framework” section of this Plan. What remains constant is EPA’s focus on the cases that have the highest impact on protecting public health and the environment.

- ◆ **Addressing Climate Change and Improving Air Quality:** EPA will continue to take effective actions to reduce air pollution from the largest sources, including coal-fired power plants and the cement, acid, glass, and other sectors, to improve air quality. Enforcement to cut toxic air

pollution in communities improves the health of communities, particularly communities that are disproportionately affected by pollution. EPA will work to assure compliance by the energy extraction sector, where violations can lead to air and water impacts that pose a potential risk to human health. EPA will also work to ensure compliance with climate change standards, including the greenhouse gas reporting rules.

- ◆ **Protecting America’s Waters:** EPA has been working with states and cities to make progress on the most important water pollution problems. The Agency will continue to focus on getting raw sewage out of water and reducing pollution from stormwater runoff, using common sense and affordable approaches to tackle the most important problems first and incorporating green infrastructure for cost-effective reduction of pollution while enhancing communities. EPA is committed to working with communities to incorporate green infrastructure, such as green roofs, rain gardens, and permeable pavement, into permitting and enforcement actions to reduce stormwater pollution and sewer overflows where applicable. EPA, together with the states, continues to implement the Clean Water Act Action Plan<sup>1</sup> by ensuring the implementation of fundamental changes to the national pollutant discharge elimination system (NPDES) program, such as coordinated permitting, compliance, and enforcement programs to protect and improve water quality. The enforcement program continues to address pollution from animal waste, take enforcement action to reduce pollution in large aquatic ecosystems like the Chesapeake Bay, and assist in revitalizing urban communities by protecting urban waters.

Enforcement also supports the goals of assuring safe drinking water for all communities, including in Indian country, and improving the quality of drinking water data reported by states to ensure compliance.<sup>2</sup> Sustained and focused enforcement attention resulted in a 75 percent reduction in the number of public drinking water systems with serious unresolved violations between January 2010 and October 2013 through the combined efforts of federal and state agencies.

- ◆ **Cleaning Up Communities and Advancing Sustainable Development:** EPA protects communities by requiring responsible parties to conduct cleanups, saving federal dollars for sites where there are no other alternatives. Aggressively pursuing these parties to clean up sites ultimately reduces direct human exposures to hazardous pollutants and contaminants, provides for long-term human health protection, and makes contaminated properties available for reuse.
- ◆ **Ensuring the Safety of Chemicals and Preventing Pollution:** Reforming chemical management and reducing exposure to pesticides and other toxics will help protect human health. Enforcement reduces direct human exposures to toxic chemicals and pesticides and supports long-term human health protection.

Criminal enforcement underlines our commitment to pursuing the most serious pollution violations. EPA's criminal enforcement program will focus on cases across all media that involve serious harm or injury; hazardous or toxic releases; ongoing, repetitive, or multiple releases; serious documented exposure to pollutants; and violators with significant repeat or chronic noncompliance or prior criminal conviction. EPA's criminal enforcement program will continue to work collaboratively with its state and local law enforcement counterparts, as well as the U.S. Department of Justice. Many successful and important EPA criminal investigations result from enhanced coordination among all levels of government. An example is the prosecutions surrounding the Deepwater Horizon explosion, which led to the death of 11 people and was the largest marine oil spill in United States history. EPA's criminal enforcement program worked with multiple federal and state agencies and the U.S. Department of Justice, resulting in the single largest criminal resolution in the history of the United States as of 2013.

EPA shares accountability for environmental and human health protection with states and tribes. We work together to target the most important pollution violations and to ensure that companies that do the right thing and are responsible neighbors are not put at a competitive disadvantage. The Agency also has a responsibility to oversee EPA-authorized state and tribal implementation of federal laws to ensure

that the same level of protection for the environment and the public applies across the country.

Enforcement can help to promote environmental justice by tackling noncompliance problems that disproportionately impact low-income, minority, and tribal communities. Ensuring compliance with environmental laws is particularly important in communities that are exposed to greater environmental health risks. EPA fosters community involvement by making information about compliance and government action available to the public. In addition to ensuring compliance and promoting environmental justice, EPA enforcement actions also result in companies investing in actions and equipment to control pollution, mitigating harm from past violations, and undertaking additional projects that benefit the environment and public health (known as supplemental environmental projects, or SEPs). EPA will continue to use all of these tools to protect communities.

In addition to vigorous enforcement of environmental laws, EPA is investing in Next Generation Compliance to take advantage of advances in pollution monitoring and information technology in order to reduce pollution and improve results. By building compliance drivers into regulations and permits, and using them across our compliance programs, these tools will enable EPA, states, and tribes to focus on the most serious environmental problems and to better protect communities.

Through the increased use of new information and monitoring technologies and other compliance strategies, Next Generation Compliance will allow us to identify pollution issues and will assist both government and industry to find and fix pollution and violation problems. Next Generation Compliance supports EPA's new E-Enterprise initiative by promoting electronic reporting, advanced monitoring, and transparency. Electronic reporting allows for more accurate and timely information on pollution sources, as well as public access to pollution and compliance information. A new collaborative state-EPA effort, the E-Enterprise Leadership Council, is working to establish a joint approach on information technology and program management infrastructure issues. Confirming the accuracy and completeness of existing and future data that are collected and protecting confidential business information remain priorities

for EPA, states, and tribes. In collaboration with states and in consultation with our tribal partners, E-reporting and advanced monitoring technologies will ultimately lead to better, more timely data for decision making and public transparency.

Next Generation Compliance also includes tools to help EPA design regulations and permits that will result in higher compliance and improved environmental outcomes. Regulations and permits are more likely to be implemented and compliance is likely to be higher when rules and permits are clear and easily understood, are provided in a user-friendly format, and contain built-in approaches that drive better compliance, such as improved monitoring, self- and third-party certifications, public disclosure/transparency, and easily monitored product designs or physical structures in facilities. EPA is also building on recent, measurable successes in innovative compliance efforts, such as the drinking water enforcement approach launched in 2010 that required public water systems with serious violations to return to compliance within 6 months or face an enforcement action by states or EPA. Use of this approach resulted in a decrease of approximately 75 percent in the number of public water systems classified as serious violators between January 2010 and October 2013. EPA is enhancing its ability to find and document violations through new targeting tools and data analysis to better identify, publicize, and respond to the most serious violations.

The Agency is also exploring innovative enforcement approaches such as providing electronic responses to electronically reported violations, and expanding the use of Next Generation Compliance tools in enforcement settlements. Through these and other Next Generation Compliance efforts, EPA will design the compliance programs of the future and work to

maintain strong enforcement and improve compliance. EPA, states, tribes, and other partner agencies are beginning to invest in this transformation together—and anticipate realizing both efficiencies and cost savings while protecting human health and the environment. If implemented as proposed, the proposed NPDES Electronic Reporting Rule, as one example, will save money for states, tribes, and territories as well as EPA and NPDES permittees, while resulting in a more complete, accurate, and nationally consistent set of data about the NPDES program. The proposed rule would provide states with regulatory relief from reporting associated with the Quarterly Noncompliance Report (QNCR), the Annual Noncompliance Report (ANCR), the Semi-Annual Statistical Summary Report, and the biosolids information required to be submitted to EPA annually by states.

### External Factors and Emerging Issues

Advanced monitoring technology and information technology are rapidly evolving fields. Until recently, for example, air pollution measurement was primarily left to trained scientists and technicians employing sophisticated instruments and methodologies to evaluate data quality. New breakthroughs in sensor technology, as well as advances in smart phone, GPS, and other information technology, have made inexpensive, portable monitoring and measurement of air pollution possible today, not only for government regulators, but for the public as well. In promulgating rules, developing policies, and targeting compliance monitoring and enforcement, EPA has always welcomed and considered relevant data from all sources. EPA will need to work closely with states, tribes, and the public to help interpret and provide context for data derived from such new technologies, and to ensure that EPA uses data of high quality.

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### End Notes

1. Information on the Clean Water Act Action Plan can be accessed at <http://www2.epa.gov/enforcement/clean-water-act-cwa-action-plan>.
2. An FY 2011 Government Accountability Office (GAO) report highlighted the seriousness of under-reporting Safe Drinking Water Act (SDWA) data. EPA followed up and will continue to take action to improve the quality of data reported by states.

# Summary of Program Evaluation

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The Administration is encouraging departments and agencies across the federal government to use a broad range of analytical and measurement tools (“an evidence infrastructure”) to learn what works and what does not to improve performance results.<sup>1</sup> Among the most important analytical tools is program evaluation, producing rigorous evidence about program effectiveness as well as identifying lessons that may be helpful in shaping agency strategic planning in the future. EPA has used program evaluation and applied research to inform its approach to meeting the strategic objectives in the *FY 2014–2018 EPA Strategic Plan*.

Program evaluation results may affirm existing strategies or identify opportunities for improvement, or may lead to changes in policy, resource decisions, or program implementation. For example, EPA undertook an evaluation of how effectively the Agency is managing the human health and environmental risks of nanomaterials—substances smaller than one-tenth of a micrometer—because of their unique properties. Nanomaterials increasingly are being used in a wide range of scientific, environmental, industrial, and medical applications. The evaluation has led to a more concerted effort to promote research on nanomaterials and make more effective use of our regulatory authorities—the Federal Insecticide, Fungicide, and Rodenticide Act and the Toxics Substances Control Act—to address these chemicals. Results from an Agency evaluation of the Superfund green remediation strategy are being used to determine whether the program’s 40 specific action items are adequately encouraging environmentally beneficial clean up and resource conservation at Superfund sites. An assessment of the ENERGY STAR product labeling program has given us a better understanding of which products are delivering the greatest program savings and which product categories still have untapped potential for greater gains. Other findings

have helped the program revise or augment marketing and communication strategies to get the most impact from public recognition of the ENERGY STAR label and consumer buying patterns and habits.

We also look to the results of planned upcoming program evaluation projects to inform our program strategies in the future. Three of these planned evaluations include:

1. A midpoint assessment of the progress toward meeting and maintaining reduced nutrient and sediment pollution loads in the Chesapeake Bay as part of the 2025 goals of the Chesapeake Bay Program Partnership;
2. An examination of third-party inspection and cleanup programs in the underground storage tank program to identify key components of successful programs that can be shared with state partners and used as models for state adoption; and
3. Research under the National Air Toxics Assessment (NATA), which will continue the work done in 2005 to identify and prioritize air toxics, types of emission sources, and geographic locations that pose the greatest potential risk to the population and to serve as a basis for determining further steps toward reduction of emissions, as necessary.

EPA has included in the goal chapters some illustrative examples of how the results of program evaluations and applied research have informed Agency strategies in this *Strategic Plan*. Additional information about recently completed program evaluations and research that informed the *EPA Strategic Plan* and a preliminary list of future program evaluations is available at the *EPA Strategic Plan* website.<sup>2</sup>

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## End Notes

1. Fiscal Year 2014 Budget, Analytical Perspectives, Performance and Management Section, Chapter 7 “Delivering High Performance Government” and Chapter 8, “Program Evaluation and Data Analysis.” This document can be found at [http://www.whitehouse.gov/omb/budget/Analytical\\_Perspectives](http://www.whitehouse.gov/omb/budget/Analytical_Perspectives).
2. The *EPA Strategic Plan* website is <http://www2.epa.gov/planandbudget/strategicplan>.

# Cross-Agency Strategies

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## Introduction

Since EPA's inception over 40 years ago, we have focused not only on our mission to achieve environmental and human health results, but also on how we work to accomplish those results. Achievement of each of these goals and objectives is shared across EPA. Through this *Plan*, EPA is placing an increased focus on *how* we work to achieve those results.

We have developed a set of cross-agency strategies that stem from the Agency's priorities and are designed to fundamentally change how we work, both internally and externally, to achieve the mission outcomes articulated under our five strategic goals and core values of science, transparency, and the rule of law. This *Plan* describes the vision and operating principles for each of the cross-agency strategies:

- ◆ Working toward a sustainable future;
- ◆ Working to make a visible difference in communities;
- ◆ Launching a new era of state, tribal, local, and international partnerships; and
- ◆ Embracing EPA as a high-performing organization.



For each of these strategies, the Agency will develop annual action plans with commitments that align with existing planning, budget, and accountability processes, and that support EPA's research and development agenda as appropriate. In implementing these strategies through annual action plans, we are committing to a focused effort to undertake tangible, measurable actions to transform the way we deliver environmental and human health protection.

# Working Toward a Sustainable Future



***Advance sustainable environmental outcomes and optimize economic and social outcomes through Agency decisions and actions, which include expanding the conversation on environmentalism and engaging a broad range of stakeholders.***

EPA will consider and apply sustainability principles to its work on a regular basis, collaborating closely with stakeholders. Our traditional approaches to risk reduction and pollution control cannot always fully achieve our long-term and broad environmental quality goals. The interplay between different environmental statutes and programs also requires renewed attention to improve “synergy” and long-term solutions. To this end, EPA will also embrace a commitment to focused innovation to support solutions that will advance sustainable outcomes. This cross-agency strategy advances the national goal of achieving “conditions under which humans and nature can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations,” as established in the National Environmental Policy Act of 1969 (NEPA). This goal expresses a foundational concept in the President’s Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance.

To integrate sustainability into the Agency’s day-to-day operations, all headquarters and regional offices will routinely consider the following principles in their decisions and actions, as appropriate:

1. Conserve, protect, restore, and improve the supply and quality of natural resources and environmental media (energy, water, materials, ecosystems, land, and air) over the long term;
2. Align and integrate programs, tools, incentives, and indicators to achieve as many positive outcomes as possible in environmental, economic, and social systems; and
3. Consider the full life cycles of multiple natural resources, processes, and pollutants in order to prevent pollution, reduce waste, and create a sustainable future.

We will work within and across programs, use all available tools, and implement innovative approaches. We will build on our wide range of existing sustainability-related activities, including community-based sustainability activities. We will use incentive-based efforts to complement our foundation of regulations. We will encourage technology-based innovation through challenges and partnerships. We will review new and key existing regulations to examine sustainable enhancements. We will integrate efforts with a new commitment to innovation and greater and more strategic (“high level”) use of sustainability-related data and information. This strategy specifically focuses on several actions to enhance EPA’s sustainability work:

- ◆ **Identify selected cross-program priority areas that maximize EPA’s ability to advance sustainability objectives and take appropriate actions to:**
  - Incorporate sustainability principles into regulatory, enforcement, incentive-based, and partnership programs;

- Use available incentives, education, information, and disclosure to enhance the ability of markets to reward sustainability;
  - Coordinate grants, contracts, and technical assistance to promote sustainable outcomes;
  - Advance sustainability science, indicators, and tools;
  - Promote new ways to encourage technology-focused innovation that supports Agency priorities for sustainability. Use EPA's Technology Innovation Roadmap to guide EPA in stimulating and supporting technology innovation around key environmental challenges; and
  - Use systems-based approaches that account for linkages between different environmental systems.
- ◆ **Engage and empower EPA staff.** Build on staff knowledge of and experience with sustainability and innovation through multiple forms of in-reach, education, and guidance for incorporating sustainability principles into Agency work in a multi-disciplinary way. Develop clear Agency leadership expectations for training at all levels to help equip employees with necessary data and tools to identify appropriate opportunities, network internally and externally, establish governance and accountability structures, provide everyday encouragement and recognition, and lead by example in our own operations. These efforts will improve the ability of all staff to be effective environmental stewards and to help secure a healthy, just, and flourishing quality of life for current and future generations.
- ◆ **Expand the conversation on environmentalism by engaging and empowering stakeholders, including groups with which EPA has not traditionally worked, using multiple forms of outreach, collaboration, and information.** Beginning with the cross-program priority areas identified, we will communicate and partner with key stakeholders, including federal, state, and local agencies, tribes, the agricultural and manufacturing sectors, small businesses, industry, non-governmental organizations, the research community, international organizations, communities with environmental justice concerns, citizens, and other partners, both urban and rural, including those who have been underrepresented, to achieve more innovative and sustainable outcomes. In keeping with our objective to strengthen partnerships, EPA will emphasize transparency and clarity in its communications, including environmental education outreach. Through collaboration and research, we will improve our ability to drive innovation and expand the conversation on environmentalism to address related social and economic issues, especially in communities with vulnerable populations or environmental justice concerns.

