

OFFICE OF INTERNATIONAL AND TRIBAL AFFAIRS

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SECTION I. INTRODUCTION

The Office of International and Tribal Affairs (OITA)'s National Program Guidance (NPG) describes how the Environmental Protection Agency (EPA) will work to protect human health and the environment by advancing U.S. national interests through international collaboration and strengthening EPA and federally recognized Indian tribe (tribe) implementation of environmental programs in Indian country.

This Guidance addresses both the Tribal and International Programs and provides direction to the Agency on programmatic priorities for FY 2020-2021 consistent with the FY 2020 President's Budget. When developing the Guidance, OITA carefully reviewed and considered the state, tribal, and territory priorities identified through the Regional Administrator-led early engagement. Our tribal and international partnerships extend to all aspects of the Agency's work and involve every NPM and Region. The guidance is a *guide*, not a comprehensive compendium of activities and requirements. OITA works collaboratively to identify priorities, assuring alignment with national and international priorities. Specific expectations and deliverables will be established through negotiations in grant agreements between EPA regions and tribes.

OITA plays a crucial role in advancing the Agency's relationship and environmental priorities with sovereign nations outside the United States and tribes within the United States. Working with leaders and experts from EPA's program and regional offices, other government agencies, tribes, foreign governments, and international organizations, OITA identifies international environmental issues that adversely affect the United States and helps implement technical and policy options to address such issues. OITA ensures that EPA protects human health and the environment in Indian country in the United States according to principles established through federal Indian law, as outlined in EPA's 1984 *Policy for the Administration of Environmental Programs on Indian Reservations* (1984 EPA Indian Policy).¹

Activities in OITA's guidance encompass activities that may carry forward to future years; any out-year activities are included to inform our tribal and international partners of potential future work to assist with planning.

The "[EPA Overview to the National Program Guidance](#)" communicates important background and agency-wide information, and should be read in conjunction with OITA's guidance.

SECTION II. STRATEGIC PLAN IMPLEMENTATION

A. Implementing Strategic Measures

Objective 2.1 Enhance Shared Accountability: Improve environmental protection through shared governance and enhanced collaboration with state, tribal, local, and federal partners using the full range of compliance assurance tools.

¹ Available at <https://www.epa.gov/sites/production/files/2015-04/documents/indian-policy-84.pdf>.

Administration of the EPA Tribal Program

OITA, through the American Indian Environmental Office (AIEO), leads the Agency's efforts to implement the *EPA Policy for the Administration of Environmental Programs on Indian Reservations* (1984 EPA Indian Policy). The 1984 EPA Indian Policy provides the framework for EPA's relationship with federally recognized Indian tribes (tribes) and identifies the mechanisms EPA will use to implement environmental programs in Indian country under federal environmental laws. EPA will continue to embrace and promote the principles found in the 1984 EPA Indian Policy and work to incorporate the principles into the media-specific priorities, goals, and measures that EPA implements. This approach helps EPA ensure that tribes are provided the opportunity to build the capacity to implement programs on their own and/or meaningfully participate in the Agency's policy making, standard setting, and direct implementation activities under federal environmental statutes that may affect their tribal interests.

Under the EPA priority of promoting intergovernmental collaboration and cooperative federalism, EPA will work with each tribe to develop and implement an EPA-Tribal Environmental Plan (ETEP), which supports the 1984 EPA Indian Policy by setting the stage for stronger environmental and human health protection in tribal communities. ETEPs are jointly developed documents outlining how the EPA and each tribe will work together to protect human health and the environment for that tribe's lands within the context of EPA programs. ETEPs are negotiated at the regional level. Understanding the needs and priorities of each tribe allows for a focused government-to-government discussion on actions to meet short-term and long-term tribal program development milestones.

