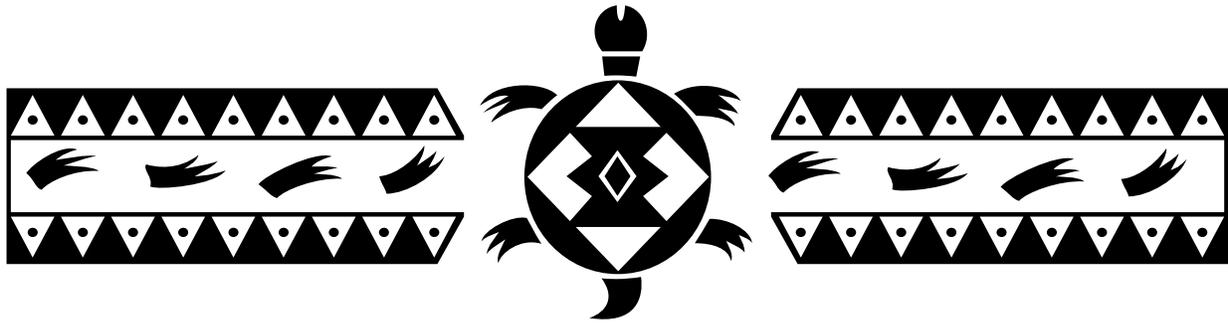


EPA R10 TRIBAL ENVIRONMENTAL RESOURCE GUIDE

(WORKING DRAFT)



AIR, LAND, & WATER

EPA REGION 10 TRIBAL OFFICE



Preface

The following six chapters have been taken from the working draft of the Region 10 Tribal Resource Guide. This guide was put together with the help of many individuals at EPA and I would like to thank each of you for your hard work. While this version is not complete I felt it was important to get a draft out in order to receive feedback. The complete guide will be available in the Fall of 2004. The information contained in the guide is an attempt to explain what types of resources EPA has available to Tribes. Please look through the guide and let me know if the information is helpful to your Tribal environmental programs. If you have any comments or suggestions to make the document more useful please send me an email at fordham.tami@epa.gov or call me at (907) 271-1484. I look forward to hearing from you.

Sincerely,

Tami Fordham

Alaska Tribal Coordinator, US EPA R10 Tribal Office

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY



REGION 10 TRIBAL OFFICE

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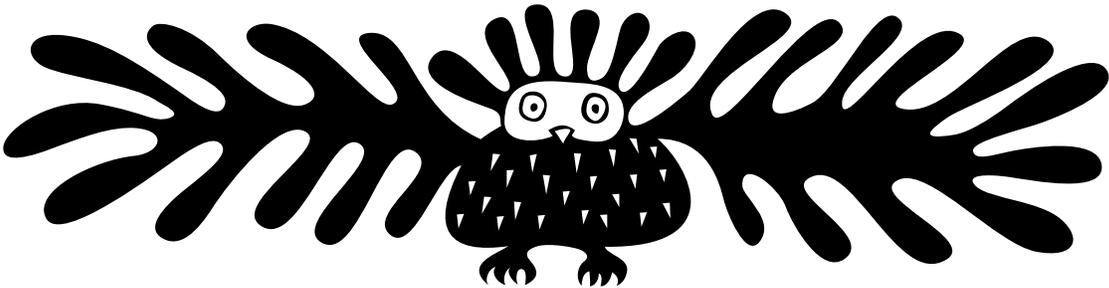
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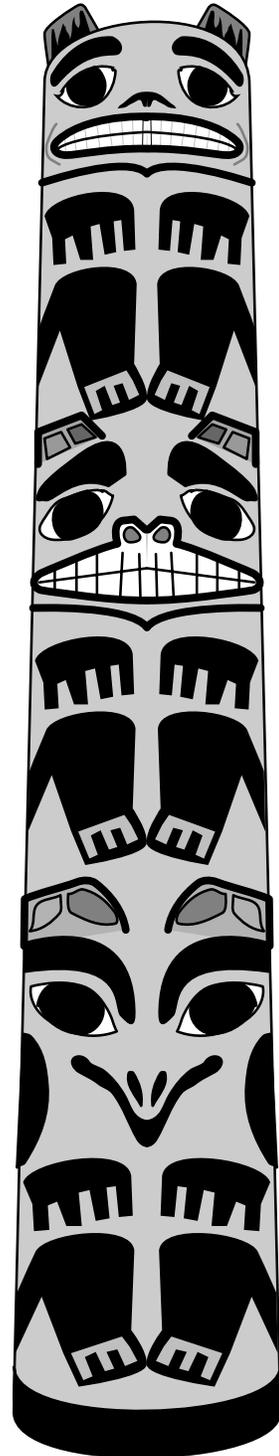
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INTRO