# Working to Make a Visible Difference in Communities



***Align community-based activities to provide seamless assistance to communities, both urban and rural, while maximizing efficiency and results. Expand support of community efforts to build healthy, sustainable, green neighborhoods and reduce and prevent harmful exposures and health risks to children and underserved, overburdened communities.***

**E**PA must work collaboratively across all programs and hand in hand with other federal agencies, states, tribes, and local communities to improve the health of all families and protect the environment. EPA must expand the work we do to enhance the resiliency, health, and economic vitality of communities and neighborhoods through increased analysis, better science, and enhanced community engagement while continuing to advance environmental justice (EJ) and ensure the protection of basic fundamental rights.

Public health and environmental protection impacts affect us most significantly where we live—at the community level. Both urban and rural communities reap the benefits of a healthier environment in the form of safe drinking water, less polluted air, greater access to green space, and more environmentally sustainable choices for daily living. EPA's national regulatory efforts, such as eliminating lead from gasoline, have historically contributed to these outcomes. But equally important are EPA's many community-based efforts which, among other things, work for environmental justice, protect children's health, and reduce exposures and consider cumulative risks for vulnerable populations. These efforts and commitments will be carried out in partnership with Agency sustainability goals and will lead to better results for all communities.

While EPA efforts have a direct, positive impact on the health and environmental quality of communities, EPA will place additional focus on changing the way we work so that communities can easily identify and achieve their full potential. EPA believes environmental progress can be better supported, demonstrated, and measured in communities, especially those with environmental justice concerns, so that all equally receive the benefits of human health and environmental protection standards. Millions of minority, low-income, tribal, and indigenous individuals are at risk of having poor health outcomes because they live in underserved, overburdened communities. EPA can make a greater and more visible difference by embracing strategies that incorporate an Agency-wide focus on communities. An Agency-wide community perspective helps to leverage diverse resources effectively and supports efforts for identifying sustainable solutions. Specifically, EPA will rely on a variety of approaches, including improved meaningful outreach to communities, better internal alignment and coordination of resources across community-based programs, increased incorporation of EPA community-focused approaches and analyses within regulatory and enforcement actions, and expanded technical assistance and research to improve public health and the environmental performance of communities. Partnering with federal, state, and local governments, as well as other entities, is key to cultivating healthy and sustainable neighborhood

solutions that reflect effective land use, green development, and social and economic growth.

To achieve this goal, EPA will proactively work to:

- ◆ **Improve internal coordination, alignment, and accountability for EPA community-based activities, programs, and tools in order to advance environmental results for communities.** Incorporate community-based strategies as a fundamental, organizing principle in EPA core programs and policies by consistently sharing experience and expertise, adopting promising tools, replicating relevant models (e.g., Promising Practices to Improve Community Performance and Sustainability, Plan EJ 2014, Urban Waters Initiative), and improving measurement and tracking of community-based efforts. These models engage multiple partners in the community (local and federal government partners, nonprofit groups, local businesses, and residents) to identify issues and solutions across environmental media, and deliver funding and technical assistance to address the environmental risks, train the community, and share best practices. We will leverage EPA resources, increase awareness and understanding of community needs and risks and related solutions, invest in innovative research and science-based approaches, develop and use appropriate indicators, coordinate data, and track accomplishments. An ongoing priority area will be to continue to advance the work on environmental justice and children's environmental health in rulemaking, permitting, enforcement and compliance, grants, and policy-making decisions (e.g., use potential supplemental environmental projects to address community needs and increase technical assistance efficiencies).
- ◆ **Increase public access to EPA community-based resources, helping communities recognize their full engagement potential and problem-solving capacity.** Empower community dialogue, engagement, understanding,

and action through effective information sharing, including outreach and environmental education that informs the public about policy choices and environmental stewardship to benefit current and future generations. The sharing of critical, up-to-date information (such as skills and services, best practices and success stories, useful contacts, relevant grants and technical assistance, data, and multimedia strategies) supports effective community involvement. Improved information sharing builds public capacity to engage in citizen science (e.g., contribute to environmental research, complement EPA science in support of state or local problem solving, and enhance environmental protection), and encourages environmental education and environmental justice activities. The Agency will also create mechanisms at the regional and program levels to better communicate the community-based benefits of EPA's work in terms of improved public health and the environment at the local level.

- ◆ **Build on existing partnerships to create lasting, inclusive, collaborative community networks that include government and other public and private entities.** Work with federal agencies through existing partnerships (e.g., the Department of Housing and Urban Development–Department of Transportation–EPA Partnership for Sustainable Communities and the Environmental Justice Interagency Workgroup), as well as with states, tribes, communities, and other stakeholders to leverage resources, funding opportunities, and technical expertise and assistance to support healthy, sustainable, and green neighborhood solutions. Partner with research organizations and academic institutions to focus and advance basic research and create models and measures to expand the conversation on environmental and human health concerns to address priority-focused, locally based problems, specifically including environmental justice and children's environmental health issues.

# Launching a New Era of State, Tribal, Local, and International Partnerships



***Strengthen partnerships with states, tribes, local governments, and the global community that are central to the success of the national environmental protection program through consultation, collaboration, and shared accountability. Modernize the EPA–state relationship, including revitalizing the National Environmental Performance Partnership System and jointly pursuing E-Enterprise, a transformative approach to make environmental information and data more accessible, efficient, and evidence-based through advances in monitoring, reporting, and information technology.***

**T**he practice of good government, as well as the reality of limited resources, means that EPA works in concert with our partners to improve coordination, promote innovation, and maximize efficiencies to ensure our continued success. As we work together, our relationships must continue to be based on integrity, trust, and shared accountability to make the most effective use of our respective bodies of knowledge, our existing authorities, our resources, and our talents.

Successful partnerships will be based on four working principles: consultation, collaboration, cooperation, and accountability. By *consulting*, we will engage our partners in a timely fashion as we consider approaches to our environmental work so that each partner can make an early and meaningful contribution toward the final result. By *collaborating*, we will not only share information, but we will actively work together with our partners to develop innovative approaches that use and leverage all available resources to achieve our environmental and human health goals. As our work progresses, we will *cooperate*, viewing each other with respect as allies who must work successfully together if our goals are to be achieved. Through shared *accountability*, we will ensure that environmental benefits are consistently delivered nationwide. In

carrying out these responsibilities, EPA will ensure that state, tribal, and federal implementation of federal laws achieves a consistent level of protection for the environment and human health.

## With States

Under our federal environmental laws, EPA and the states share responsibility for protecting human health and the environment. With this relationship as a key component of the nation's environmental protection system, EPA will:

- ◆ Improve implementation of national environmental programs through closer consultation and collaboration to seek the most efficient use of resources, streamline business processes and administrative requirements, develop and promote innovative solutions, and further our shared governance framework by revitalizing the National Environmental Performance Partnership System (NEPPS).<sup>1</sup> We will strengthen joint EPA–state priority setting by better aligning NEPPS with EPA's national program manager guidances,<sup>2</sup> focusing on flexible, innovative approaches to achieve results, and seek ways to leverage all available mutually beneficial opportunities to share work and expertise.

- ◆ Work collaboratively with state partners to develop innovative strategies and modernize our environmental programs through the E-Enterprise initiative,<sup>3</sup> a 21st century approach that will support the nation’s environmental protection responsibilities through enhanced information sharing, increased transparency, and reduced regulatory burden, supported by advanced monitoring tools and information technologies.
- ◆ Consult with state governments early in the rule-making process to ensure that the development and implementation of rules is consistent with “EPA’s Action Development Process: Guidance on Executive Order 13132 (Federalism),” which recognizes the division of governmental responsibilities between the federal government and the states.
- ◆ Strengthen state–EPA shared accountability by focusing oversight on the most significant and pressing state program performance challenges, using data and analysis to accelerate program improvements.
- ◆ Ensure a level playing field across states to improve compliance and address the most serious violations.
- ◆ Collaborate with state research organizations to share information on EPA’s scientific and technical capabilities and solicit input to make our tools, models, and research useful and practical for the states in carrying out their environmental responsibilities.

## With Tribes

The relationship between the United States government and federally recognized tribes is unique—we work with tribes on a government-to-government basis on Agency decisions that may affect tribal interests. Our responsibility to consult with tribal governments is distinct from the general consultations we have with states and nations outside the U.S. border. As such, our consultations with tribes are governed by the EPA Policy for the Administration of Environmental Programs on Indian Reservations (November 8, 1984), Executive Order 13175 on Consultation and Coordination with Indian Tribal Governments, and the Agency’s Policy on

Consultation and Coordination with Indian Tribes (May 4, 2011). In strengthening this relationship with tribes, EPA will:

- ◆ Focus on increasing tribal capacity to establish and implement environmental programs while ensuring that our national programs are as effective in Indian country as they are throughout the rest of the nation.<sup>4</sup>
- ◆ Enhance our effort to work with tribes on a government-to-government basis, based upon the Constitution, treaties, laws, executive orders, and a long history of Supreme Court rulings.
- ◆ Strengthen our cross-cultural sensitivity with tribes, recognizing that tribes have cultural, jurisdictional, and legal features that must be considered when coordinating and implementing environmental programs in Indian country.

## With Local Partners

EPA has a unique relationship with local governments given that local governments can be both co-implementers and regulated entities under national and state environmental laws. Recognizing that local governments vary considerably,<sup>5</sup> are dealing with significant resource constraints as they work to build capacity (particularly in smaller communities), and often provide innovative leadership in environmental stewardship, EPA will:

- ◆ Maintain consistent and meaningful communications with local officials and optimize outreach efforts to improve environmental program implementation at the local level and receive recommendations on environmental issues that are important to local governments.
- ◆ Consult with local governments, as with states, early in the development of rules and policies that impact them, consistent with “EPA’s Action Development Process: Guidance on Executive Order 13132 (Federalism).”
- ◆ Promote and facilitate best practices among local officials to address pressing local environmental matters with flexible, innovative approaches that advance shared priorities.

## With International Partners

To achieve our domestic environmental and human health goals, international partnerships, including those with the business community and entrepreneurs, are essential. Pollution is often carried by winds and water across national boundaries, posing risks to human health and ecosystems many hundreds and thousands of miles away. Many concerns, like climate change, are global and, to address these and other

environmental challenges in the international arena, EPA will:

- ◆ Enhance sustainability principles through expanded partnership efforts in multilateral forums and in key bilateral relationships.
- ◆ Strengthen existing and build new international partnerships to encourage increased international commitment to sustainability goals and to promote a new era of global environmental stewardship based on common interests, shared values, and mutual respect.

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## End Notes

1. NEPPS is an environmental performance system established in 1995 and designed to improve the efficiency and effectiveness of state environmental programs and EPA–state partnerships. It is a system of principles and tools to drive performance, efficiency, and flexibility in the EPA–state relationship. It enables EPA and states to leverage their collective resources most efficiently and effectively by taking full advantage of the unique capacities and capabilities of each partner to achieve the maximum environmental and human health protection. The primary tools for establishing priorities and deploying resources are Performance Partnership Agreements (PPAs) and Performance Partnership Grants (PPGs). PPGs allow states and tribes to combine categorical grants for greater spending flexibility on state and tribal priorities. PPAs are strategic negotiated plans that articulate joint goals and priorities, key activities, and roles and responsibilities.
2. EPA's national program manager (NPM) guidances translate the Agency's budget decisions into operational program priorities, strategies, and performance measures. Issued by the five major environmental programs (air, water, waste, chemical safety and pollution prevention, and enforcement and compliance assurance), the NPM guidances inform the development of EPA work plans and grant agreements with states and tribes, including Performance Partnership Agreements, Performance Partnership Grants, and/or programmatic grants.
3. EPA has developed an FY 2014–2015 Agency Priority Goal for E-Enterprise: Improve environmental outcomes and enhance service to the regulated community and the public. By September 30, 2015, reduce reporting burdens to EPA by one million hours through streamlined regulations, provide real-time environmental data to at least two communities, and establish a new portal to service the regulated community and public. More information on Agency Priority Goals is available at <http://goals.performance.gov/agency/epa>.
4. EPA recently issued new guidance for the Indian Environmental General Assistance Program, "Guidance on the Award and Management of General Assistance Agreements for Tribes and Intertribal Consortia," May 15, 2013. The General Assistance Program (GAP) Guidance is designed to enhance the EPA–tribal partnership by establishing a framework for joint strategic planning, identification of mutual responsibilities, and targeting resources to build tribal environmental program capacities. Additionally, it augments existing GAP Guidance with a guidebook of program development indicators, providing "pathways" for capacity building and ways to measure development of programs over time.
5. Local governments may include counties, cities, water districts, air districts, ports, municipal waste management associations, economic development councils, metropolitan councils of government, and other entities.

# Embracing EPA as a High-Performing Organization



***Maintain and attract EPA's diverse and engaged workforce of the future with a more collaborative work environment. Modernize our business practices, including through E-Enterprise, and take advantage of new tools and technologies. Improve the way we work as a high-performing Agency by ensuring we add value in every transaction with our workforce, our co-regulators, our partners, industry, and the people we serve.***

**A**s today's environmental problems continue to increase in complexity, EPA's ability to respond creatively, flexibly, and effectively will demand cross-Agency approaches to problem-solving and the use of new tools and technologies. EPA will support these efforts by establishing a high-performing organization characterized by business practices that are modern, efficient, and cost effective, as well as a work environment that supports staff growth and development, and is collaborative and results driven. Becoming a high-performing organization will require changes to both our internal and external processes, and EPA will actively solicit advice and engagement from both within EPA and with our partners as we advance new tools and streamline approaches.

EPA's compelling mission to protect human health and the environment attracts workers eager to make a difference. EPA cultivates a highly skilled and diverse workforce, with employees energized by opportunities to learn and work collaboratively, and equipped to do their best work for the American people. In building a high-performing organization, the Agency is working to provide employees with a modern, inclusive, and flexible work environment, enabled by advanced information technologies and tools that enhance communication, transparency, and cooperative problem solving across the Agency and with our partners.

EPA is now moving forward with two major initiatives that are part of our efforts to create the next generation of environmental protection in our nation.