ETEP implementation activities include: targeting use of direct implementation resources consistent with the joint agreements and priorities in the ETEP, refer to the tribe's stated goals when reviewing applications for tribal grant program funding, and identifying revisions to update each ETEP as needed. By using ETEPs to identify priorities and then map how and when the priorities will be addressed and by whom, EPA and tribes can then work together to identify technical and other resources that may be necessary to implement the ETEP.

This joint planning process also identifies areas where EPA prioritizes its direct implementation responsibilities and resources on areas of high need for human health and environmental protection for a particular tribe based upon the agreed upon priorities, environmental protection needs, and available resources.

Implementation of Federal Environmental Programs in Indian Country

EPA will continue to work directly with tribes to achieve implementation of federal environmental programs in Indian country. This is achieved in several ways under Agency authorities:

- EPA direct implementation refers to activities performed directly by EPA to implement federal environmental laws. In general, unless and until a tribal government has assumed full responsibility for a delegable program, the applicable federal environmental regulatory programs are directly implemented by EPA in Indian country;
- Tribal implementation occurs when the federal program is implemented by the tribe itself. This occurs after a formal process of program delegation, approval, or authorization from EPA to the tribe authorizing the tribe to implement the federal environmental program;

- EPA uses Direct Implementation Tribal Cooperative Agreements (DITCAs), where appropriate, to provide opportunities for tribes to assist in EPA direct implementation by performing EPA program implementation activities; and
- EPA encourages tribes to participate in Policy-making and to assume, if available, appropriate roles in the implementation of programs. Effective communication and coordination with tribes is crucial to share information and ensure tribes are aware of new policies and efforts early in the process. For example, tribes may play a role in helping to ensure compliance by regulated entities, including through information distribution, identification of regulated entities, providing tips and complaints, and compliance assistance/assurance support.

EPA works to ensure federal environmental programs are as effective in Indian country as they are throughout the rest of the Nation. This also includes efforts concerning treaty rights and obligations, and federal trust responsibility. A continuing emphasis on ensuring federal program implementation in Indian country is the highest priority of the EPA tribal program and the most proactive manner in which the Agency acts to protect human health and the environment for tribes.

B. Implementing Other Core Work

Tribal Consultation and Coordination

OITA leads EPA's implementation of EPA's Policy on Consultation and Coordination with Indian Tribes and Executive Order 13175 Consultation and Coordination with Indian Tribal Governments (EO 13175). The *EPA Policy on Consultation and Coordination with Indian Tribes* states that EPA will "consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests." EPA makes consultation opportunities available on the Tribal Consultation Opportunities Tracking System (TCOTS) available at <http://tcots.epa.gov>. EPA Assistant Administrators and Regional Administrators implement EPA's Tribal Consultation Policy and EO 13175 and ensure they are appropriately implemented for actions in their respective offices under the oversight of OITA's Assistant Administrator as the EPA Designated Tribal Consultation Official.

Tribal Partnership

OITA coordinates the National Tribal Operations Committee (NTOC) consisting of the Administrator and EPA senior leadership, and 19 tribal representatives known as the National Tribal Caucus (NTC) to improve communications and build stronger partnerships with tribes. The NTOC meets to discuss implementation of the environmental protection programs for which EPA and the tribes share responsibility as co-regulators. The NTC also advises EPA on tribal environmental issues that are cross-media, cross-agency, or that may be emerging or urgent.

International Priorities- Strategic Approach to Engagement with Global Partners

The primary purpose of EPA's international program is to protect human health and the environment by working with other countries and international organizations to address domestic and global environmental problems and risks. To achieve our domestic environmental and human health objectives, work with international partners is essential to successfully address transboundary

pollution adversely impacting the United States. Strengthening environmental protection abroad so that it is on par with practices in the United States helps build a level playing field for U.S. industry abroad while supporting foreign policy objectives outlined by the White House, the National Security Council, and the Department of State. This will include working with international partners to strengthen environmental laws and governance to more closely align with U.S. standards and practices and to help level the playing field for U.S. industry while protecting human health and the environment. OITA works with NPMs and Regional Offices to formulate U.S. international policies and to implement EPA's international programs that provide policy and technical assistance to other countries. OITA will continue to link anticipated and achieved outcomes to the Agency's Strategic Goals. In FY 2020-2021, OITA will strengthen its focus on prioritizing, allocating resources, and managing assistance agreements to advance the Agency's Strategic Goals and international priorities while maximizing limited resources most effectively and efficiently.