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EPA's APPROACH TO ENVIRONMENTAL PROTECTION IN INDIAN COUNTRY

Introduction

The mission of the United States Environmental Protection Agency (EPA) is to protect human health and to safeguard the natural environment—air, water, and land—upon which life depends. From its origin, EPA has led the nation in controlling pollution and other environmental risks. As a result of EPA actions, it can be said that our air, land and water are now much safer and cleaner than 25 years ago despite population increases and continued economic expansion.

Although this substantial progress has been made, there are still many human health and environmental challenges that cannot be met with traditional media-specific “command and control” approaches. For example, it has been posited that children, Native American Tribal communities, and other minority populations and low-income populations suffer disproportionately from adverse health effects caused by some environmental conditions. Until very recently, there has not been a fully concerted effort to do environmental work in Indian country. To address these specific needs, EPA has created a number of innovative multimedia programs that rely on the active participation of the affected communities to reduce human health and environmental risks in the most effective manner.¹

One of these programs is the EPA Indian Program. It involves significant intra-Agency and multimedia activities designed to ensure protection of human health and the Tribal environment, in a manner consistent with EPA's trust responsibility to federally-recognized Tribes, the government-to-government relationship, and the conservation of cultural uses of natural resources.

The Importance of the Indian Program

The responsibilities of the Indian Program include protecting the health of millions of Indians and non-Indians residing in Indian country, addressing the environmental needs of 560 Tribal nations, and safeguarding the natural environment.² EPA's role is critical. Native Americans have the worst health statistics in the country, and environmental mitigation in Tribal communities is significantly behind that of non-Tribal communities. It is imperative that EPA enhance its partnership with the Tribes and work with Tribes to identify and achieve environmental goals.³

¹ U.S. Environmental Protection Agency, EPA Strategic Plan 7, 80 (1997).

² Department of Interior, Bureau of Indian Affairs, Indian Entities Recognized and Eligible to receive services from the United States Bureau of Indian Affairs, 62 FR 55270 (1997).

³ *Id.* at 85-86.

Objectives of the Indian Program

In 1984, EPA became the first federal agency to adopt a formal Indian policy. When the policy was reaffirmed in 1994, an action agenda was established for enhancing and strengthening Tribal operations. A key element was a commitment to fully institutionalize the policy into Agency activities. The American Indian Environmental Office (AIEO) was established and the Tribal Operations Committee (TOC) was formed to help EPA identify Indian environmental priorities and issues for discussion and resolution on how EPA can improve its program delivery and implementation. Through this ongoing dialogue, key objectives for program implementation have evolved. As an Agency, we want to:

- achieve adequate environmental infrastructure throughout Indian country;
- complete Tribal and EPA Environmental Agreements (TEAs) with every Tribe. These agreements would contain a Tribal environmental conditions baseline assessment, Tribal environmental priorities, and joint commitments to achieve these priorities;
- implement fully the 1984 EPA Indian policy;
- increase significantly the number of Tribes implementing environmental programs;
- build capacity and adequate internal mechanisms to help Tribes implement environmental programs that meet the needs established in Tribal baseline assessments and, in the absence of Tribal implementation, establish means for EPA implementation; and
- establish a mechanism, in partnership with Tribal and state governments, to resolve transboundary issues.⁴

How To Accomplish Objectives

These objectives can be met through a combination of actions including:

- increased Tribal capacity-building efforts;
- greater implementation of environmental programs within Indian country;
- expanded education for EPA employees regarding Tribal environmental issues;
- increased technical assistance and training for Tribal environmental program managers;
- continued intra-agency, multimedia coordination of Indian program activities by the American Indian Environmental Office and others;
- improved coordination with Tribes to achieve environmental goals and priorities identified by Tribal governments in Tribal and EPA environmental agreements; and
- to the extent possible and as aggressively as possible, increase resource investments in environmental management.⁵

Although accomplishing successful environmental management in Indian country is not easy, the Agency has found ways to make it happen over time. These ways are described in more detail in the

⁴ *Id.* at 86.