- ◆ E-Enterprise is a U.S. EPA–state initiative to improve environmental performance and enhance services to the regulated community, environmental agencies, and the public. As described in the E-Enterprise for the Environment Conceptual Blueprint, “E-Enterprise will increase transparency and efficiency, develop new environmental management approaches, and employ advanced information and monitoring technologies in a coordinated effort to manage and modernize environmental programs.”<sup>1</sup> For example, this initiative will move us from using paper to electronic transactions, increase the use of advanced monitoring technologies to obtain better, more complete information on environmental conditions and pollution sources, and deliver data that is transparent, readily available, and understandable to EPA, the states, and the general public. Through E-Enterprise, the entire environmental protection enterprise (federal, state, local, and tribal partners) will be able to regularly conduct two-way business electronically in an integrated way, reducing costs while enhancing environmental protection.
- ◆ EPA is moving forward to adopt Next Generation Compliance principles and tools to increase compliance and reduce pollution. Next Generation

Compliance uses advances in research, pollutant monitoring, and information technology; expanded transparency; electronic reporting; and innovative enforcement to reduce pollution and improve results. These tools, combined with a focus on designing rules and permits that are easier to implement, enable EPA, states, and tribes to focus on the most serious environmental problems and to better protect communities.

The Agency will focus on streamlining internal business processes and decision making at all levels. To stay current, programs must be constantly reevaluated to ensure they are well focused and cutting edge. Promulgated regulations should maximize environmental benefit while minimizing costs. EPA is committed to process improvement through the application of Lean methodologies and other business practice improvement techniques, as well as the engagement of the expertise and insights of Agency employees to identify opportunities to increase efficiency and effectiveness.<sup>2</sup>

By combining the strengths of a supportive work environment with a streamlined and collaborative business culture, EPA will establish itself as a high-performing organization known for advancing the talents, drive, and interests of employees, as well as the collaborative work in support of our common mission and the public we serve. EPA will:

- ◆ Maintain and attract the workforce of the future to ensure that EPA's employees represent diverse backgrounds and perspectives, are equipped with the most current technical skills, tools, and knowledge, and are positioned to effectively accomplish the Agency's mission and meet evolving environmental and sustainability challenges.
- ◆ Cultivate a work environment that offers a high-quality work life for all employees by engaging them in shaping Agency decisions and improving processes, and providing flexible work practices, fair and inclusive employee-friendly policies, and opportunities for continuous learning. EPA will modernize the workplace and develop and promote collaboration tools to improve communication, cross-program integration, access to information, and transparency.
- ◆ Advance the E-Enterprise initiative to improve environmental outcomes, enhance service to the regulated community and public, and reduce burden and improve collaborative management among EPA, states, tribes, and others. E-Enterprise will increase collaboration with the states as we modernize regulations to make e-reporting the "new normal" and use advanced monitoring to provide more complete and useful environmental data. Key parts of E-Enterprise will be shared information technology services and tools that states and EPA programs use and, in collaboration with the states, the development of a regulatory portal that will help regulated entities electronically report to the states and EPA. The development of E-Enterprise is one of EPA's Priority Goals.<sup>3</sup>
- ◆ In addition to compliance monitoring and enforcement actions, implement Next Generation Compliance by promoting the use of advanced monitoring and electronic reporting, designing rules that are easier to implement, expanding transparency, and using innovative enforcement approaches to increase compliance and reduce pollution.
- ◆ Streamline the Agency's internal business practices, core program processes, and decision making in areas such as acquisition and grants management, rulemaking, and permitting to ensure they are cutting edge, enhance collaboration, and improve efficiency and cost effectiveness while maximizing environmental benefits.
- ◆ Practice outstanding financial resource stewardship to ensure that all Agency programs use resources efficiently, operate with fiscal responsibility and management integrity, are effectively and consistently delivered nationwide, and demonstrate results.
- ◆ Achieve or exceed federal sustainability targets. These efforts, enhanced by sustainable workplace choices that can be routinely practiced by Agency employees, will continue to reduce EPA's environmental footprint by increasing energy efficiency, reducing greenhouse gas emissions, advancing water conservation, and reducing waste, and will provide lessons learned to share with other federal agencies.

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## End Notes

1. E-Enterprise for the Environment Conceptual Blueprint, Executive Summary, page i, as ratified by the state–EPA E-Enterprise Leadership Council on January 21, 2014. For more information, see [http://www.ecos.org/section/committees/information\\_management](http://www.ecos.org/section/committees/information_management).
2. For more information on Lean process improvement approaches, see <http://www.epa.gov/lean/government/index.htm>.
3. See the FY 2014–2015 Agency Priority Goal for E-Enterprise under the cross-agency strategy entitled “Launching a New Era of State, Tribal, Local, and International Partnerships.” More information on Agency Priority Goals is at <http://goals.performance.gov/agency/epa>.

# Strategic Measurement Framework



## Introduction

**T**he *Strategic Plan* provides the foundation for EPA's performance management system—planning, budgeting, performance measurement, and accountability. The *Plan* contains EPA's strategic measurement framework of long-term goals, objectives, and strategic measures, which describe the measurable human health and environmental results the Agency is working to achieve over the next 4 years.

To achieve the long-term goals, objectives, and strategic measures set out in this *Plan*, EPA designs annual performance measures which are presented in EPA's *Annual Performance Plans and Budgets*. The Agency reports on our performance against these annual measures in Annual Performance Reports, and uses this performance information to help establish priorities and develop future budget submissions. The Agency also uses this performance data to evaluate our progress and develop future *Strategic Plans*.

EPA's strategic planning and decision making benefits from other sources of information including program evaluations and environmental indicators. A number of the strategic measures in this *Strategic Plan* are closely related to indicators in EPA's *Report on the Environment* (ROE). The ROE identifies a set of peer-reviewed human health and environmental indicators that tracks trends in environmental conditions and environmental influences on human health. This information also helps us better articulate and improve the strategic measurement framework in EPA's *Strategic Plan*. EPA's updated ROE will provide

web-based access to explore, display, and analyze the underlying data for more than 80 indicators for air, water, land, human exposure and health, and ecological conditions along with several new sustainability indicators.

The Agency continues to look for new data and information sources to better characterize the environmental conditions targeted by our programs to improve our understanding of the integrated and complex relationships involved in protecting human health and the environment.

## Planned Changes in the Strategic Measurement Framework

Using the *FY 2011–2015 EPA Strategic Plan* as a foundation, we have continued our focus on creating the smallest, most meaningful set of strategic measures that the Agency leadership can use as a management tool. We have also updated the strategic measures to reflect targets and baselines appropriate for the FY 2014–2018 time horizon.

We will continue over the next several years to make further revisions in key areas. Our anticipated future efforts are described below.

### Tribal Capacity Building

The Agency will begin to revise how it measures and reports on the progress tribes have made in developing and implementing environmental protection programs in Indian country. This effort will build

on the new Indian General Assistance Program (GAP) guidance<sup>1</sup> designed to improve tribal capacity development milestones beyond the current indicator, which shows the percent of tribes implementing federal regulatory programs.

For example, although some tribes may not seek primacy, authorization, approval, or delegation of federal programs, they nonetheless remain important partners in ensuring environmental protection. In other cases, a tribal government works with EPA to assist with the implementation of federal environmental programs in Indian country. The Agency will establish effective measures that capture the capacity development progress of tribes seeking to establish and implement programs in these two areas while also continuing to measure and report on tribes that EPA treats in a manner similar to a state.<sup>2</sup>

New measures to reflect the progress EPA is making in building tribal capacity will be derived from a multi-year effort. As a first step, the Agency recently completed the development of a suite of environmental protection program capacity-building indicators and published them in the new GAP guidance. Tribes will use these indicators as they develop specific program capacities under the GAP. These indicators reflect examples of the range of program capacities that tribes develop, up to the program implementation phase. EPA will collect baseline data in FY 2014 to help inform the development of appropriate measures and targets in FY 2015 for reporting in FY 2016–2018.

## Water Quality

Most impaired waters take years to recover fully, and incremental improvements are currently not well represented. In 2002, states identified approximately 39,500 specific waterbodies as impaired (i.e., not attaining state water quality standards) on the Clean Water Act Section 303(d) impaired waters lists. The EPA measures that track progress towards restoring impaired waters have continued to use the 2002 baseline. While states have taken significant steps to improve impaired waters using the fixed 2002 baseline year, EPA recognizes that there are concerns with continuing to measure progress against the 2002 baseline (e.g., it does not account for water quality improvements when measured against waters

identified as impaired and listed after establishment of the 2002 baseline).

EPA is committed to working with state partners on this new approach for measuring local improvements in water quality and in the development of new measures. In the short term, EPA will allow states to report separately additional accomplishments not on the 2002 baseline. EPA commits to replacing the existing measures for attaining water quality standards and for improving water quality conditions in impaired waterbodies in the next *Strategic Plan*. EPA is considering a new approach to track water quality progress using the National Hydrography Dataset Plus (NHDPlus) to calculate watershed area for priority areas using the NHDPlus “catchments” to describe previously impaired waters that are now attaining their water quality standards. This approach also allows for the inclusion of watershed areas targeted for protection (i.e., high-quality waters). It provides a consistent method for measuring progress at the local scale, while allowing for tighter integration with data and assessments at the state and national scale. Through this effort, EPA is also working with its partners to develop new replacement strategic measures for water quality standards attainment and for improved water quality conditions in impaired waterbodies. To complete the picture on water quality, EPA will continue to encourage the use of state-wide indicators for water quality for areas beyond the focus of state priority areas. State survey results contribute information to help set future priorities and to communicate with the public on state-wide water quality status and trends as a supplement to reporting on waters within priority areas.

## Enforcement and Compliance Assurance

The *FY 2014–2018 Strategic Plan* provides an opportunity to reassess the usefulness of our current performance measures and to consider new ones. Historically, the enforcement program’s measures in the *Strategic Plan* have focused on counting our level of activity (e.g., numbers of inspections) and also case-specific results for enforcement cases (e.g., pounds of pollutants reduced) to communicate the environmental benefits of our enforcement actions. These measures provide information about how the Agency is actively and consistently performing the activities necessary to find polluters, take

appropriate action, and monitor defendants' compliance with settled enforcement cases, targeting these activities toward the most serious human health and environmental problems across a variety of regulatory programs.

These metrics are useful, and we will continue reporting on them, but they tell only part of the story. An effective program should target the biggest problems first. Under this approach, the environmental outcomes for many conventional performance measures should continually decrease over time. For example, as EPA addresses the worst pollution first in identified sectors, the pounds of pollution reduced in that sector as a result of enforcement actions should decrease over time. Our historic enforcement measures also treat all pollution the same, even though different pollutants pose different risks—reducing a pound of toxic pollution can provide similar health benefits to reducing a much larger amount of conventional pollutants. We recognize that preventing problems is both cheaper and more effective than taking action after they happen; however, our traditional metrics do not adequately account for work to prevent pollution. By focusing only on enforcement actions, the measures can have the inadvertent effect of discouraging innovative approaches that could improve compliance, and undervalue strong work by states to improve compliance.

These challenges in our performance measures have led us to think about new ways to measure the effectiveness of our work that will supplement the traditional measures. Fortunately, advances in both pollution monitoring and information technologies may help to provide answers. These advances are at the heart of Next Generation Compliance.

Next Generation Compliance is focused on the following five areas:

1. Designing regulations and permits that are easier to implement, with a goal of improved compliance and environmental outcomes.
2. Using and promoting advanced emissions and pollutant detection technology so that regulated entities, the government, and the public can more easily see quantified pollutant discharges, environmental conditions, and noncompliance.
3. Shifting toward electronic reporting by regulated entities so that we have more accurate, complete, and timely information on pollution sources, pollution, and compliance, saving time and money while improving effectiveness and public transparency.
4. Expanding transparency by making the information we have today more accessible, and making new information obtained from advanced emissions monitoring and electronic reporting more readily available to the public.
5. Developing and using innovative enforcement approaches (e.g., data analytics and targeting) to achieve more widespread compliance.

Progress toward Next Generation Compliance should eventually make additional measures of effectiveness possible. For example, electronic reporting will allow us to more reliably measure compliance across the universe of a regulated sector—something that cannot be done for most sectors today. Such a measure would credit innovative work to avoid violations, include state, tribal, and federal work toward this shared objective, and allow us to promote prevention as well as pollution reductions. By using advanced monitoring technologies to more reliably measure actual pollution (rather than relying on estimates), we will be able to compare actual pollution amounts to amounts that are permitted, allowing us to know what kinds of violations matter the most. Next Generation Compliance approaches will also support our ability and that of the states and tribes to adopt more evidence-based approaches as measurement of effectiveness becomes easier, faster, and cheaper.

While the new Next Generation Compliance strategies should allow us to add more informative measures in the future, we are not there yet. We are working with states and tribes to increase electronic reporting, but it will take years to fully implement this transition. Electronic reporting is not a panacea; it promises greater speed and transparency, but it also highlights the need to have a way to check on the accuracy of reports we receive. Advanced monitoring is being used increasingly in government and by industry, but is far from widespread. Rather than wait, and continue to rely exclusively on measures that tell an incomplete and sometimes misleading story,

**Table 1: Strategic Enforcement and Compliance Measures**

Enforcement Presence Measures	Compliance, Deterrence, and Outcome Measures	Next Generation Compliance Measures Under Discussion
<p><i>Existing Measures Through 2018</i></p>	<p><i>Existing Measures Through 2018</i></p>	<p><b>Would Supplement Existing Measures</b>  <i>EPA is continuing discussions with states, tribes, and other interested parties about ways to incorporate Next Generation Compliance approaches into our measures. Below are a few examples of the types of measures under discussion.</i></p>
<ul style="list-style-type: none"> <li>• Inspections and evaluations</li> <li>• Initiated and concluded civil judicial and administrative enforcement cases</li> <li>• Compliance status of open, non-Superfund consent decrees</li> <li>• Address cost recovery statute of limitations cases with total past costs above \$500,000</li> <li>• Reaching settlement with potentially responsible parties (PRPs)</li> <li>• Criminal cases with charges filed</li> <li>• Criminal cases with defendants convicted</li> </ul>	<ul style="list-style-type: none"> <li>• Air, water, hazardous waste, toxic, and pesticide pollutants reduced as a result of enforcement actions</li> <li>• Contaminated media reduced through enforcement actions</li> <li>• Criminal cases with most significant impacts</li> <li>• Criminal cases with individual defendants</li> </ul>	<ul style="list-style-type: none"> <li>• Number of enforcement settlements that resulted from or that incorporate advanced monitoring technologies</li> <li>• Regulated sources using advanced monitoring to measure their own emissions</li> <li>• Percent of facilities electronically reporting Clean Water Act NPDES data to authorized states and tribes and EPA</li> <li>• Public use of compliance transparency tools (ECHO, pollutant loading tool, etc.)</li> <li>• Sectors for which measureable compliance rate strategies adopted</li> </ul>

we plan to experiment with interim measures as a supplement to the more traditional metrics. These interim measures do not reflect where we want to end up, but they help to shine a light on the path ahead, and draw attention to our investment in these new approaches. We expect that these ideas will lead in the future to both better results and stronger metrics to measure our success and the success of our state and tribal partners. EPA is cognizant of the need to avoid additional burden for states and tribes as a result of developing new measures. Through this *Strategic Plan* we are hoping to begin a dialogue with states, tribes, and the public on these new directions.

