# FY 2018-2019 NPM GUIDANCE RESPONSE TO EXTERNAL COMMENTS

## OFFICE OF LAND AND EMERGENCY MANAGEMENT

| Issue Area | Comment | Commenter(s) | NPM Response |
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| General- All NPMs | The principles outlined in ECOS' Cooperative Federalism 2.0 paper emphasized that states should have flexibility to determine the best way for their programs to achieve national minimum standards. ECOS believes that it will be beneficial to the cooperative federalism relationship for the NPM Guidance documents to include language wherever possible that encourages regional staff and states to collaboratively pursue this flexibility. States also need meaningful input on establishing and revising national minimum standards. Some effective avenues for flexibility include Performance Partnership Agreements/Grants (PPAs/PPGs), E-Enterprise Tradeoffs, Alternative Compliance Monitoring Tradeoffs (ACMS), and innovative financing models. To examine more areas for potential flexibility, please see ECOS' Field Guide to Flexibility and Results report. | The Environmental Council of the States | The success of OLEM's land-based cleanup programs is directly related to the collegial relationship among all stakeholders.  OLEM will continue to promote flexibility and collaboration with the states.  In addition to highlighting flexibilities within the Introduction to OLEM's guidance, the following language has been added to the Underground Storage Tank program guidance on page 21:<br><br>"Headquarters, regions, states and tribes are encouraged to collaborate to pursue all available flexibilities as appropriate to individual needs." |

**Emergency Prevention, Preparedness and Response**

| Issue Area | Comment | Commenter(s) | NPM Response |
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| Oil Spill Prevention and Response Program | Second bullet [on page 10] of this section states "Deliver two annual oil spill inspector trainings to federal inspectors." The states should be offered this training as well. | Arkansas Department of Environmental Quality | EPA offers the SPCC/FRP course primarily to complete the training requirements for issuing credentials to federal oil inspectors, and since these programs are not delegated to the states we don't credential state inspectors. However, EPA actively encourages our state and local regulatory partners to participate in these trainings, and have done so in previous years. EPA does not pay State partner travel or per diem but offers the course at no cost. |
| State and Local Prevention and Preparedness Program | [The last] bullet [on page 10] refers to development of updates to Computer-Aided Management of Emergency Operations (CAMEO) software. This is publicly available software. The states would like training on this software. | Arkansas Department of Environmental Quality | There are several CAMEO trainings that that are available. A link to the list of CAMEO trainings that are currently available can be found at: https://www.epa.gov/cameo/cameo-training-and-events |

**Resource Conservation and Recovery**

| Issue Area | Comment | Commenter(s) | NPM Response |
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| RCRA Hazardous Waste Permitting | ASTSWMO also supports EPA's commitment to "develop, implement, maintain, and update" the national data system RCRAInfo. | Association of State and Territorial Solid Waste Management Officials | Thank you for your comment. |
| RCRAInfo | OLEM notes headquarters "will develop, implement, maintain, and update" the national data system RCRAInfo. Some authorized states have chosen to use RCRAInfo as their system of record rather than build their own state's data system. When the lead program implementer, states and EPA need to access information to properly manage its program. As a shared system and given recent direct database access changes, ECOS recommends OLEM continue to build web services that allow full data access for non-EPA users, continue to support RCRARep that provides user-friendly data reports for states, accelerate plans to develop robust inbound and outbound data flows, as well as develop comprehensive ad-hoc reporting functionality (similar to RCRARep) within the RCRAInfo system. ECOS | The Environmental Council of the States | Thank you.  OLEM's RCRAInfo Team would like to build out additional services that will meet the needs of our stakeholders. We want to work with our state partners to determine what those needs are and develop the services accordingly. As part of our Version 6 development, we are addressing each need for reporting, services and ad-hoc querying within each module as each module is getting converted. Again, we value the states' input and look forward to working with the entire user community to make sure the RCRAInfo addresses their needs to run their program.<br><br>The RCRAInfo Management Board is in good standing and only meets as needed. The RCRAInfo Team relies heavily on the expert groups created for each module to gather programmatic, IT and data requirements. Stakeholders can become members of the expert groups to work with the RCRAInfo Team. |