⁵ *Id.*

remainder of this chapter. Program policies, implementation methods, and the organizational infrastructure developed to implement Tribal programs are discussed. Also, because environmental protection in Indian country often requires the assistance and cooperation of other federal agencies, some key agencies involved in this field are described.

FEDERAL AND EPA POLICIES

A number of executive orders and policies provide strong guidance to federal agencies on how they are to consult with and consider Tribal interests when taking actions. An illustrative selection of the most relevant policies and executive orders is discussed below. Copies of the full text can be found in the appendix.

Executive Order on Consultation and Coordination with Indian Tribal Governments

On May 14, 1998, President Clinton issued Executive Order 13084 entitled “Consultation and Coordination with Indian Tribal Governments.” The effective date of Order 13084 is August 12, 1998. It is intended to supplement but not supersede President Clinton’s Executive Memorandum of April 29, 1994 on “Government-to-Government Relations with Native American Tribal Governments.” Executive Order 13084 directs federal agencies to do a variety of things, some of which are listed below.

- In formulating policies significantly or uniquely affecting Indian Tribal governments, agencies should be guided to the extent permitted by law, by principles of respect for Tribal self-government and sovereignty, treaty and other rights, and for responsibilities arising out of the federal government’s unique relationship with Tribal governments.
- There shall be effective processes to permit Tribal governments to provide meaningful and timely input in the development of regulatory policies affecting Tribal communities.
- Agencies should prevent the promulgation of regulations that impose substantial direct compliance costs on Tribal governments, unless certain exceptions apply.
- Where possible, agencies should streamline waiver processes of statutory or regulatory requirements with a view toward increasing opportunities for Tribal governments.
- In issues relating to Tribal self-government, trust resources, or treaty and other rights, agencies should explore and where appropriate, use consensual mechanisms for developing regulations.

The above summary is only a very broad summary. The Executive Order is located in the appendix.

Presidential Memorandum on Government-to-Government Relations With Native American Tribal Governments

On April 29, 1994, President Clinton issued a memorandum to the heads of all executive departments and agencies of the federal government regarding government-to-government relations with Native American Tribal governments. This memorandum states that executive department and agency activities affecting Tribal rights or trust resources should be implemented in “a knowledgeable, sensitive manner respectful of Tribal sovereignty.” This memorandum further provides that Executive Branch activities shall be guided by several principles. The memorandum provides that executive departments and agencies shall:

- operate within a government-to-government relationship with federally-recognized Indian Tribes;
- consult, to the greatest extent practicable and to the extent permitted by law, with Indian Tribal governments before taking actions that affect federally-recognized Tribes;
- assess the impact of executive department and agency activities on Tribal trust resources and assure that Tribal rights and concerns are considered during the development of such activities;
- take appropriate steps to remove procedural impediments to working directly and effectively with Tribal governments on activities that affect the trust responsibility and/or governmental rights of Tribes;
- work cooperatively with other federal departments and agencies, where appropriate, to accomplish these goals established by the President; and
- apply the requirements of Executive Orders Nos. 12875 (“Enhancing the Intergovernmental Partnership”) and 12866 (“Regulatory Planning and Review”), tailoring federal programs in appropriate circumstances to address the unique needs of Tribal communities.

EPA Indian Policy

This policy was first issued by EPA in 1984 and has since been reaffirmed by every subsequent Agency Administrator, including Carol Browner in March 1994. The policy is intended to provide guidance to EPA staff and managers in dealing with Tribal governments and in responding to the problems of environmental management on Indian reservations in order to protect Tribal health and environments. In carrying out EPA programs, the policy establishes nine 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.
- 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.