Table 1 sets out a few examples of potential new measures that illustrate the kind of metrics that may be discussed as part of the national dialogue we expect to have on this issue. The measures in italics are not currently part of our suite of measures. We are keenly aware of the need to avoid increasing reporting burden, so after the dialogue with states

and tribes concludes, we expect to select only a limited number of new interim measures. Of course, for any new interim measures, we will need to define what they mean and how they will be counted. We are also reassessing the usefulness of current measures (i.e., measures in the first two columns of Table 1).

### EPA's FY 2014–2015 Priority Goals (Agency Priority Goals)

As part of this *Plan* revision, we are identifying new FY 2014–2015 Agency Priority Goals (APGs), our third round of APGs. In addition to our long-term strategic measures, these Agency Priority Goals, which have 18- to 24-month operational targets, advance our strategic goals and serve as key indicators of our near-term work. EPA will report progress on the FY 2014–2015 APGs in the *Annual Plan and Budget* and results will be available quarterly via [www.performance.gov](http://www.performance.gov).<sup>3</sup>

**Table 2: EPA's FY 2014–2015 Agency Priority Goals**

<p><b>Reduce greenhouse gas emissions from cars and trucks</b> Reduce greenhouse gas emissions from cars and trucks. Through September 30, 2015, EPA, in coordination with Department of Transportation's fuel economy standards program, will be implementing vehicle and truck greenhouse gas (GHG) standards that are projected to reduce greenhouse gas emissions by 6 billion metric tons and reduce oil consumption by about 12 billion barrels over the lifetime of the affected vehicles and trucks.</p>
<p><b>Clean up contaminated sites to enhance the livability and economic vitality of communities</b> By September 30, 2015, an additional 18,970 sites will be made ready for anticipated use protecting Americans and the environment one community at a time.</p>
<p><b>Assess and reduce risks posed by chemicals and promote the use of safer chemicals in commerce</b> By September 30, 2015, EPA will have completed more than 250 assessments of pesticides and other commercially available chemicals to evaluate risks they may pose to human health and the environment, including the potential for some of these chemicals to disrupt endocrine systems. These assessments are essential in determining whether products containing these chemicals can be used safely for commercial, agricultural, and/or industrial uses.</p>
<p><b>Improve environmental outcomes and enhance service to the regulated community and the public</b> By September 30, 2015, reduce reporting burdens to EPA by one million hours through streamlined regulations, provide real-time environmental data to at least two communities, and establish a new portal to service the regulated community and public.</p>
<p><b>Improve, restore, and maintain water quality by enhancing nonpoint source program leveraging, accountability, and on-the-ground effectiveness to address the nation's largest sources of pollution</b> By September 30, 2015, 100 percent of the states will have updated nonpoint source management programs that comport with the new Section 319 grant guidelines that will result in better targeting of resources through prioritization and increased coordination with USDA.</p>
<p><b>Improve public health protection for persons served by small drinking water systems, which account for more than 97 percent of public water systems in the U.S., by strengthening the technical, managerial, and financial capacity of those systems</b> By September 30, 2015, EPA will engage with an additional ten states (for a total of 30 states) and three tribes to improve small drinking water system capability to provide safe drinking water, an invaluable resource.</p>

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## End Notes

1. Final guidance on EPA's Indian Environmental General Assistance Program (GAP) with indicators was published May 15, 2013 and is available at [www.epa.gov/tribal](http://www.epa.gov/tribal).
2. For more information on treatment in a manner similar to a state (TAS), please see <http://www.epa.gov/tp/laws/tas.htm>.
3. EPA is currently a major contributor to the Cross-Agency Priority (CAP) Goals on Infrastructure Permitting Modernization and Science, Technology, Engineering and Mathematics (STEM) Education. Per the GPRM Modernization Act requirement to address CAP Goals in the Agency Strategic Plan, the Annual Performance Plan, and the Annual Performance Report, please refer to [www.performance.gov](http://www.performance.gov) for the Agency's contributions to these goals and progress, where applicable.



**Goal 1: Addressing Climate Change and Improving Air Quality.** Reduce greenhouse gas emissions and develop adaptation strategies to address climate change and protect and improve air quality.

**Objective 1.1: Address Climate Change.** Minimize the threats posed by climate change by reducing greenhouse gas emissions and taking actions that help to protect human health and help communities and ecosystems become more sustainable and resilient to the effects of climate change.

**Strategic Measures**

**Address Climate Change**

- ◆ By 2018, implementation of the EPA and National Highway Traffic Safety Administration (NHTSA) national program to reduce greenhouse gas (GHG) emissions and improve fuel economy from light-duty and heavy-duty vehicles will achieve a cumulative reduction of 460 MMTCO<sub>2</sub>Eq. (Baseline 2011: 0 MMTCO<sub>2</sub>Eq.)
- ◆ By 2018, additional programs from across EPA will promote practices to help Americans save energy and conserve resources, leading to expected greenhouse gas emissions reductions of 1,178.5 MMTCO<sub>2</sub>Eq. from a baseline without adoption of efficient practices.

Building Programs	215.50 MMTCO <sub>2</sub> Eq.
Industrial Programs <sup>1</sup>	651.40 MMTCO <sub>2</sub> Eq.
SmartWay Transportation Partnership	100.00 MMTCO <sub>2</sub> Eq.
Pollution Prevention Programs	71.00 MMTCO <sub>2</sub> Eq.
Sustainable Materials Management Programs <sup>2</sup>	117.40 MMTCO <sub>2</sub> Eq.
WaterSense Program	23.00 MMTCO <sub>2</sub> Eq.
Executive Order 13514 <sup>3</sup> GHG Reduction Program	0.21 MMTCO <sub>2</sub> Eq.

This reduction compares to 621.08 MMTCO<sub>2</sub>Eq. reduced in 2011. Baseline FY 2011:

Building Programs	189.00 MMTCO <sub>2</sub> Eq.
Industrial Programs <sup>1</sup>	357.90 MMTCO <sub>2</sub> Eq.
SmartWay Transportation Partnership	27.90 MMTCO <sub>2</sub> Eq.
Pollution Prevention Programs	17.00 MMTCO <sub>2</sub> Eq.
Sustainable Materials Management Programs <sup>2</sup>	22.10 MMTCO <sub>2</sub> Eq.
WaterSense Program	7 MMTCO <sub>2</sub> Eq.
Executive Order 13514 <sup>3</sup> GHG Reduction Program	0.18 MMTCO <sub>2</sub> Eq.

- ◆ By 2018, an additional 240 state, tribal, and community partners will integrate climate change data, models, information, and other decision-support tools developed by EPA for climate change adaptation into their planning processes. (Baseline: 0.)<sup>4,5</sup>
- ◆ By 2018, 240 state, tribal, and community partners will incorporate climate change adaptation into the implementation of their environmental programs supported by major EPA financial mechanisms (grants, loans, contracts, and technical assistance agreements). (Baseline: 5.)<sup>5</sup>
- ◆ By 2018, 6 existing or new EPA-developed training programs will incorporate climate change adaptation planning for EPA staff, state, tribal, and community partners (includes programmatic and cross-programmatic trainings). (Baseline: 0.)<sup>5</sup>

**Objective 1.2: Improve Air Quality.** Achieve and maintain health- and welfare-based air pollution standards and reduce risk from toxic air pollutants and indoor air contaminants.

## Strategic Measures

### Reduce Criteria Pollutants and Regional Haze

- ◆ By 2018, the population-weighted average concentrations of ozone (smog) in all monitored counties will decrease to 0.072 ppm compared to the average of 0.076 ppm in 2011, a reduction of 5 percent.
- ◆ By 2018, the population-weighted average concentrations of inhalable fine particles in all monitored counties will decrease to 9.5  $\mu\text{g}/\text{m}^3$  compared to the average of 10.4  $\mu\text{g}/\text{m}^3$  in 2011, a reduction of 9 percent.
- ◆ Through 2018, maintain emissions of sulfur dioxide (SO<sub>2</sub>) from electric power generation sources to 5.0 million tons per year compared to the 2009 level of 5.7 million tons emitted. (In 2011, these sources emitted 4.5 million tons.) (Rationale for baseline year: 2009 is the year immediately preceding the first year of SO<sub>2</sub> compliance under the Clean Air Interstate Rule (CAIR) and full implementation of Acid Rain's permanent cap on utility SO<sub>2</sub> emissions.)
- ◆ By 2018, visibility in scenic parks and wilderness areas will improve by 15 percent in the east and 5 percent in the west, on the 20 percent worst visibility days, as compared to visibility on the 20 percent worst days during the 2000–2004 baseline.
- ◆ By 2018, with EPA support including training, policy, and administrative and technical assistance, tribes will receive 15 additional approvals to implement the Clean Air Act in Indian country (as demonstrated by successful completion of an eligibility determination under the Tribal Authority Rule). The cumulative total will be 62

approved eligibility determinations, from the 2012 baseline of 47.

### Reduce Air Toxics

- ◆ Through 2018, maintain air toxics (toxicity-weighted for cancer) emissions reductions to 4.2 million tons from the 1993 toxicity-weighted baseline of 7.2 million tons.<sup>6</sup>

### Reduce the Adverse Ecological Effects of Acid Deposition

- ◆ Through 2018, maintain improvements to approximately 10 percent of the chronically acidic lakes and stream reaches in the east identified in the 2001 baseline survey of stream and lake measurements conducted in the 1990s and maintain associated ecosystem health gains in acid-sensitive regions of the northern and eastern United States.

### Reduce Exposure to Indoor Air Pollutants

- ◆ By 2018, the number of future premature lung cancer deaths prevented annually through lowered radon exposure will increase to 1,056 from the 2008 baseline of 756 future premature lung cancer deaths prevented. The 2011 benchmark is 905 future premature lung cancer deaths prevented.
- ◆ By 2018, the number of people taking all essential actions to reduce exposure to indoor environmental asthma triggers in homes and schools will increase to 9 million from the 2003 baseline of 3.0 million. EPA will place special emphasis on reducing racial and ethnic asthma disparities among children. The 2012 benchmark is 6.5 million people taking all essential actions to reduce exposure to indoor environmental asthma triggers.

**Objective 1.3: Restore and Protect the Ozone Layer.** Restore and protect the earth's stratospheric ozone layer and protect the public from the harmful effects of ultraviolet (UV) radiation.

### Strategic Measures

#### Reduce Consumption of Ozone-Depleting Substances

- ◆ By 2015, U.S. consumption of hydrochlorofluorocarbons (HCFCs), chemicals that deplete the Earth's protective ozone layer, will be less than 1,520 tons per year of ozone depletion potential from the 2009 baseline of 9,900 tons per year. By this time, as a result of worldwide reduction in ozone-depleting substances, the level

of "equivalent effective stratospheric chlorine" (EESC) in the atmosphere will have peaked at 3.185 parts per billion (ppb) of air by volume and begun its gradual decline to less than 1.800 ppb (1980 level).

*Note: This strategic measure will not be adjusted at this time because the baseline dates and milestones are set through the international treaty, the Montreal Protocol.*

**Objective 1.4: Minimize Exposure to Radiation.** Minimize releases of radioactive material and be prepared to minimize exposure through response and recovery actions should unavoidable releases occur.

### Strategic Measures

#### Prepare for Radiological Emergencies

- ◆ Through 2018, EPA will maintain a 93 percent level of readiness of radiation emergency response program personnel and assets that meet functional requirements necessary to support federal

radiological emergency response and recovery operations. (The 2012 readiness baseline is 91.5 percent. The level of readiness measure is based on the Agency's Core National Approach to Response (Core NAR) assessment process.<sup>7</sup>)

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## End Notes

1. Industrial Programs include ENERGY STAR for Industry, Natural Gas STAR, Coalbed Methane Outreach Program (CMOP), Landfill Methane Outreach Program (LMOP), Green Power Partnership, Combined Heat and Power (CHP) Partnership, Voluntary Aluminum Industry Partnership (VAIP), HFC-23 Emission Reduction Partnerships, Mobile Air Conditioning Climate Protection Partnership (MAC), Environmental Stewardship Initiative, Significant New Alternatives Policy Program (SNAP), Responsible Appliance Disposal Program (RAD), GreenChill Advanced Refrigeration Partnership, and Landfill Rule.
2. For this *Plan*, Sustainable Materials Management Programs include 10 percent National Recycling Tonnage and 100 percent Electronics Challenge Participant, Federal Green Challenge Participant, and Food Recovery Challenge Participant results.
3. The Federal Leadership in Environmental, Energy, and Economic Performance Executive Order was signed on October 5, 2009. The Executive Order sets sustainability goals for federal agencies and focuses on making improvements in their environmental, energy, and economic performance.
4. EPA maintains strong partnerships with other federal agencies by working closely with them to develop decision-support tools for climate adaptation. EPA often uses data, models, and tools from other agencies as it develops new decision-support tools focused specifically on integrating adaptation planning into its programs and policies. For example, EPA's Water Erosion Prediction Project Climate Assessment Tool (WEPPCAT) provides users with a capability to assess the potential impacts of climate change on sediment loading to streams using the U.S. Department of Agriculture's Water Erosion Prediction Project (WEPP) Model. Similarly,

EPA shares decision tools that it develops, such as the Climate Resilience Evaluation and Awareness Tool (CREAT), with other federal agencies. EPA actively pursues these collaborative efforts through the Council on Environmental Quality (CEQ) Agency Adaptation Working Group, through the U.S. Global Change Research Program's Adaptation Science Work Group, and through project-based collaborations.

5. This measure reflects outcomes from the cumulative efforts across all of the Agency's media programs (air, water, waste, and toxics and pesticides programs) and regional offices.
6. The 2018 target is an estimate based on the 2008 National Emissions Inventory (NEI) released in 2011.
7. The level of readiness measure is based on the Agency's Core NAR assessment process. Core NAR is an Agency-wide process that provides a comprehensive numerical assessment of each aspect of the Agency's emergency response programs, including the Radiological Emergency Response Team and supporting radiation emergency response program.



**Goal 2: Protecting America's Waters.** Protect and restore waters to ensure that drinking water is safe and sustainably managed, and that aquatic ecosystems sustain fish, plants, wildlife, and other biota, as well as economic, recreational, and subsistence activities.

**Objective 2.1: Protect Human Health.** Achieve and maintain standards and guidelines protective of human health in drinking water supplies, fish, shellfish, and recreational waters, and protect and sustainably manage drinking water resources.

### Strategic Measures

#### Water Safe to Drink

- ◆ By 2018, 92 percent of community water systems will provide drinking water that meets all applicable health-based drinking water standards through approaches including effective treatment and source water protection. (2005 baseline: 89 percent. FY 2013 universe: 51,535 community water systems. Status as of FY 2013: 91.4 percent.)
- ◆ By 2018, 88 percent of the population in Indian country served by community water systems will receive drinking water that meets all applicable health-based drinking water standards. (2005 baseline: 86 percent. FY 2013 universe: 1,013,222 people in Indian county served by community water systems. Status as of FY 2013: 77 percent.)
- ◆ By 2018 in coordination with other federal agencies, provide access to safe drinking water for 148,100 American Indian and Alaska Native homes. (Status as of FY 2013: 108,881 homes. Universe: 360,000 homes.)