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| | appreciates the commitment from OLEM to develop services and recommends OLEM provide a timeline at the earliest opportunity to states indicating when requested services may be available. States as shared service users are appropriate to include in conversations to design and maintain the RCRAInfo shared system in the future.<br><br>Page 15 notes: "Regions and states will conduct effective data collection and management... They will review reports to ensure data are entered, updated, and maintained in alignment with EPA policy..." These efforts would be enhanced and supported by a robust ability to download all the RCRAInfo data, allowing regions and states to create a wide variety of reports and tools to verify and utilized the data. Helping a user to access and utilize the data is a generally recognized method of encouraging the user to actively and effectively work on data quality.<br><br>In the past, there has been an active RCRAInfo Management Board comprised of states, U.S. EPA Headquarters, and U.S. EPA Regions. ECOS recommends this body be | | |

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| | reinvigorated as well as appropriate expert groups to provide recommendations that may result in overall system user improvements. | | |

**Cleaning Up Contaminated Sites and Returning to Productive Use**

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| RCRA Corrective Action and PCB Cleanup | States appreciate emphasis on leadership, facilitating communication and collaboration, and joint region-state implementation of the national RCRA Corrective Action program. It is important that states, regions and OLEM coordinate through the funding transition and that OLEM work closely with the states towards meeting its program goals. | The Environmental Council of the States | OLEM will continue collaboration and will coordinate with states and regions through the funding transition and will work closely with the states towards meeting program goals. |

**Brownfields**

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| Brownfields | Guidance states that you aim for a "back-to-basics strategy" and that you want to create environmental regulations that also "enhance economic growth." We have had experience working with the Brownfields program with many lessons learned over the years. We believe a back-to-basics strategy would be counterproductive. Please clarify what you mean by that and what changes it would mean for program operation. Why would we ignore the progress we have made and the experience that has gotten the program to where it is today? Also, the priority of this program should solely be on environmental protection and remediation. Economic growth is an excellent side benefit, but it can compromise the quality of the environmental regulation if protection and economics are at odds. | Makah Tribe | Thank you for your comment and your support of the brownfields program. The brownfields program assists communities throughout the country in their efforts to revitalize and reclaim brownfields sites. This is at the heart of the program, to help communities achieve their brownfields redevelopment vision. This program is an excellent example of the success that is possible, so that environmental protection and economic growth support each other. |

**Superfund Remediation and Superfund Federal Facility Restoration and Reuse**

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| Traditional Ecological Knowledge | The NPM should reaffirm EPA's commitment set forth in its January 2017 document, Consideration of Tribal Treaty Rights and Traditional Ecological Knowledge in the Superfund Remedial Program, to consider tribal treaty rights and traditional ecological knowledge in implementation of the Superfund Remedial Program. | EPA Region 10 Tribal Caucus - Regional Tribal Operations Committee | The Tribal Support and Coordination section of the NPM guidance, on page 23, will be updated to reflect commitment to both the OLEM and Office of Superfund Remediation and Technology Innovation (OSRTI) January 2017 memos. The revised language is "Headquarters and regions will implement EPA's Policy on Consultation and Coordination with Indian Tribes, the 2016 Guidance for Discussing Tribal Treaty Rights, as well as the OLEM and the Office of Superfund Remediation and Technology Innovation (OSRTI) January 2017 memorandums, Considering Traditional Ecological Knowledge During the Cleanup Process." |
| Superfund Remediation and Superfund Federal Facilities Restoration and Reuse | ASTSWMO is encouraged to see the Association and states listed under partnerships in the draft FY 2018-2019 OLEM NPM Guidance. | Association of State and Territorial Solid Waste Management Officials | Thank you for your comment. |
| Provide technology integration and assessment | Agree that collaboration is needed to address emerging contaminants such as per- and polyfluoralkyl substances. | Association of State and Territorial Solid Waste Management Officials | Thank you for your comment. We look forward to working with you on this important area. |