Reduce Transboundary Pollution

Pollution does not stop at national borders. Transboundary flows of pollutants can occur globally and regionally, including between the United States, Mexico, and Canada. EPA works with its immediate neighbors through the North America Commission for Environmental Cooperation (CEC) to advance sustainability, environmental, ecosystem and health protections. EPA also works with key countries bilaterally and works to address global and international flows and sources of pollution through various international forums. This work addresses atmospheric mercury and other air pollutants, marine litter, emissions from maritime transport, persistent organic pollutants, Arctic contaminants.

- EPA will continue technical and policy assistance for global and regional efforts to address international sources of harmful pollutants, such as mercury. Because 70% of the mercury deposited in the U.S. comes from global sources, both domestic efforts and international cooperation are important to address mercury pollution.
- EPA will continue to engage collaboratively with Canada to advance environmental protection and protect human health on issues such as oil spill prevention, marine litter, mining impacts, preparedness, and response coordination along our joint border.
- Pursuant to the North American Agreement for Environmental Cooperation (NAAEC) among Canada, Mexico, and the United States, EPA will contribute to the CEC, which provides regional and international leadership to advance environmental protection, human health and sustainable economic growth with our closest neighbors Mexico and Canada.
- EPA will engage multilaterally and bilaterally to prevent and reduce marine litter, an increasingly prominent global issue that can negatively impact water resources, tourism, industry and public health in the U.S. Because 80 percent of marine litter comes from land-based sources of waste, countries with inadequate waste management contribute to the pollution in our shared oceans. EPA will continue to work with other federal agencies to advance sound policy approaches for global action on marine litter.

Advance U.S. Interests Abroad

OITA protects human health and the environment while advancing U.S. national interests through international environmental collaboration. Working with experts from EPA's media programs and regional offices, other government agencies, and other nations and international organizations, OITA identifies international environmental issues that may adversely impact the United States and helps to design and implement technical and policy options to address them. Environmental cooperation

with partner countries can advance U.S. goals on environmental challenges such as air pollution, lead, mercury, and marine pollution. This work also protects Americans as they are exposed to toxins in food products, pesticides, and other goods that are traded globally.

- EPA will engage with key priority countries like China to address air pollution that contributes significant pollution to the domestic and international environment. For example, China is implementing national air quality monitoring, planning and control strategies with advice and lessons learned from the United States. Environmental policies adopted and implemented in China will improve competitiveness for U.S. businesses, drive demand for U.S. emissions control technologies, and expand exports of U.S. environmental goods and services to China.
- EPA will engage to achieve a consistent North American approach to reducing emissions of air pollutants (i.e., SO_x, NO_x, PM, etc.) from marine vessels through the implementation of MARPOL Annex VI in Mexico, the adoption of a Mexican Emissions Control Area (ECA) and building Mexico's compliance and enforcement capacity required for MARPOL Annex VI and the ECA. This work will achieve the desired emissions reductions that is estimated to save 20,000 lives per year in Mexico while greatly improving air quality in U.S. airsheds.
- The United States assumes the Presidency of the G7 in 2020. Because the G7 Presidency involves hosting ministerial-level meetings in addition to a Leaders Summit, EPA will participate with other federal agencies in ensuring the President's agenda for the United States' G7 Presidency. EPA's work on the G7 for 2020 will advance key environmental policy deliverables on clean air, clean water, and marine litter, developed in partnership with U.S. stakeholders, building on priorities agreed to in previous G7 Environment Ministers Meetings, and in support of the Administration's vision for the U.S. G7 Presidency.