#### Fish and Shellfish Safe to Eat

- ◆ By 2018, reduce the percentage of women of childbearing age having mercury levels in blood above the level of concern to 2.1 percent. (2012 baseline (2009–2010 data): 2.3 percent of women of childbearing age have mercury blood levels above levels of concern identified by the National Health and Nutrition Examination Survey (NHANES).)

#### Water Safe for Swimming

- ◆ By 2018, maintain the percentage of days of the beach season that coastal and Great Lakes beaches monitored by state beach safety programs are open and safe for swimming at 95 percent. (2012 baseline (2011 data): Beaches open 95 percent of the 694,191 days of the beach season (beach season days are equal to 3,650 monitored beaches multiplied by variable number of days of beach season at each beach). Status as of FY 2013: 96 percent.)

## Objective 2.2: Protect and Restore Watersheds and Aquatic Ecosystems.

Protect, restore, and sustain the quality of rivers, lakes, streams, and wetlands on a watershed basis, and sustainably manage and protect coastal and ocean resources and ecosystems.

### Strategic Measures

#### Improve Water Quality on a Watershed Basis

- ◆ By 2018, attain water quality standards for all pollutants and impairments in more than 4,430 water bodies identified in 2002 as not attaining standards (cumulative). (2002 universe: 39,798 water bodies identified by states and tribes as not meeting water quality standards. Water bodies where mercury is among multiple pollutants causing impairment may be counted toward this target when all pollutants but mercury attain standards, but must be identified as still needing restoration for mercury. 1,703 impaired water bodies are impaired by multiple pollutants including mercury, and 6,501 are impaired by mercury alone. Status as of FY 2013: 3,679 water bodies attained standards.)
- ◆ By 2018, improve water quality conditions in 575 impaired watersheds nationwide using the watershed approach (cumulative). (2002 baseline: Zero watersheds improved of an estimated 4,800 impaired watersheds of focus having one or more water bodies impaired. The watershed boundaries for this measure are those established at the “12-digit” scale by the U.S. Geological Survey (USGS). Watersheds at this scale average 22 square miles in size. “Improved” means that one or more of the impairment causes identified in 2002 are removed for at least 40 percent of the impaired water bodies or impaired miles/acres, or there is significant watershed-wide improvement, as demonstrated by valid scientific information, in one or more water quality parameters associated with the impairments. Status as of FY 2013: 376 improved watersheds.)
- ◆ Through 2018, ensure that the condition of the nation’s rivers and streams, lakes, wetlands, and coastal water does not degrade (i.e., there is no statistically significant increase in the percent

rated “poor” and no statistically significant decrease rated “good.”) (2006 baseline for streams: 28 percent in good condition; 25 percent in fair condition; 42 percent in poor condition. 2010 baseline for lakes: 56 percent in good condition; 21 percent in fair condition; 22 percent in poor condition. 2014 baseline for wetlands will be available December 2014. 2014 baseline for coastal will be available December 2014.)

- ◆ By 2018, improve water quality in Indian country at 50 or more baseline monitoring stations in tribal waters (cumulative) (i.e., show improvement in one or more of seven key parameters: dissolved oxygen, pH, water temperature, total nitrogen, total phosphorus, pathogen indicators, and turbidity) and identify monitoring stations on tribal lands that are showing no degradation in water quality (meaning the waters are meeting uses). (2006 baseline: 185 monitoring stations on tribal waters located where water quality has been depressed and activities are underway or planned to improve water quality, out of an estimated 2,037 stations operated by tribes.)
- ◆ By 2018, in coordination with other federal agencies, provide access to basic sanitation for 91,900 American Indian and Alaska Native homes. (Status as of FY 2013 baseline: 69,783 homes. Universe: 360,000 homes.)

#### Improve Coastal and Ocean Waters

- ◆ By 2018, improve regional coastal aquatic ecosystem health, as measured on the “good/fair/poor” scale of the National Coastal Condition Report. (FY 2012 baseline: National rating of “fair” or 3.0 where the rating is based on a 4-point system ranging from 1.0 to 5.0 in which 1 is “poor” and 5 is “good” using the National Coastal Condition Report indicators for water and sediment, coastal habitat, benthic index, and fish contamination.)

- ◆ By 2018, 95 percent of active dredged material ocean dumping sites, as determined by 3-year average, will have achieved environmentally acceptable conditions (as reflected in each site's management plan and measured through onsite monitoring programs). (2013 baseline: 96 percent. FY 2012 universe is 67.) (Due to variability in the universe of sites, results vary from year to year (e.g., between 85 percent and 99 percent). While this much variability is not expected every year, the results are expected to have some change each year.)
- ◆ By 2018, working with partners, protect or restore an additional (i.e., measuring from 2012 forward) 600,000 acres of habitat within the study areas for the 28 estuaries that are part of the National Estuary Program. (2013 baseline: 1,295,327 acres of habitat protected or restored, cumulative from 2002–2013. In FY 2013, 127,594 acres were protected or restored.)

### Increase Wetlands

- ◆ By 2018, working with partners, achieve a net increase of wetlands nationwide, with additional focus on coastal wetlands, and biological and functional measures and assessment of wetland condition. (2012 baseline: 110.1 million acres of wetlands in the conterminous United States, and 62,300 wetland acres were lost over 2004–2009.) (“No net loss” of wetlands is based on requirements for mitigation in CWA Section 404 permits and not the actual mitigation attained.)

### Great Lakes

- ◆ By 2018, implement all management actions necessary for later delisting at 12 Areas of Concern in the Great Lakes (cumulative). (2013 baseline: 3.)<sup>1</sup>
- ◆ By 2018, implement and evaluate actions necessary to protect, restore, or enhance 20 percent of U.S. Great Lakes coastal wetlands greater than 10 acres. (2013 baseline: 0.)<sup>2</sup>

### Chesapeake Bay

- ◆ By 2018, achieve 45 percent attainment of water quality standards for dissolved oxygen, water

clarity/underwater grasses, and chlorophyll a in Chesapeake Bay and tidal tributaries. (2011 Baseline: 40 percent.)<sup>3</sup>

### Gulf of Mexico

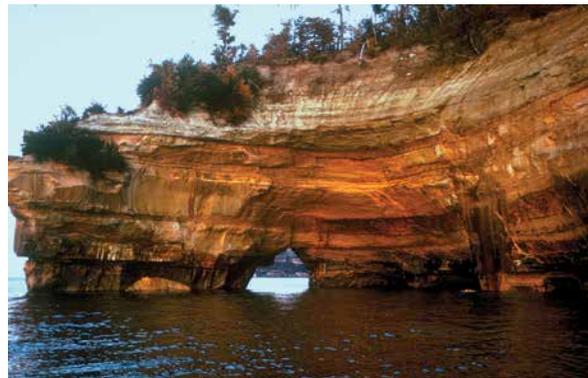
- ◆ By 2018, support best management practices and projects to reduce releases of nutrients throughout the Mississippi River Basin to aid in the reduction of the size of the hypoxic zone in the Gulf of Mexico to less than 5,000 km<sup>2</sup>, as measured by the 5-year running average of the size of the zone. (Baseline: 2005–2009 running average size is 15,670 km<sup>2</sup>.)<sup>4</sup>

### Long Island Sound

- ◆ By 2018, reduce the maximum area of hypoxia in Long Island Sound by 15 percent from the pre-TMDL average of 208 square miles as measured by the 5-year running average size of the zone. (Baseline: Pre-total maximum daily load (TMDL) average conditions based on 1987–1999 data is 208 square miles. Post-TMDL includes years 2000–2017. Universe: The total surface area of Long Island Sound is approximately 1,268 square miles; the potential for the maximum area of hypoxia would be 1,268 square miles.)

### Puget Sound Basin

- ◆ By 2018, improve water quality and enable the lifting of harvest restrictions in 6,000 acres of shellfish bed growing areas impacted by degraded or declining water quality in the Puget Sound. (2013 baseline: 3,203 acres of shellfish beds with harvest restrictions in 2006 had their restrictions lifted. Universe: 30,000 acres of commercial shellfish beds with harvest restrictions in 2006.)



## U.S.–Mexico Border Environmental Health

- ◆ By 2018, provide access to safe drinking water and adequate wastewater sanitation to 75 percent and 90 percent, respectively, of the homes in the U.S.–Mexico Border area that lacked access to either service in 2003. (2003 Universe: 98,515 homes

lacked drinking water and 690,723 homes lacked adequate wastewater sanitation based on a 2003 assessment of homes in the U.S.–Mexico Border area. 2018 target: 73,886 homes provided with access to safe drinking water and 621,651 homes with adequate wastewater sanitation.)

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## End Notes

1. “Great Lakes management actions necessary for later delisting” are the identified local, state, and federal actions that are believed to be necessary to remove the beneficial use impairments of the Area of Concern. Once taken, these actions are expected to allow environmental conditions to improve over time which will lead to eventual delisting of the Area of Concern.
2. Only about 600 coastal wetlands greater than 10 acres in size remain on the roughly 5,500 miles of Great Lakes shoreline in the U.S. Coastal wetlands are immensely important ecologically and economically. The proposed actions will demonstrate quantitative and qualitative results from strategic efforts to protect, restore, and enhance the coastal wetlands assessed under the Great Lakes Restoration Initiative.
3. Achievement of the 2018 target will be evaluated using monitoring data from 2015, 2016, and 2017 to assess attainment of applicable water quality standards in each of the Bay’s 291 designated-use segments. The 2011 baseline reflects monitoring data from 2008, 2009, and 2010.
4. The size of the hypoxic zone in the Gulf of Mexico is influenced by multiple factors, including releases of nutrients. The reduction of nutrient releases from the Mississippi River Basin is influenced by actions, practices, and resources from the collaboration of federal, state, tribal, and local stakeholders.



**Goal 3: Cleaning Up Communities and Advancing Sustainable Development.** Clean up communities, advance sustainable development, and protect disproportionately impacted low-income and minority communities. Prevent releases of harmful substances and clean up and restore contaminated areas.

**Objective 3.1: Promote Sustainable and Livable Communities.** Support sustainable, resilient, and livable communities by working with local, state, tribal, and federal partners to promote smart growth, emergency preparedness and recovery planning, redevelopment and reuse of contaminated and formerly contaminated sites, and the equitable distribution of environmental benefits.

### Strategic Measures

#### Promote Sustainable Communities

- ◆ By 2018, reduce the air, water, land, and human health impacts of new growth and development through the use of smart growth and sustainable development strategies in 600 (cumulative) communities, which includes tribal governments, local municipalities, regional entities, and state governments, through activities resulting from EPA and federal partner actions. (Baseline: In FY 2013, an estimated 102 communities were assisted.)<sup>1</sup>

#### Assess and Clean Up Brownfields

- ◆ By 2018, conduct environmental assessments at 26,350 (cumulative) brownfield properties. (Baseline: As of the end of FY 2012, EPA assessed 19,154 properties.)
- ◆ By 2018, make an additional 16,800 acres of brownfield properties ready for reuse from the 2012 baseline. (Baseline: As of the end of FY 2012, EPA made 25,408 acres ready for reuse.)

#### Reduce Chemical Risks at Facilities and in Communities

- ◆ By 2018, conduct 2,300 inspections at risk management plan (RMP) facilities. (Baseline: between FY 2000 and FY 2012, more than 7,400 RMP inspections were completed.)<sup>2</sup>



**Objective 3.2: Preserve Land.** Conserve resources and prevent land contamination by reducing waste generation and toxicity, promoting proper management of waste and petroleum products, and increasing sustainable materials management.

### Strategic Measures

#### Waste Generation and Recycling

- ◆ By 2018, increase by 500,000 tons the amount of virgin materials that were offset by the reuse or recycling of waste products through the use of sustainable materials management. (Baseline: In FY 2013, an estimated 8,500,000 tons of waste products will be reused or recycled through sustainable materials management practices.)<sup>3</sup>
- ◆ By 2018, increase by 50 the number of tribes covered by an integrated waste management plan compared to FY 2013. (Baseline: As of March 2013, 160 of 574 federally recognized tribes were covered by an integrated waste management plan.)<sup>4</sup>

#### Minimize Releases of Hazardous Waste and Petroleum Products

- ◆ By 2018, prevent releases at 500 additional hazardous waste management facilities by issuing initial approved controls or updated controls resulting in the protection of an estimated 20 million people living within a mile of all facilities with controls.<sup>5</sup> (Baseline: At the end of FY 2013, 1,220 facilities require these controls out of the universe of 6,600 facilities, with over 20,000 process units.)
- ◆ By 2018, prevent exposures at polychlorinated biphenyl (PCB) sites by issuing 750 approvals for PCB cleanup, storage, and disposal activities.
- ◆ Each year through 2018, increase the percentage of underground storage tank (UST) facilities that are in significant operational compliance (SOC) with both release detection and release prevention requirements by 0.5 percent over the previous year's target. (Baseline: This means an increase of facilities in SOC from an estimated 70 percent in 2014 to 72 percent in 2018.)
- ◆ Each year through 2018, reduce the number of confirmed releases at UST facilities to 5 percent fewer than the prior year's target. (Baseline: Between FY 2008 and FY 2012, confirmed UST releases averaged 6,500.)

**Objective 3.3: Restore Land.** Prepare for and respond to accidental or intentional releases of contaminants and clean up and restore polluted sites for reuse.

### Strategic Measures

#### Emergency Preparedness and Response

- ◆ By 2018, achieve and maintain at least 85 percent of the maximum score on the Core National Approach to Response (NAR) evaluation criteria. (Baseline: In FY 2012, the average Core NAR Score was 76 percent for EPA headquarters, regions, and special teams prepared for responding to emergencies.)<sup>6</sup>
- ◆ By 2018, complete an additional 1,395 Superfund removals. (Baseline: In FY 2013, there were 295 Superfund removal actions completed.)
- ◆ By 2018, bring into compliance 60 percent of facility response plan (FRP) inspected facilities found to be non-compliant. (Baseline: In FY 2010, 268 FRP facilities were inspected and 121 were found to be non-compliant, an initial compliance rate of 55 percent.)
- ◆ By 2018, bring into compliance 60 percent of spill prevention, control, and countermeasure (SPCC) inspected facilities found to be non-compliant. (Baseline: In FY 2010, 781 SPCC facilities were inspected and 456 were found to be non-compliant, an initial compliance rate of 42 percent.)