**E-Enterprise and E-Manifest**

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| E-Enterprise for the Environment | States seek language in the guidance document highlighting the importance of E-Enterprise for the Environment and suggest the language specifically encourage coordination and flexibility related to E-Enterprise projects and priorities. While the guidance's Superfund Federal Facilities Restoration and Reuse section specifically addresses E-Enterprise in its discussion of streamlining business processes through an ePortal submittal system, ECOS encourages OLEM to also expand upon other E-Enterprise initiatives such as Smart Mobile Tools for Field Inspectors, a group with active state leadership and participation for efforts like the RCRA program. | The Environmental Council of the States | OLEM agrees with this comment and has added language that expands upon the role of eEnterprise in coordinating with states to find solutions.<br><br>In OLEM's Introduction, on page 3, added the following text: "Regions are encouraged to work with states where E-Enterprise strategies could streamline business processes and develop shared services using joint governance to generate efficiencies." |
| E-Manifest | States appreciate the guidance language that "all manifests will be sent to EPA and the states, and the states will have access to their data in the e-Manifest system when it is entered into the system and updated by the handlers. Although EPA's Final User Fee rule will be implemented by EPA in all states on the effective date | The Environmental Council of the States | We appreciate states' support for development of the e-Manifest system and EPA also looks forward to continued engagement with states on implementation. For clarification, we note that inbound data services will be available to receiving facilities to upload manifest data to EPA. States would have access to e-Manifest data through the RCRAInfo system or via outbound services from e-Manifest to state databases. |

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| | of the rule, state adoption and authorization will allow states to retain enforcement authority for their manifest programs." States support the development of the e-Manifest system including robust inbound and outbound data services and look forward to continuing engagement with EPA on its further implementation. | | On page 12, EPA has revised its NPM guidance language to reflect current e-Manifest policy direction:<br><br>"After the system launches all hazardous waste receiving facilities will send manifests to EPA, and the states will have access to data in the e-Manifest system when it is entered into the system and updated by the handlers." |

**Funding Levels**

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| RCRA Waste Minimization and Recycling program funding | Because the Waste Minimization & Recycling program is proposed to be eliminated in the President's Proposed FY18 Budget, it is not included in the NPM. We don't agree with the elimination of this program.<br>This will impact the success States and EPA have had on waste reduction, diversion, and recycling goals. | Association of State and Territorial Solid Waste Management Officials | The agency has received comments regarding funding levels requested for the EPA in the President's Budget for fiscal year 2018 as they relate to the FY 2018-2019 NPM Guidance documents. The FY 2018-2019 NPM Guidance documents are planning documents based on the funding levels requested in the FY 2018 President's Budget. The EPA's funding levels for FY 2018 will be determined through the annual federal appropriations process. |

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| Hazardous Waste program funding | The NPM needs to address strategies, in light of proposed funding cuts, to address small solid and hazardous waste issues throughout Indian Country. This is particularly a problem given new restrictions placed on use of GAP funds by EPA's GAP Guidance. | EPA Region 10 Tribal Caucus - Regional Tribal Operations Committee | |
| Brownfields program funding | [First,] we strongly object to the funding cuts for this program.<br><br>In 1995, the United States EPA established the Brownfields Tribal Response Program and has since then, grown into a principal nationwide plan of environmental restoration.<br>In 2003, the Confederated Salish and Kootenai Tribes began a Tribal Brownfields Response Program.<br><br>There is a continued demand for Brownfields cleanup and redevelopment in communities throughout the country as well as the FIR coupled with increasingly limited state and tribal resources, makes access to federal funding critical. | Makah Tribe<br><br>Confederated Salish and Kootenai Tribes | |

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| Underground Storage Tank program funding | The Department continues to have serious concerns with the President's proposed FY2018 budget reductions to the Underground Storage Tank Program. This grant program has been proposed to be severely reduced; however, the commitments and requirements for states as outlined in federal law have not been. The prevention activities funded by the grant are vital to protecting human health and the environment. The Department respectfully requests the Administration to reconsider these grant reductions. | Vermont Department of Environmental Conservation | |
| Underground Storage Tank Prevention program funding | In July 2009 the CSKT began conducting annual UST Inspections "solo" within the exterior boundaries of the Flathead Reservation and submitting reports to EPA. CSKT continues to encourage owner/operators to properly operate and maintain their UST facility system by conducting compliance assistance inspections and providing owner/operators with UST regulatory information. | Confederated Salish and Kootenai Tribes | |

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| | Reduced funding or program elimination would increase noncompliance and contamination of resources.<br><br>Because the UST prevention program is proposed to be eliminated in the President's Proposed FY18 Budget, there isn't anything except for: Headquarters and regions will provide limited support to citizens/communities with UST issues and continue coordination with any remaining state UST programs. This will impact the success States and EPA have had with UST sites | Association of State and Territorial Solid Waste Management Officials | |
| LUST Cleanup program funding | ASTSWMO is concerned that the reduced cleanup budget for Headquarters and regions will impact the work with States and tribes to address new releases as they continue to be confirmed. This will impact the success States and EPA have had with LUST sites. | Association of State and Territorial Solid Waste Management Officials | |