- 3) The Agency will take affirmative steps to encourage and help Tribes assume regulatory and program management responsibilities for reservation lands.
- 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.
- 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.
- 6) The Agency will encourage cooperation between Tribal, state, and local governments to resolve environmental problems of mutual concern.
- 7) The Agency will work with other federal agencies that have related responsibilities on Indian reservations to enlist their interest and support in cooperative efforts to help Tribes assume environmental program responsibilities for reservations.
- 8) The Agency will strive to assure compliance with environmental statutes and regulations on Indian reservations.
- 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.

This policy was accompanied by an implementation guidance that established the National Indian Work Group consisting of Indian coordinators to be appointed in each of the Headquarters program offices and Regional offices. In addition, the guidance formally placed responsibility for the implementation of Tribal environmental programs in three EPA Offices where it remained until the establishment of the American Indian Environmental Office in October 1994.

Other Policies and Guidance

Executive Order and Memorandum on Environmental Justice

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and its accompanying memorandum were issued in February 1994. The Executive Order is designed to focus federal attention on the environmental and human health conditions in minority communities and low-income communities and to promote nondiscrimination in federal programs substantially affecting human health and the environment. Specifically, section 6-606 of the Order states that "each Federal agency responsibility set forth

under this order shall apply equally to Native American programs.” The Order also specifically addresses subsistence consumption of fish and wildlife. The accompanying memorandum identifies the need for federal agencies to consider environmental justice implications when taking actions subject to the National Environmental Policy Act. The memorandum also directs EPA, in its environmental reviews under section 309 of the Clean Air Act (CAA), to ensure that agencies fully consider environmental effects on minority communities and low-income communities, including those on Tribal communities.

EPA has cited these presidential directives in its reviews of environmental effects of proposed actions of other federal agencies under National Environmental Policy Act (NEPA) and section 309 of the CAA.

Executive Order on Sacred Sites

Executive Order 13007 was issued in May 1996 to encourage land management agencies to (1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the physical integrity of such sacred sites. The Order applies to federally-owned lands, except “Indian Trust lands.” This Order reflects the federal government’s continuing commitment to the religious freedom of all Americans. The Order complements the procedures required by the American Indian Religious Freedom Act, the Native American Graves Protection and Repatriation Act, the Archaeological Resources Protection Act, the National Historic Preservation Act and the Presidential Directive of 1994, requiring Executive Branch departments and agencies to accommodate, as appropriate, the need for eagle feathers in the practice of American Indian religion.

Federal, Tribal, and State Roles in the Protection and Regulation of Reservation Environments (Concept Paper)

Administrator William Reilly endorsed this concept paper in a July 1991 memorandum to EPA managers. This paper was designed to formalize EPA’s role in strengthening Tribal governments’ management of environmental programs. At that time, like today, the Agency was under pressure from some states to approve state programs on portions of Indian reservations. The paper expresses the objective of providing for coherent and consistent environmental regulation in reservations by avoiding checkerboarding of regulatory programs on Indian reservations. The paper also recognizes that differences between the interests of Tribal and state governments can be sensitive and sometimes extend well beyond the specific issues of environmental protection. Thus, the paper also directs EPA staff to promote cooperative approaches to environmental problems that involve both Tribes and states. The principles behind the approaches are administrative clarity in the operation of regulatory programs, effective and efficient environmental management, and the support of Tribal self-determination.

Tribal Operations Action Memorandum

AIEO is only one component of the Agency’s effort to strengthen the public health and environmental protection in Indian country and to improve EPA’s government-to-government partnership with Tribes. In July 1994, Administrator Browner issued a memorandum outlining steps for prompt implementation throughout the Agency. The action items are as follows:

- establish Tribal-EPA Environmental Agreements (TEAs);
- establish program and regional work plans based on TEAs;
- implement management and compliance activities;
- review program and regional Indian program organization and—where necessary—modify the organization to strengthen Tribal operations;
- ensure that an effective EPA-Tribal liaison capacity exists to provide direct field assistance to Tribes;
- provide training to EPA management and staff on how to work effectively with Tribal governments;
- enhance communications with Tribes;
- use available discretion to consolidate issuance and administrative requirements of grants; and
- invest resources into Tribal operations.