## Clean Up Contaminated Land

- ◆ By 2018, complete 95,500 assessments at potential hazardous waste sites to determine if they warrant Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) remedial response or other cleanup activities. (Baseline: As of 2012, the cumulative total number of assessments completed was 91,300.)
- ◆ By 2018, increase to 92 percent the number of Superfund sites and Resource Conservation and Recovery Act (RCRA) facilities where human exposures to toxins from contaminated sites are under control. (Baseline: As of October 2013, an estimated 83 percent of Superfund sites and 85 percent of RCRA facilities had human exposures under control out of a combined universe of 5,451.)<sup>7</sup>
- ◆ By 2018, increase to 86 percent the number of RCRA facilities with migration of contaminated groundwater under control. (Baseline: At the end of FY 2013, the migration of contaminated groundwater was controlled at 76 percent of all 3,779 facilities needing corrective action.)
- ◆ By 2018, increase to 73 percent the number of RCRA facilities with final remedies constructed. (Baseline: At the end of FY 2013, all cleanup remedies were constructed at an estimated 51 percent of all 3,779 facilities needing corrective action.)
- ◆ By 2018, increase to 25 percent the number of RCRA facilities with corrective action performance standards attained. (Baseline: At the end of FY 2013, performance standards were attained at an estimated 20 percent of all 3,779 RCRA facilities requiring corrective action.)<sup>8</sup>
- ◆ Each year through 2018, reduce the backlog of LUST cleanups (confirmed releases that have yet to be cleaned up) that do not meet risk-based standards for human exposure and groundwater migration by 1 percent. This means a decrease from 16 percent in 2012 to 10 percent in 2018. (At the end of FY 2012, there were 82,903 releases not yet cleaned up.)
- ◆ Each year through 2018, reduce the backlog of LUST cleanups (confirmed releases that have yet to be cleaned up) in Indian country that do not meet applicable risk-based standards for human exposure and groundwater migration by 1 percent. This means a decrease from 23 percent in 2012 to 17 percent in 2018.
- ◆ By 2018, ensure that 946 Superfund sites are “sitewide ready for anticipated use.” (Baseline: As of October 2012, 606 Superfund sites had achieved “sitewide ready for anticipated use” out of a universe of 1,742 sites.)<sup>9</sup>

**Objective 3.4: Strengthen Human Health and Environmental Protection in Indian Country.** Directly implement federal environmental programs in Indian country and support federal program delegation to tribes. Provide tribes with technical assistance and support capacity development for the establishment and implementation of sustainable environmental programs in Indian country.

## Strategic Measures

### Improve Human Health and the Environment in Indian Country

- ◆ By 2015, increase the percent of tribes implementing federal regulatory environmental programs in Indian country to 25 percent. (FY 2009 baseline: 22 percent of 572 tribes.)
- ◆ By 2015, increase the percent of tribes conducting EPA-approved environmental monitoring and assessment activities in Indian country to 58 percent. (FY 2012 baseline: 54 percent of 572 tribes.)

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## End Notes

1. Included in the cumulative number are communities receiving assistance from: (1) direct EPA technical assistance programs; (2) EPA-funded grants and cooperative agreements to non-governmental organizations; and (3) in a limited number of communities (i.e., 6 of the total 34 communities in the FY 2010 baseline), technical assistance done in collaboration with other EPA programs (such as EPA's brownfields program) and other federal agencies (such as the Federal Emergency Management Agency and the U.S. Departments of Transportation and Housing and Urban Development).
2. The number of inspections may change based on higher priorities coming from the Executive Order on Chemical Plant Safety and Security.
3. EPA's description of activities supporting our virgin materials offset measure can be found in the Goal 3 narrative.
4. EPA is discontinuing the tribal open dump closure and clean up measure in this Strategic Plan to focus on EPA's main tribal solid waste priority, which is the promotion of sustainable tribal waste management programs through the development and implementation of Integrated Waste Management Plans (IWMPs).
5. Estimate drawn from OSWER Near Site Population Database, an internal EPA database that merges facility size and location information from RCRAInfo with population data, at the block and block group levels, from the U.S. Census Bureau's 2000 Census. The demographics were captured around the total number of facilities that have approved controls in place that result in the protection of this population (20 million people).
6. Consistent with the government-wide National Response Framework (NRF), EPA will work to fully implement the priorities under its internal NAR so that the Agency is prepared to respond to multiple nationally significant incidents. Core NAR builds upon the core emergency response concept while integrating the priority elements of EPA's NAR Preparedness Plan, and the Homeland Security Priority Workplan, to reflect an Agency-wide assessment of progress.
7. Superfund sites include sites placed on or deleted from the Final National Priorities List (NPL) and sites addressed under the Superfund Alternative Approach process. EPA is currently revising its dioxin risk assessment which may affect the targets and baselines for the human exposures under control and "sitewide ready for anticipated use" measures.
8. Attaining performance standards is the final cleanup step for a corrective action facility (e.g., soil cleanup standards met, groundwater cleanup levels achieved). Other measures for controlling human exposures and groundwater migration and for completing remedy construction identify critical interim steps in the cleanup process.
9. Superfund sites include sites placed on or deleted from the Final National Priorities List (NPL) and sites addressed under the Superfund Alternative Approach process.



## **Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution.** Reduce the risk and increase the safety of chemicals and prevent pollution at the source.

**Objective 4.1: Ensure Chemical Safety.** Reduce the risk and increase the safety of chemicals that enter our products, our environment, and our bodies.

### Strategic Measures

#### **Protect Human Health from Chemical Risks**

- ◆ By 2018, reduce by 30 percent the number of moderate to severe exposure incidents associated with organophosphates and carbamate insecticides in the general population. (Baseline for moderate to severe exposure incidents reported during 2011 is 274, as reported in the American Association of Poison Control Centers' National Poisoning Data System (NPDS) for organophosphates and carbamate pesticides.)
- ◆ Through 2018, work to ensure that the percentage of children with blood lead levels above 5 µg/dl does not rise above the 1.0 percent target for FY 2014 and work to make further reductions in blood lead levels. (Baseline is 2.6 percent of children ages 1–5 had elevated blood lead levels (5 µg/dl or greater) in the 2007–2010 sampling period according to the Centers for Disease Control and Prevention's (CDC's) National Health and Nutritional Evaluation Survey (NHANES).)
- ◆ By 2018, reduce the percent difference in the geometric mean blood lead level in low-income children 1–5 years old as compared to the geometric mean for non-low income children 1–5 years old to 10.0 percent. (Baseline is 28.4 percent difference in the geometric mean blood lead level in low-income children ages 1–5 years old as compared to the geometric mean for non-low income children 1–5 years old in 2007–2010 sampling period according to CDC's NHANES.)
- ◆ By 2018, reduce the concentration of perfluorooctanoic acid (PFOA) in blood serum in the general population by 20 percent. (PFOA baseline is based on 2009–2010 geometric mean data in serum (3.07 µg/L) from the CDC's NHANES.)
- ◆ By 2018, complete endocrine disruptor screening program (EDSP) decisions for 100 percent of chemicals for which complete EDSP data are expected to be available by the end of 2017. (Baseline is 15 decisions have been completed through 2012 for any of the chemicals for which complete EDSP information is anticipated to be available by the end of 2017. EDSP decisions for a chemical can range from determining potential to interact with the estrogen, androgen, or thyroid hormone systems to otherwise determining whether further endocrine related-testing is necessary.)
- ◆ By 2018, reduce rodenticide exposure incidents by 75 percent in children ages 1–6. (The baseline total number of confirmed and likely rodenticide exposures to children ages 1–6 in 2011 is 10,259 according to data by the Poison Control Centers' National Poison Data System.)
- ◆ By 2018, EPA will have assessed all currently identified TSCA work plan chemicals. (Baseline is zero assessments finalized for the 83 initially identified TSCA work plan chemicals through 2012.)

## Protect Ecosystems from Chemical Risks

- ◆ By 2018, no watersheds will exceed aquatic life benchmarks for targeted pesticides. (Data for 2012 provides the most recent percent of agricultural watersheds sampled by the USGS National Water Quality Assessment (NAWQA) program that exceeds the national pesticide program aquatic life benchmarks for azinphos-methyl (7 percent) and chlorpyrifos (7 percent). Urban watersheds sampled by the NAWQA program that exceeds the national pesticide program aquatic life benchmarks for diazinon (0 percent), chlorpyrifos (0 percent), and carbaryl (9 percent).)

**Objective 4.2: Promote Pollution Prevention.** Conserve and protect natural resources by promoting pollution prevention and the adoption of other sustainability practices by companies, communities, governmental organizations, and individuals.

## Strategic Measures

### Prevent Pollution and Promote Environmental Stewardship

- ◆ By 2018, reduce 600 million pounds of hazardous materials cumulatively through pollution prevention. (Baseline is 578 million pounds reduced from FY 2008 through FY 2012, after removing 626 million pounds in reported results that should not be expected to continue in future years due to atypical results, and increased quality assurance standards for the results that come from states and other grant recipients.)
- ◆ By 2018, reduce 7 million metric tons of carbon dioxide equivalent (MMT $\text{CO}_2$ Eq.) cumulatively through pollution prevention. (Baseline is 7 MMT $\text{CO}_2$ Eq. reduced from FY 2008 through FY 2012, after removing 3.5 MMT $\text{CO}_2$ Eq. in reported results that should not be expected to continue in future years due to atypical results, and increased quality assurance standards for the results that come from states and other grant recipients. The data from this measure are also calculated into the Agency's overall greenhouse gas measure under Goal 1.)
- ◆ By 2018, reduce 6.9 billion gallons of water use cumulatively through pollution prevention. (Baseline is 6.9 billion gallons reduced from FY 2008 through FY 2012, after removing 24 billion gallons in reported results that should not be expected to continue in future years due to atypical results, and increased quality assurance standards for the results that come from states and other grant recipients.)
- ◆ By 2018, save \$1.3 billion in business, institutional, and government costs cumulatively through pollution prevention improvements. (Baseline is \$1.33 billion saved from FY 2008 through FY 2012, after removing \$231 million in reported results that should not be expected to continue in future years due to atypical results, and increased quality assurance standards for the results that come from states and other grant recipients.)
- ◆ By 2018, increase the number of safer chemicals and safer chemical products cumulatively by 1,900. (Baseline is 600 safer chemicals and 2,500 safer chemical products recognized in 2013 by the Design for the Environment program.)



## **Goal 5: Protecting Human Health and the Environment by Enforcing Laws and Assuring Compliance.** Protect human health and the environment through vigorous and targeted civil and criminal enforcement. Use Next Generation Compliance strategies and tools to improve compliance with environmental laws.

**Objective 5.1: Enforce Environmental Laws to Achieve Compliance.** Pursue vigorous civil and criminal enforcement that targets the most serious water, air, and chemical hazards in communities to achieve compliance. Assure strong, consistent, and effective enforcement of federal environmental laws nationwide. Use Next Generation Compliance strategies and tools to improve compliance and reduce pollution.

### Strategic Measures

*Note: The enforcement measures in this Plan reflect level-of-effort measures that focus on large, complex cases that require a strong investment in enforcement work but yield significant health and environmental improvements.*

*Targets for most of the enforcement measures will remain steady over the life of this Strategic Plan. We intend to retain the targets, for example, of the percentage of criminal cases where individuals are charged and our continued monitoring of compliance with existing consent decrees. For some other measures, the strategic direction outlined in this Plan will affect the targets, as briefly described here.*

*Our commitment to the largest, most complex cases that have the biggest impact necessarily means that we will be doing fewer cases overall. When budgets have declined, this effect has become more apparent. This strategy will also help maintain the enforcement program's effectiveness. The 5-year targets for the enforcement program's strategic measures reflect the anticipated effects of this approach. For the sectors with the largest cases, we tackle the biggest sources first. In the sectors with large amounts of pollution that affects health, such as coal-fired power plants and the largest dischargers of raw sewage, the total pounds of pollution reduced as a result of enforcement cases will decline over time as we work our way down the list. In addition, as we are increasingly targeting large sources of toxic pollution, we expect that the total pounds reduced will be less overall than enforcement cases that reduce larger volume, but less toxic, conventional pollutants.*

*EPA will also focus its inspection efforts on the largest facilities and violations in order to maintain our commitment to ensuring compliance at the largest facilities, and the air, water, and waste problems that make the most difference. Our improved ability to target inspections as a result of Next Generation Compliance should allow us to be more effective with our inspection resources, and to monitor facilities via advanced monitoring, so we can continue to protect the public and maintain a level playing field for business.*

### **Maintain Enforcement Presence<sup>1,2</sup>**

- ◆ By 2018, conduct 79,000 federal inspections and evaluations (5-year cumulative). (FY 2005–2009 baseline: 21,000 annually. Status for FY 2013: 18,000.)
- ◆ By 2018, initiate 14,000 civil judicial and administrative enforcement cases (5-year cumulative). (FY 2005–2009 baseline: 3,900 annually. Status for FY 2013: 2,400.)
- ◆ By 2018, conclude 13,600 civil judicial and administrative enforcement cases (5-year cumulative). (FY 2005–2009 baseline: 3,800 annually. Status for FY 2013: 2,500.)
- ◆ By 2018, maintain review of the overall compliance status of 100 percent of the open consent decrees. (Baseline 2009: 100 percent. Status for FY 2013: 91 percent.)
- ◆ Each year through 2018, support cleanups and save federal dollars for sites where there are no

alternatives by: (1) reaching a settlement or taking an enforcement action before the start of a remedial action at 99 percent of Superfund sites having viable responsible parties other than the federal government; and (2) addressing all cost recovery statute of limitation cases with total past costs greater than or equal to \$500,000. ((1) FY 2007-2009 annual average baseline: 99 percent of sites reaching a settlement or EPA taking an enforcement action. (Status for FY 2013: 100 percent.); (2) FY 2009 baseline: 100 percent cost recovery statute of limitation cases addressed. (Status for FY 2013: 100 percent.))

### **Support Addressing Climate Change and Improving Air Quality**

- ◆ By 2018, reduce, treat, or eliminate 1,590 million estimated pounds of air pollutants as a result of concluded enforcement actions (5-year cumulative). (FY 2005–2008 baseline: 480 million pounds, annual average over the period. Status for FY 2013: 610 million pounds.)

### **Support Protecting America’s Waters**

- ◆ By 2018, reduce, treat, or eliminate 1,280 million estimated pounds of water pollutants as a result of concluded enforcement actions (5-year cumulative). (FY 2005–2008 baseline: 320 million pounds, annual average over the period. Status for FY 2013: 660 million pounds.)

### **Support Cleaning Up Communities and Advancing Sustainable Development**

- ◆ By 2018, treat, minimize, or properly dispose of 14,600 million estimated pounds of hazardous waste as a result of concluded enforcement actions (5-year cumulative). (FY 2008 baseline: 6,500 million pounds. Status for FY 2013: 150 million pounds.)<sup>3</sup>
- ◆ By 2018, obtain commitments to clean up 1,025 million cubic yards of contaminated soil and

groundwater media<sup>4</sup> as a result of concluded CERCLA and RCRA corrective action enforcement actions (5-year cumulative). (FY 2007–2009 baseline: 300 million cubic yards of contaminated soil and groundwater media, annual average over the period. Status for FY 2013: 750 million cubic yards.)

### **Support Ensuring the Safety of Chemicals and Preventing Pollution**

- ◆ By 2018, reduce, treat, or eliminate 14 million estimated pounds of toxic and pesticide pollutants as a result of concluded enforcement actions (5-year cumulative). (FY 2005–2008 baseline: 3.8 million pounds, annual average over the period. Status for FY 2013: 4.6 million pounds.)

### **Enhance Strategic Deterrence through Criminal Enforcement**

- ◆ By 2018, increase the percentage of criminal cases having the most significant health, environmental, and deterrence impacts to 45 percent. (FY 2010 baseline: 36 percent. Status for FY 2013: 44 percent.)<sup>5</sup>
- ◆ By 2018, maintain 75 percent of criminal cases with an individual defendant. (FY 2006–2008 baseline: 75 percent. Status for FY 2013: 80 percent.)
- ◆ By 2018, increase the percentage of criminal cases with charges filed to 45 percent. (FY 2006–2010 baseline: 36 percent. Status for FY 2013: 38 percent.)
- ◆ By 2018, maintain an 85 percent conviction rate for criminal defendants. (FY 2006–2010 baseline: 85 percent. Status for FY 2013: 94 percent.)