Promote Good Environmental Governance

Countries need strong institutional structures to develop sound environmental policies and enforce environmental protections. EPA will engage on trade policy development and with countries to build capacity for good governance, including judicial and legal frameworks and public participation approaches. OITA coordinates with EPA's Office of Enforcement and Compliance Assurance and Office of General Council in conducting trainings, hosting study tours, and managing bilateral programs on good governance. Governance issues span environmental media. OITA will coordinate with NPMs and regions in promoting good environmental governance policies internationally.

- Through existing agreements with the China Ministry of Environmental Protection, Indonesia Ministry of Environment, and Chile public participation to strengthen frameworks such as environmental impact assessments, environmental law and enforcement; develop effective environmental information management structures; and build regional expert networks and advance regional knowledge.
- EPA engages with the White House, other U.S. federal agencies, and stakeholders to shape U.S. trade policies, protect the integrity of U.S. domestic regulatory policies, and promote good environmental governance with our trading partners.

SECTION III. FLEXIBILITY AND GRANT PLANNING

Indian Environmental General Assistant Program (GAP): Tribal Capacity Building

Tribes receive a variety of financial and technical assistance from EPA to meet capacity building needs including the OITA-administered Indian Environmental General Assistance Program (GAP). GAP is the largest of EPA's tribal grant programs. EPA provides GAP grant funds to assist tribes in planning, developing, and establishing the capacity to implement federal environmental programs administered by the EPA. GAP funding also supports implementation of tribal solid and hazardous waste programs in accordance with the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act, or RCRA). In the FY 2018 Consolidated Appropriations Act, Congress gave EPA permanent authority to award GAP funds for tribal solid waste and recovered materials collection, transportation, backhaul and disposal services.

OITA coordinates across EPA's national programs to ensure effective delivery of EPA tribal capacity building programs and to support applicable agency measures related to EPA grants programs. Effective delivery includes engaging with tribes to negotiate ETEPs that reflect intermediate and long-term goals for developing, establishing, and implementing environmental and human health protection programs in accordance with EPA-administered statutes.

OITA works with the EPA regions to incorporate standard language into all GAP solicitation packages to ensure national consistency in the approach, communication, and application of the following guiding principles in awarding GAP grants:

- Ensure tribes the opportunity to build capacity to implement federal environmental programs through EPA delegations, authorizations, and primacy designations, and to meaningfully participate and engage in EPA direct implementation activities;
- Promote tribal self-governance by accomplishing mutually agreed upon environmental program goals found in the tribe's ETEP, supporting development of tribal core environmental program capacities for programs administered by EPA, and fostering tribal capacity to assume the authority to implement programs administered by EPA;
- Promote intergovernmental collaboration and cooperative federalism among EPA, tribes, states, and other federal partners;
- Support implementation of established solid and hazardous waste regulatory programs in accordance with applicable provisions of law, such as the Resources Conservation and Recovery Act; and
- Maintain strong national program management practices to produce compelling results that align with EPA's statutory authorities.

The GAP guiding principles underscore GAP's role in fostering partnerships between EPA and tribes through collaboration and shared accountability. OITA remains committed to using GAP resources to assist in building tribal capacity to implement delegable federal programs, support tribal solid waste and hazardous waste programs, and to meaningfully participate and engage in EPA direct implementation activities. During FY2020 and FY2021, OITA will continue to identify opportunities to increase flexibility and program administration efficiency through guidance and policy revisions, new tools and training for EPA project officers and GAP recipients, and close coordination with the National Environmental Performance Partnership System (NEPPS). Tribes that receive GAP funds through Performance Partnership Grants may take advantage of a range of flexibilities available through NEPPS. For further discussion, see the NEPPS National Program Guidance for FY2020-21.

SECTION IV. KEY CONTACTS

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