EPA Environmental Justice Strategy

EPA issued this strategy in April 1995 in response to Executive Order 12898 on environmental justice. Among other actions, the strategy specifically addresses environmental protection of American Indians, Alaska Natives, and other Indigenous populations. Many of the initiatives outlined in the strategy are steps towards achieving more public participation and environmental protection for American Indians and other indigenous communities. The strategy calls on the Agency to continue to work to protect and improve Tribal health and environmental conditions by “providing outreach, education, training, and technical, financial, and legal assistance to develop, implement, and maintain comprehensive Tribal environmental programs.” The strategy also states that when the Agency is conducting “human health and environmental research and other activities involving Tribal and Indigenous environments and activities [the Agency is to] take into account cultural use of natural resources.”

EPA Regional Policies for Environmental Protection in Indian Country

EPA Region 8 issued a policy in March 1996 to provide detailed guidance and information to the region’s managers and staff on how to implement EPA’s Indian policy. This guidance is intended to respond to and clarify questions that are most frequently raised by both internal and external Region 8 customers and constituents, relating to 1) regional protocol in working with federally-recognized Tribes; 2) regional support of federally-recognized Tribal governments in building capacity to manage environmental programs; and 3) regional positions on environmental program responsibilities and jurisdiction. Several other regions have developed or are developing their own written policies. EPA Region 10’s “Strategic Plan for Tribal Programs” is located in the Appendix.

Memorandum of Understanding Between the Bureau of Indian Affairs, the Environmental Protection Agency, the Department of Housing and Urban Development, and the Indian Health Service

The Bureau of Indian Affairs, the Environmental Protection Agency, the Department of Housing and Urban Development, and the Indian Health Service entered into a Memorandum of Understanding (MOU) in June 1991. The MOU recognizes that each of the agencies has responsibilities and interests pertaining to the protection of human health and the environment as it

relates to pollution control on Indian lands. The purpose of the MOU is to identify areas of mutual interest and responsibility of the four agencies and to encourage the coordination of the agencies' activities to promote the most efficient and integrated use of resources.

Enforcement

The EPA has a long-standing Indian policy that its relationship with Tribal governments shall be government-to-government. When implementing the enforcement and compliance assurance program, the Regions should make every effort to notify the Tribal government before visits to Indian country. In addition, the enforcement personnel should inform the Tribal government of the results of the visit or any planned enforcement actions. If advance notice is not given (circumstances beyond the control of EPA staff or an unannounced inspection), the Tribal government should be contacted as soon as possible. Within the Regional office, the enforcement personnel should inform the assigned Regional Tribal Coordinator of planned activities and any planned enforcement actions.

EPA should make every effort to pursue enforcement and compliance activities in a timely and effective manner that is consistent with EPA's Indian policies, Regional agreements with Indian Tribes, and EPA's enforcement policy.

ORGANIZATION OF EPA'S INDIAN PROGRAM

The American Indian Environmental Office

The American Indian Environmental Office, working with its regional components, is responsible for coordinating the Agency-wide effort to strengthen public health and environmental protection in Indian country. AIEO oversees development and implementation of the Agency's Indian policy. The office strives to ensure that all EPA Headquarters and regional offices implement their parts of the Agency's Indian Program in a manner consistent with EPA's trust responsibility regarding protection of Tribal health and environment, administration policy to work with Tribes on a government-to-government basis, and support of Tribal self-governance. AIEO's responsibilities also include:

- providing oversight of multimedia program development grants to Tribes under the Indian Environmental General Assistance Program Act;
- negotiating Tribal-EPA Environmental Agreements that identify Tribal priorities for building environmental programs and also for direct, EPA program implementation assistance;
- developing tools to help Tribal environmental managers make decisions on environmental priorities;
- developing training curricula for EPA staff on how to work effectively with Tribes; and
- working to improve communication between the Agency and its Tribal governments in a number of ways, including assistance to Agency Offices as they consult more closely with Tribes on actions that affect Tribes and their environments, and support for regular meetings of EPA's Tribal Operations Committee.

EPA's Indian Program is implemented primarily by EPA Regions and Headquarter's program offices. However, AIEO is often called upon to help guide this process.