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## End Notes

1. The 5-year targets presented in this final document have been updated from what was presented in the draft Strategic Plan, which was based on conservative budget estimates; the revised projections incorporate updated budget information. More recent data on results for the enforcement program also helped inform our projections.
2. All numbers used throughout the measures section are rounded.
3. Some years have higher goals based on the anticipated conclusion of cases under EPA's Mineral Processing National Enforcement Initiative. Cases outside this initiative addressing other industry sectors will still yield significant results, but the volumes of hazardous waste in those cases will typically be smaller.
4. Contaminated groundwater media, as defined for the Superfund and RCRA corrective action programs, is the volume of physical aquifer (both soil and water) that will be addressed by the response action.
5. EPA collects data on a variety of case attributes to describe the range, complexity, and quality of our criminal enforcement national docket. This measure reflects the percentage of cases having the most significant health, environmental, and deterrence impacts.



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***EPA POLICY***  
***ON***  
***CONSULTATION AND COORDINATION***  
***WITH***  
***INDIAN TRIBES***

*May 4, 2011*



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## **I. Policy Statement**

EPA's policy is to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests. Consultation is a process of meaningful communication and coordination between EPA and tribal officials prior to EPA taking actions or implementing decisions that may affect tribes. As a process, consultation includes several methods of interaction that may occur at different levels. The appropriate level of interaction is determined by past and current practices, adjustments made through this Policy, the continuing dialogue between EPA and tribal governments, and program and regional office consultation procedures and plans.

This Policy establishes national guidelines and institutional controls for consultation across EPA. EPA program and regional offices have the primary responsibility for consulting with tribes. All program and regional office consultation plans and practices must be in accord with this Policy. This Policy seeks to strike a balance between providing sufficient guidance for purposes of achieving consistency and predictability and allowing for, and encouraging, the tailoring of consultation approaches to reflect the circumstances of each consultation situation and to accommodate the preferences of tribal governments. The consultation process is further detailed in Section V of this document.



## II. Background

To put into effect the policy statement above, EPA has developed this proposed *EPA Policy on Consultation and Coordination with Indian Tribes* (Policy). The Policy complies with the Presidential Memorandum (Memorandum) issued November 5, 2009, directing agencies to develop a plan to implement fully Executive Order 13175 (Executive Order). The Executive Order specifies that each Agency must have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.

This Policy reflects the principles expressed in the *1984 EPA Policy for the Administration of Environmental Programs on Indian Reservations* (1984 Policy) for interacting with tribes. The 1984 Policy remains the cornerstone for EPA's Indian program and "assure[s] that tribal concerns and interests are considered whenever EPA's actions and/or decisions may affect" tribes (1984 Policy, p. 3, principle no. 5).

One of the primary goals of this Policy is to fully implement both the Executive Order and the 1984 Indian Policy, with the ultimate goal of strengthening the consultation, coordination, and partnership between tribal governments and EPA.

The most basic result of this full implementation is that EPA takes an expansive view of the need for consultation in line with the 1984 Policy's directive to consider tribal interests whenever EPA takes an action that "may affect" tribal interests.

The Policy is intended to be implemented using existing EPA structures to the extent possible. The use of current EPA business processes, such as the Action Development Process, National and Regional Tribal Operations Committees, and tribal partnership groups is purposeful so that consultation with tribal governments becomes a standard EPA practice and not an additional requirement.

The issuance of this Policy supports and guides the development and use of program and regional office consultation plans and practices consistent with this Policy.

### III. Definitions

- A. “Indian tribe” or “tribe” means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1944, 25 U.S.C. 479a.
- B. “Tribal official” means an elected, appointed, or designated official or employee of a tribe.
- C. “Indian country” means:
1. All land within limits of any Indian reservation<sup>1</sup> under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;
  2. All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and
  3. All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

### IV. Guiding Principles

To understand both the purpose and scope of the Policy as well as the integration of the Policy, Memorandum, and Executive Order, it is helpful to list principles found in EPA’s January 2010 *Plan to Develop a Tribal Consultation and Coordination Policy Implementing Executive Order 13175*:

EPA’s fundamental objective in carrying out its responsibilities in Indian country is to protect human health and the environment.

EPA recognizes and works directly with federally recognized tribes as sovereign entities with primary authority and responsibility for each tribe’s land and membership, and not as political subdivisions of states or other governmental units.

EPA recognizes the federal government’s trust responsibility, which derives from the historical relationship between the federal government and Indian tribes as expressed in certain treaties and federal Indian law.

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<sup>1</sup> EPA’s definition of “reservation” encompasses both formal reservations and “informal” reservations, i.e., trust lands set aside for Indian tribes. *See for example* Oklahoma Tax Comm’n v. Sac and Fox Nation, 508 U.S. 114, 123 (1993); 56 Fed. Reg. 64876, 64881 (1991); or 63 Fed. Reg. 7254, 7258 (1998).

EPA ensures the close involvement of tribal governments and gives special consideration to their interests whenever EPA's actions may affect Indian country or other tribal interests.

When EPA issues involve other federal agencies, EPA carries out its consultation responsibilities jointly with those other agencies, where appropriate.

In addition, it is helpful to note the distinction between this Policy, federal environmental laws pertaining to public involvement, and Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*. Under this Policy, EPA consults with federally recognized tribal governments when Agency actions and decisions may affect tribal interests. EPA also recognizes its obligations to involve the public as required by federal environmental laws. Finally, EPA recognizes the need to be responsive to the environmental justice concerns of non-federally recognized tribes, individual tribal members, tribal community-based/grassroots organizations and other indigenous stakeholders.

## V. Consultation

**A. The Consultation Process.** To the fullest extent possible, EPA plans to use existing EPA business operations to put this Policy into effect.

Tribal officials may request consultation in addition to EPA's ability to determine what requires consultation. EPA attempts to honor the tribal government's request with consideration of the nature of the activity, past consultation efforts, available resources, timing considerations, and all other relevant factors.

Consultation at EPA consists of four phases: Identification, Notification, Input, and Follow-up:

1. **Identification Phase:** EPA identifies activities that *may be* appropriate for consultation, using the mechanisms described in section B.2, below. The identification phase should include a determination of the complexity of the activity, its potential implications for tribes, and any time and/or resource constraints relevant to the consultation process. This phase should also include an initial identification of the potentially affected tribe(s).

2. **Notification Phase:** EPA notifies the tribes of activities that may be appropriate for consultation.

Notification can occur in a number of ways depending on the nature of the activity and the number of tribes potentially affected. For example, EPA may send out a mass mailing to all tribes, may contact the tribal governments by telephone, or provide notice through other agreed upon means. EPA normally honors tribal preferences regarding the specific mode of contact.

Notification includes sufficient information for tribal officials to make an informed decision about the desire to continue with consultation and sufficient information to understand how to provide informed input.

*Notification should occur sufficiently early in the process to allow for meaningful input by the tribe(s).*

3. **Input Phase:** Tribes provide input to EPA on the consultation matter. This phase may include a range of interactions including written and oral communications including exchanges of information, phone calls, meetings, and other appropriate interactions depending upon the specific circumstances involved. EPA coordinates with tribal officials during this phase to be responsive to their needs for information and to provide opportunities to provide, receive, and discuss input. During this phase, EPA considers the input regarding the activity in question. EPA may need to undertake subsequent rounds of consultation if there are significant changes in the originally-proposed activity or as new issues arise.

4. **Follow-up Phase:** EPA provides feedback to the tribes(s) involved in the consultation to explain how their input was considered in the final action. This feedback should be a formal, written communication from a senior EPA official involved to the most senior tribal official involved in the consultation.

## **B. *What Activities May Involve Consultation?***

1. **General Categories of Activities Appropriate for Consultation:** The broad scope of consultation contemplated by this Policy creates a large number of actions that *may* be appropriate for consultation.

The following list of EPA activity categories provides a general framework from which to begin the determination of whether any particular action or decision is appropriate for consultation. The final decision on consultation is normally made after examining the complexity of the activity, its implications for tribes, time and/or resource constraints, an initial identification of the potentially affected tribe(s), application of the mechanisms for identifying matters for consultation, described below, and interaction with tribal partnership groups and tribal governments.

The following, non-exclusive list of EPA activity categories are normally appropriate for consultation if they may affect a tribe(s):

- Regulations or rules
- Policies, guidance documents, directives
- Budget and priority planning development
- Legislative comments<sup>2</sup>
- Permits

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<sup>2</sup> Legislative comments are a special case where, due to short legislative timeframes, consultation in advance of comment submission may not always be possible. Nevertheless, EPA will strive to inform tribes when it submits legislative comments on activities that may affect Indian country or other tribal governmental interests.

- Civil enforcement and compliance monitoring actions<sup>3</sup>
- Response actions and emergency preparedness<sup>4</sup>
- State or tribal authorizations or delegations
- EPA activities in implementation of U.S. obligations under an international treaty or agreement.

2. **EPA's Mechanisms for Identifying Matters for Consultation:** The mechanisms EPA uses for identifying matters appropriate for consultation are as follows:

- a. **Tribal Government-Requested Consultation.** Tribal officials may request consultation in addition to EPA's ability to determine what requires consultation. EPA attempts to honor the tribal government's request with consideration of the nature of the activity, past consultation efforts, available resources, timing considerations, and all other relevant factors.
- b. **Action Development Process (ADP).** Early in the process, the lead program office assesses whether consultation is appropriate for the subject action. Its determination is available to tribes in the semiannual Regulatory Agenda as well as in the subset of rules on the Regulatory Gateway accessed through the EPA website.

This Policy is not intended to subject additional Agency actions to the ADP process for the sole purpose of a consultation analysis. Non-ADP actions are subject to consultation analysis through other mechanisms identified within the Policy.

- c. **National Program Offices and Regional Offices.** For those actions and decisions not in the ADP process, program and regional offices also determine if consultation is appropriate under this Policy. EPA's Tribal Consultation Advisors, described below, provide assistance with that determination. Such determination includes coordination with national and/or regional tribal partnership groups.
- d. **National and Regional Tribal Partnership Groups.** EPA meets regularly with a number of national and regional tribal partnership groups. These groups assist in the identification of matters that may be appropriate for consultation.

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<sup>3</sup> Primary guidance on civil enforcement matters involving tribes can be found in "Guidance on the Enforcement Priorities Outlined in the 1984 Indian Policy," and "Questions and Answers on the Tribal Enforcement Process." This guidance is intended to work with the Tribal Consultation Policy in a complementary fashion to ensure appropriate consultation with tribes on civil enforcement matters.

<sup>4</sup> The term "response" as defined under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) includes removals and remedial actions.

**C. *When Consultation Occurs.*** Consultation should occur early enough to allow tribes the opportunity to provide meaningful input that can be considered prior to EPA deciding whether, how, or when to act on the matter under consideration. As proposals and options are developed, consultation and coordination should be continued, to ensure that the overall range of options and decisions is shared and deliberated by all concerned parties, including additions or amendments that occur later in the process.

**D. *How Consultation Occurs.*** There is no single formula for what constitutes appropriate consultation, and the analysis, planning, and implementation of consultation should consider all aspects of the action under consideration. In the case of national rulemaking, a series of meetings in geographically diverse areas may be appropriate. For more routine operational matters, a less formal process may be sufficient.

## **VI. Managing the Consultation Process**

### **A. Roles and Responsibilities**

The following roles and responsibilities have been defined to allow EPA to effectively implement this Policy. These roles and responsibilities reflect the fact that, while oversight and coordination of consultation occurs at EPA headquarters, as a practical matter, much of the actual consultation activity occurs in EPA's program and regional offices. The responsibility for initially analyzing the need for consultation and then subsequently carrying it out, resides with these offices.

1. **Designated Consultation Official:** In addition to being the EPA's National Program Manager for the EPA Tribal Program, EPA's Assistant Administrator for the Office of International and Tribal Affairs (OITA) is the EPA-Designated Consultation Official under the Executive Order. These responsibilities include coordination and implementation of tribal consultation in accordance with this Policy and Agency compliance with the 1984 Indian Policy.

The Designated Consultation Official has the authority for: (1) defining EPA actions appropriate for consultation, (2) evaluating the adequacy of that consultation, and (3) ensuring that EPA program and regional office consultation practices are consistent with this Policy.

Per the Memorandum, the Designated Consultation Official reports annually to OMB on the implementation of the Executive Order.<sup>5</sup> Further, the Designated Consultation Official certifies compliance with the Executive Order for applicable EPA activities. The American Indian Environmental Office (AIEO) is located within OITA and coordinates the operational details of the Policy and compiles consultation-related information for the Designated Consultation Official.

2. **Assistant Administrators:** Assistant Administrators oversee the consultation process in their respective offices including analysis for potential

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<sup>5</sup> Report is filed annually by August 3<sup>rd</sup>.

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consultation and the consultation process. Each program office is directed to prepare a semi-annual agenda of matters appropriate for consultation and a brief summary of consultation that has occurred. The program offices provide this information to AIEO for reporting to OMB. Each office is directed to designate a Tribal Consultation Advisor.

3. **Regional Administrators:** Regional Administrators oversee the consultation process in their respective offices including analysis for potential consultation and the consultation process. Each region is directed to prepare a semi-annual agenda of matters appropriate for consultation and a brief summary of consultation that has occurred. The regions provide this information to AIEO for reporting to OMB. Each region is directed to designate a Tribal Consultation Advisor.

4. **Tribal Consultation Advisors:** Tribal Consultation Advisors (TCAs) assist in identifying matters appropriate for consultation and prepare summary information on consultation activities and provide it to AIEO. TCAs receive and provide advice within their respective program offices and regions on what actions may be appropriate for consultation. TCAs also serve as a point-of-contact for EPA staff, tribal governments, and other parties interested in the consultation process. TCAs are the in-office subject matter experts to assist staff and management in the implementation of the Policy.

#### **B. National Consultation Meeting**

OITA/AIEO may convene a periodic National Consultation Meeting to be chaired by the Designated Consultation Official to review the consultation process across the Agency.

#### **C. Reporting**

Pursuant to the Memorandum, EPA submits annual progress reports to OMB on the status of the consultation process and actions and provides any updates to this Policy.

#### **D. EPA Senior Management Review**

The Designated Consultation Official communicates regularly with the Assistant and Regional Administrators to review the consultation system, to consider any matters requiring senior management attention, and to make adjustments necessary to improve the Policy or its implementation.

EPA plans to receive ongoing feedback on the Policy from all parties to assess its effectiveness and implement improvements.



**THE WHITE HOUSE**

Office of the Press Secretary

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For Immediate Release

November 5, 2009

**MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES**

SUBJECT: Tribal Consultation

The United States has a unique legal and political relationship with Indian tribal governments, established through and confirmed by the Constitution of the United States, treaties, statutes, executive orders, and judicial decisions. In recognition of that special relationship, pursuant to Executive Order 13175 of November 6, 2000, executive departments and agencies (agencies) are charged with engaging in regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, and are responsible for strengthening the government-to-government relationship between the United States and Indian tribes.

History has shown that failure to include the voices of tribal officials in formulating policy affecting their communities has all too often led to undesirable and, at times, devastating and tragic results. By contrast, meaningful dialogue between Federal officials and tribal officials has greatly improved Federal policy toward Indian tribes. Consultation is a critical ingredient of a sound and productive Federal-tribal relationship.