Regional Programs and Operations

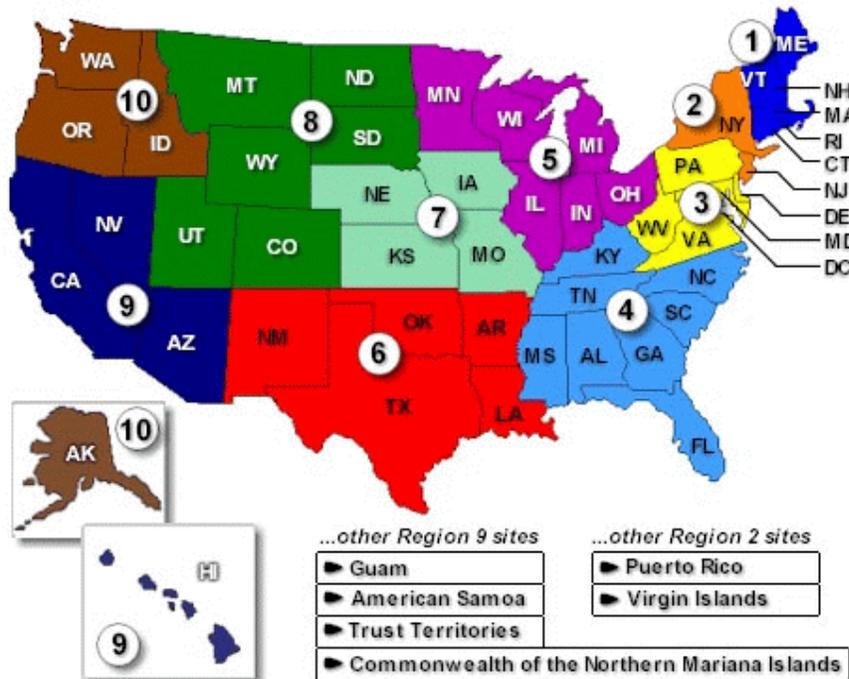
Federally-recognized Tribes reside in nine of the Agency's ten regions (Region 3 is the exception). Each of these nine regions has appointed a Regional Indian Coordinator, and some of the regions have established an Indian program office. Most of the regions have a Regional Indian Work Group that acts as a regional counterpart to the National Indian Work Group. Some regions have field staff to work directly with the Tribes in their development and implementation of environmental programs. These field staff are sometimes referred to as Indian Environmental Liaisons or Circuit Riders, depending on the region. Most of the regions have also established a regional counterpart to the Tribal Operations Committee. Some regions have a formal Regional Tribal Operations Committee (RTOC) comprised of Tribes residing within that region, while others have instituted regular meetings between Tribal leaders and the region's senior management. Some regions have

both an RTOC and regular all-Tribes meetings.

Map of EPA Regions

Each EPA Regional Office is responsible within selected states for the execution of the Agency's programs, regional needs implementation environmental

considering and the of federal laws.



- ❁ **Region 1** - responsible within the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.
- ❁ **Region 2** - responsible within the states of New Jersey, New York, Puerto Rico and the U.S. Virgin Islands.
- ❁ **Region 3** - responsible within the states of Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia.
- ❁ **Region 4** - responsible within the states of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
- ❁ **Region 5** - responsible within the states of Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.
- ❁ **Region 6** - responsible within the states of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
- ❁ **Region 7** - responsible within the states of Iowa, Kansas, Missouri, and Nebraska.
- ❁ **Region 8** - responsible within the states of Colorado, Montana, North Dakota, South

Dakota, Utah, and Wyoming.



Region 9 - responsible within the states of Arizona, California, Hawaii, Nevada, and the territories of Guam and American Samoa.



Region 10 - responsible within the states of Alaska, Idaho, Oregon, and Washington.

THE NATIONAL TRIBAL OPERATIONS COMMITTEE

An Overview

The growth of the EPA's Indian Program was strengthened by President Clinton's April 29, 1994 memorandum on Native American relations. In order to truly confront environmental threats and human health problems facing Tribes, the Clinton administration recognized the necessity of improving open communications and obtaining input on environmental matters from Tribes. EPA responded by establishing a National Tribal Operations Committee, comprised of Tribal representatives and senior EPA officials. The Committee interacts with the Agency on a regular basis.