My Administration is committed to regular and meaningful consultation and collaboration with tribal officials in policy decisions that have tribal implications including, as an initial step, through complete and consistent implementation of Executive Order 13175. Accordingly, I hereby direct each agency head to submit to the Director of the Office of Management and Budget (OMB), within 90 days after the date of this memorandum, a detailed plan of actions the agency will take to implement the policies and directives of Executive Order 13175. This plan shall be developed after consultation by the agency with Indian tribes and tribal officials as defined in Executive Order 13175. I also direct each agency head to submit to the Director of the OMB, within 270 days after the date of this memorandum, and annually thereafter, a progress report on the status of each action included in its plan together with any proposed updates to its plan.

Each agency's plan and subsequent reports shall designate an appropriate official to coordinate implementation of the plan and preparation of progress reports required by this memorandum. The Assistant to the President for Domestic Policy and the Director of the OMB shall review agency plans and subsequent reports for consistency with the policies and directives of Executive Order 13175.

In addition, the Director of the OMB, in coordination with the Assistant to the President for Domestic Policy, shall submit to me, within 1 year from the date of this memorandum, a report on more (OVER) 2 the

implementation of Executive Order 13175 across the executive branch based on the review of agency plans and progress reports. Recommendations for improving the plans and making the tribal consultation process more effective, if any, should be included in this report.

The terms "Indian tribe," "tribal officials," and "policies that have tribal implications" as used in this memorandum are as defined in Executive Order 13175.

The Director of the OMB is hereby authorized and directed to publish this memorandum in the Federal Register.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Executive departments and agencies shall carry out the provisions of this memorandum to the extent permitted by law and consistent with their statutory and regulatory authorities and their enforcement mechanisms.

BARACK OBAMA

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# Presidential Documents

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**Title 3—****Executive Order 13175 of November 6, 2000****The President****Consultation and Coordination With Indian Tribal Governments**

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes, and to reduce the imposition of unfunded mandates upon Indian tribes; it is hereby ordered as follows:

**Section 1. Definitions.** For purposes of this order:

(a) “Policies that have tribal implications” refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

(b) “Indian tribe” means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(c) “Agency” means any authority of the United States that is an “agency” under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

(d) “Tribal officials” means elected or duly appointed officials of Indian tribal governments or authorized intertribal organizations.

**Sec. 2. Fundamental Principles.** In formulating or implementing policies that have tribal implications, agencies shall be guided by the following fundamental principles:

(a) The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian tribes.

(b) Our Nation, under the law of the United States, in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights.

(c) The United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination.

**Sec. 3. Policymaking Criteria.** In addition to adhering to the fundamental principles set forth in section 2, agencies shall adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have tribal implications:

(a) Agencies shall respect Indian tribal self-government and sovereignty, honor tribal treaty and other rights, and strive to meet the responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.

(b) With respect to Federal statutes and regulations administered by Indian tribal governments, the Federal Government shall grant Indian tribal governments the maximum administrative discretion possible.

(c) When undertaking to formulate and implement policies that have tribal implications, agencies shall:

(1) encourage Indian tribes to develop their own policies to achieve program objectives;

(2) where possible, defer to Indian tribes to establish standards; and

(3) in determining whether to establish Federal standards, consult with tribal officials as to the need for Federal standards and any alternatives that would limit the scope of Federal standards or otherwise preserve the prerogatives and authority of Indian tribes.

**Sec. 4. *Special Requirements for Legislative Proposals.*** Agencies shall not submit to the Congress legislation that would be inconsistent with the policy-making criteria in Section 3.

**Sec. 5. *Consultation.*** (a) Each agency shall have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Within 30 days after the effective date of this order, the head of each agency shall designate an official with principal responsibility for the agency's implementation of this order. Within 60 days of the effective date of this order, the designated official shall submit to the Office of Management and Budget (OMB) a description of the agency's consultation process.

(b) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and that is not required by statute, unless:

(1) funds necessary to pay the direct costs incurred by the Indian tribal government or the tribe in complying with the regulation are provided by the Federal Government; or

(2) the agency, prior to the formal promulgation of the regulation,

(A) consulted with tribal officials early in the process of developing the proposed regulation;

(B) in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(C) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(c) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications and that preempts tribal law unless the agency, prior to the formal promulgation of the regulation,

(1) consulted with tribal officials early in the process of developing the proposed regulation;

(2) in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the

need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(3) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(d) On issues relating to tribal self-government, tribal trust resources, or Indian tribal treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

**Sec. 6. *Increasing Flexibility for Indian Tribal Waivers.***

(a) Agencies shall review the processes under which Indian tribes apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by law, consider any application by an Indian tribe for a waiver of statutory or regulatory requirements in connection with any program administered by the agency with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 120 days of receipt of such application by the agency, or as otherwise provided by law or regulation. If the application for waiver is not granted, the agency shall provide the applicant with timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.

**Sec. 7. *Accountability.***

(a) In transmitting any draft final regulation that has tribal implications to OMB pursuant to Executive Order 12866 of September 30, 1993, each agency shall include a certification from the official designated to ensure compliance with this order stating that the requirements of this order have been met in a meaningful and timely manner.

(b) In transmitting proposed legislation that has tribal implications to OMB, each agency shall include a certification from the official designated to ensure compliance with this order that all relevant requirements of this order have been met.

(c) Within 180 days after the effective date of this order the Director of OMB and the Assistant to the President for Intergovernmental Affairs shall confer with tribal officials to ensure that this order is being properly and effectively implemented.

**Sec. 8. *Independent Agencies.*** Independent regulatory agencies are encouraged to comply with the provisions of this order.

**Sec. 9. *General Provisions.*** (a) This order shall supplement but not supersede the requirements contained in Executive Order 12866 (Regulatory Planning and Review), Executive Order 12988 (Civil Justice Reform), OMB Circular A-19, and the Executive Memorandum of April 29, 1994, on Government-to-Government Relations with Native American Tribal Governments.

(b) This order shall complement the consultation and waiver provisions in sections 6 and 7 of Executive Order 13132 (Federalism).

(c) Executive Order 13084 (Consultation and Coordination with Indian Tribal Governments) is revoked at the time this order takes effect.

(d) This order shall be effective 60 days after the date of this order.

**Sec. 10. *Judicial Review.*** This order is intended only to improve the internal management of the executive branch, and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law by a party against the United States, its agencies, or any person.

THE WHITE HOUSE,  
*November 6, 2000.*

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EPA POLICY FOR THE ADMINISTRATION OF ENVIRONMENTAL  
PROGRAMS ON INDIAN RESERVATIONS

INTRODUCTION

The President published a Federal Indian Policy on January 24, 1983, supporting the primary role of Tribal Governments in matters affecting American Indian reservations. That policy stressed two related themes: (1) that the Federal Government will pursue the principle of Indian "self-government" and (2) that it will work directly with Tribal Governments on a "government-to-government" basis.

The Environmental Protection Agency (EPA) has previously issued general statements of policy which recognize the importance of Tribal Governments in regulatory activities that impact reservation environments. It is the purpose of this statement to consolidate and expand on existing EPA Indian Policy statements in a manner consistent with the overall Federal position in support of Tribal "self-government" and "government-to-government" relations between Federal and Tribal Governments. This statement sets forth the principles that will guide the Agency in dealing with Tribal Governments and in responding to the problems of environmental management on American Indian reservations in order to protect human health and the environment. The Policy is intended to provide guidance for EPA program managers in the conduct of the Agency's congressionally mandated responsibilities. As such, it applies to EPA only and does not articulate policy for other Agencies in the conduct of their respective responsibilities.

It is important to emphasize that the implementation of regulatory programs which will realize these principles on Indian Reservations cannot be accomplished immediately. Effective implementation will take careful and conscientious work by EPA, the Tribes and many others. In many cases, it will require changes in applicable statutory authorities and regulations. It will be necessary to proceed in a carefully phased way, to learn from successes and failures, and to gain experience. Nonetheless, by beginning work on the priority problems that exist now and continuing in the direction established under these principles, over time we can significantly enhance environmental quality on reservation lands.

POLICY

In carrying out our responsibilities on Indian reservations, the fundamental objective of the Environmental Protection Agency is to protect human health and the environment. The keynote of this effort will be to give special consideration to Tribal interests in making Agency policy, and to insure the close involvement of Tribal Governments in making decisions and managing environmental programs affecting reservation lands. To meet this objective, the Agency will pursue the following principles:

1. THE AGENCY STANDS READY TO WORK DIRECTLY WITH INDIAN TRIBAL GOVERNMENTS ON A ONE-TO-ONE BASIS (THE "GOVERNMENT-TO-GOVERNMENT" RELATIONSHIP), RATHER THAN AS SUBDIVISIONS OF OTHER GOVERNMENTS.

EPA recognizes Tribal Governments as sovereign entities with primary authority and responsibility for the reservation populace. Accordingly, EPA will work directly with Tribal Governments as the independent authority for reservation affairs, and not as political subdivisions of States or other governmental units.

2. THE AGENCY WILL RECOGNIZE TRIBAL GOVERNMENTS AS THE PRIMARY PARTIES FOR SETTING STANDARDS, MAKING ENVIRONMENTAL POLICY DECISIONS AND MANAGING PROGRAMS FOR RESERVATIONS, CONSISTENT WITH AGENCY STANDARDS AND REGULATIONS.

In keeping with the principle of Indian self-government, the Agency will view Tribal Governments as the appropriate non-Federal parties for making decisions and carrying out program responsibilities affecting Indian reservations, their environments, and the health and welfare of the reservation populace. Just as EPA's deliberations and activities have traditionally involved the interests and/or participation of State Governments, EPA will look directly to Tribal Governments to play this lead role for matters affecting reservation environments.

3. THE AGENCY WILL TAKE AFFIRMATIVE STEPS TO ENCOURAGE AND ASSIST TRIBES IN ASSUMING REGULATORY AND PROGRAM MANAGEMENT RESPONSIBILITIES FOR RESERVATION LANDS.

The Agency will assist interested Tribal Governments in developing programs and in preparing to assume regulatory and program management responsibilities for reservation lands. Within the constraints of EPA's authority and resources, this aid will include providing grants and other assistance to Tribes similar to that we provide State Governments. The Agency will encourage Tribes to assume delegable responsibilities, (i.e. responsibilities which the Agency has traditionally delegated to State Governments for non-reservation lands) under terms similar to those governing delegations to States.

Until Tribal Governments are willing and able to assume full responsibility for delegable programs, the Agency will retain responsibility for managing programs for reservations (unless the State has an express grant of jurisdiction from Congress sufficient to support delegation to the State Government). Where EPA retains such responsibility, the Agency will encourage the Tribe to participate in policy-making and to assume appropriate lesser or partial roles in the management of reservation programs.

4. THE AGENCY WILL TAKE APPROPRIATE STEPS TO REMOVE EXISTING LEGAL AND PROCEDURAL IMPEDIMENTS TO WORKING DIRECTLY AND EFFECTIVELY WITH TRIBAL GOVERNMENTS ON RESERVATION PROGRAMS.

A number of serious constraints and uncertainties in the language of our statutes and regulations have limited our ability to work directly and effectively with Tribal Governments on reservation problems. As impediments in our procedures, regulations or statutes are identified which limit our ability to work effectively with Tribes consistent with this Policy, we will seek to remove those impediments.

5. THE AGENCY, IN KEEPING WITH THE FEDERAL TRUST RESPONSIBILITY, WILL ASSURE THAT TRIBAL CONCERNS AND INTERESTS ARE CONSIDERED WHENEVER EPA'S ACTIONS AND/OR DECISIONS MAY AFFECT RESERVATION ENVIRONMENTS.

EPA recognizes that a trust responsibility derives from the historical relationship between the Federal Government and Indian Tribes as expressed in certain treaties and Federal Indian Law. In keeping with that trust responsibility, the Agency will endeavor to protect the environmental interests of Indian Tribes when carrying out its responsibilities that may affect the reservations.

6. THE AGENCY WILL ENCOURAGE COOPERATION BETWEEN TRIBAL, STATE AND LOCAL GOVERNMENTS TO RESOLVE ENVIRONMENTAL PROBLEMS OF MUTUAL CONCERN.

Sound environmental planning and management require the cooperation and mutual consideration of neighboring governments, whether those governments be neighboring States, Tribes, or local units of government. Accordingly, EPA will encourage early communication and cooperation among Tribes, States and local governments. This is not intended to lend Federal support to any one party to the jeopardy of the interests of the other. Rather, it recognizes that in the field of environmental regulation, problems are often shared and the principle of comity between equals and neighbors often serves the best interests of both.

7. THE AGENCY WILL WORK WITH OTHER FEDERAL AGENCIES WHICH HAVE RELATED RESPONSIBILITIES ON INDIAN RESERVATIONS TO ENLIST THEIR INTEREST AND SUPPORT IN COOPERATIVE EFFORTS TO HELP TRIBES ASSUME ENVIRONMENTAL PROGRAM RESPONSIBILITIES FOR RESERVATIONS.

EPA will seek and promote cooperation between Federal agencies to protect human health and the environment on reservations. We will work with other agencies to clearly identify and delineate the roles, responsibilities and relationships of our respective organizations and to assist Tribes in developing and managing environmental programs for reservation lands.

8. THE AGENCY WILL STRIVE TO ASSURE COMPLIANCE WITH ENVIRONMENTAL STATUTES AND REGULATIONS ON INDIAN RESERVATIONS.

In those cases where facilities owned or managed by Tribal Governments are not in compliance with Federal environmental statutes, EPA will work cooperatively with Tribal leadership to develop means to achieve compliance, providing technical support and consultation as necessary to enable Tribal facilities to comply. Because of the distinct status of Indian Tribes and the complex legal issues involved, direct EPA action through the judicial or administrative process will be considered where the Agency determines, in its judgment, that: (1) a significant threat to human health or the environment exists, (2) such action would reasonably be expected to achieve effective results in a timely manner, and (3) the Federal Government cannot utilize other alternatives to correct the problem in a timely fashion.

In those cases where reservation facilities are clearly owned or managed by private parties and there is no substantial Tribal interest or control involved, the Agency will endeavor to act in cooperation with the affected Tribal Government, but will otherwise respond to noncompliance by private parties on Indian reservations as the Agency would to noncompliance by the private sector elsewhere in the country. Where the Tribe has a substantial proprietary interest in, or control over, the privately owned or managed facility, EPA will respond as described in the first paragraph above.

9. THE AGENCY WILL INCORPORATE THESE INDIAN POLICY GOALS INTO ITS PLANNING AND MANAGEMENT ACTIVITIES, INCLUDING ITS BUDGET, OPERATING GUIDANCE, LEGISLATIVE INITIATIVES, MANAGEMENT ACCOUNTABILITY SYSTEM AND ONGOING POLICY AND REGULATION DEVELOPMENT PROCESSES.

It is a central purpose of this effort to ensure that the principles of this Policy are effectively institutionalized by incorporating them into the Agency's ongoing and long-term planning and management processes. Agency managers will include specific programmatic actions designed to resolve problems on Indian reservations in the Agency's existing fiscal year and long-term planning and management processes.



William D. Ruckelshaus