The Tribal Operations Committee (TOC) is comprised of 19 Tribal leaders 19 Tribal representatives, who are either Tribal leaders or Tribal environmental officials selected by Tribal leaders within EPA's Regions (referred to as the "Tribal Caucus"), and EPA's Senior Leadership Team, including the Administrator, the Deputy Administrator and the Agency's Assistant Administrators and Regional Administrators.

The Tribal Caucus (TC) meets on a regular basis to discuss implementation of the environmental protection programs for which EPA and the Tribes share responsibility as co-regulators. All Tribes are encouraged to communicate with members of the TC. Although the TOC is an important and effective vehicle for enhancing communications between EPA and the Tribes, it is not a substitute for Agency consultation with individual Tribes in accordance with the Administration policy of working with Indian Tribes on a government-to-government basis.

The TOC serves as a critical resource to the Agency. It has provided important information and suggestions on how to enhance Tribal operations in several ways, including the following:

- (1) Assisting EPA in meeting its trust responsibility to Tribes. This involves the commitment to assure that Tribal interests are considered in any activities, actions or decisions that affect the health or welfare of Tribal members and their territories.
- (2) Providing support for the Tribal programs in the region. This necessitates cooperation and open communication among agencies, committees, and Tribal representatives alike.
- (3) Strengthening Tribal environmental and public health programs. The TOC assists in facilitating the process of developing proficient programs that enhance Tribal management of their members and resources.
- (4) Enhancing Regional responsiveness to Tribal needs. The Committee's goal is to assure that Tribes have a voice in determining environmental priorities specific to each Tribe's individual needs.

EPA will continue to consult with the Committee regarding current and future decisions affecting Tribes. Tribes across the country are encouraged to communicate with TOC representatives regarding their concerns and ideas for better protecting the environment.

For the most up to date EPA Tribal Operations Committee membership contact list please see the following website: <http://www.epa.gov/indian/tcont.htm>

THE REGIONAL TRIBAL OPERATIONS COMMITTEE

An Overview

In 1996, the Region 10 Tribal Policy Director established a Regional Tribal Operations Committee (ROTC). The primary function of the ROTC is to work in partnership with EPA to further Tribal environmental objectives at the regional level as well as to provide assistance to the NTOC representatives to advocate for regional concerns at the national level.

The mission of the ROTC is to protect and improve Tribal health and environmental conditions in Indian Country consistent with the United States Environmental Protection Agency Indian Lands Policy, EPA's trust responsibility, environmental laws, policies and guidance.

Per the ROTC Charter, the relationship between the ROTC and EPA Region 10 will not substitute for the government-to-government relationship between EPA and individual Tribal governments.

Membership of the ROTC

Tribal ROTC membership is limited to Tribal Officials or their designated/authorized employees. The ROTC is comprised of 6 primary members and their alternates. There are three primary representatives in Alaska, one primary representative in Idaho, one primary representative in Oregon and one representative in Washington. EPA membership is the Regional Administrator (or designee). EPA member serves as the co-chair to the ROTC.

Purpose of the ROTC

EPA Region 10 has established the Regional Tribal Operations Committee to (1) assist EPA in meeting its trust responsibility to Tribes, (2) provide support for the Tribal program in Region 10, (3) strengthen Tribal environmental and public health programs, (4) enhance Regional responsiveness to Tribal needs and (5) assist with the communication and information exchange between the Tribes, the NTOC and EPA.

Meetings

The ROTC meets face-to-face on a quarterly basis, at a minimum. Additional meetings are scheduled if necessary, contingent upon available funds. EPA pays travel expenses for elected Tribal representatives serving on the ROTC and NTOC through a grant to one of the Tribes that have a representative on the committee. In addition, the ROTC/NTOC participate in monthly conference calls that are scheduled for the third Tuesday of each month to conduct Tribal Caucus business.

Election of Tribal Representatives

Tribal representatives become members through a formal election process. EPA Region 10 requests that Tribal governments nominate elected members of Tribal government and/or designated Tribal staff.

In order to improve EPA service to Tribes, each Tribal representative to the ROTC should be committed to representing the best interests of all Tribes located in the state in which he or she is located. They will also be expected to assist those Tribes in communicating information to EPA and assist EPA in providing information from EPA to the Tribes. ROTC members will serve staggered

four-year terms that can be renewed.

For the most up to date version of the RTOC contact list please see the following website:
<http://www.epa.gov/r10earth> click on Tribes and then scroll down to the RTOC.

Agency Senior Indian Program Managers

This group is chaired by the Assistant Administrator for Water (as the Assistant Administrator for the National Indian Program) and includes a senior manager designated by each Assistant Administrator and Regional Administrator and the Director of the American Indian Environmental Office. This group meets once a month via teleconference to discuss pressing or nationally-significant issues, policy, and program direction, and to exchange information between Headquarters and regions. The group was established to help the Agency meet the Administrator's high expectations for progress on strengthening the Agency's Indian Program and to help identify any program weaknesses.

National Indian Work Group

The role of the National Indian Work Group (NIWG) was initially defined in the 1984 Indian Policy Implementation Guidance. The NIWG is chaired by the Director of the American Indian Environmental Office and is composed of representatives from regional and program offices, generally the Indian Coordinator. NIWG was established to facilitate and coordinate efforts to identify and resolve policy and programmatic barriers to working directly with Indian Tribes; implement comprehensive Tribal environmental programs; identify priority Tribal projects; and perform other services in support of the Agency managers in implementing the Indian policy. NIWG holds regular biweekly conference calls and usually meets at least once each year.

National Indian Law Work Group

The National Indian Law Work Group (NILWG) is the counterpart to the National Indian Work Group. It addresses legal issues that arise in the course of developing and implementing the Agency's Indian Program. The NILWG is composed of lawyers from EPA's regional counsel and program offices, the Office of General Counsel, the Office of Enforcement and Compliance Assurance, and from the Department of Justice who work on federal Indian law issues. The group also includes policy staff from AIEO and other EPA offices. NILWG meets once a month via teleconference to discuss pressing or nationally-significant Indian law issues related to environmental protection and to exchange information on common issues and problems. Also, NILWG usually meets face-to-face once each year.

American Indian Advisory Council

The American Indian Advisory Council (AIAC) is a Special Emphasis Program Council organized under the Office of Civil Rights. The central purpose of AIAC is to serve as an advisory group to the Administrator of EPA to recommend actions that address concerns of American Indians in the EPA workforce, and of the Indian Tribes. Membership is open to all employees of EPA.

National Environmental Justice Advisory Council Indigenous Peoples Subcommittee

The National Environmental Justice Advisory Council (NEJAC) was chartered as a Federal Advisory Committee in 1993. The Council has 25 representatives from key environmental justice

constituencies, including community-based groups, business and industry, academic and educational institutions, Tribal governments, state and local governments, and nongovernmental organizations. The Council has six subcommittees, one of which is the Indigenous Peoples Subcommittee. This Subcommittee has eight members with a diversity of backgrounds, such as Tribal government, indigenous grassroots groups and environmental organizations, Tribal business and industry, academia, and state government. This Subcommittee is primarily focused on reviewing Agency actions to address environmental justice and developing recommendations for bringing about environmental justice in Indian country.

Other EPA Advisory Councils With Tribal Representation

EPA has numerous federal advisory councils that have been chartered to address various environmental issues, from the Grand Canyon Visibility Transport Commission to the Common Sense Initiative. Many of these advisory councils have now appointed at least one Tribal representative, but some groups still lack Tribal representation. These stakeholder forums offer an additional mechanism for obtaining general Tribal input on a variety of EPA issues.

TRIBAL OPERATIONS IN OTHER SELECTED FEDERAL DEPARTMENTS AND AGENCIES

White House Domestic Policy Council

The Domestic Policy Council has established a Working Group on American Indians and Alaska Natives to coordinate efforts across the federal Executive Branch to address key issues affecting Indian country. The Working Group is chaired by the Secretary of the Interior and is composed of Secretary and Assistant Secretary-level representatives from each of the federal departments/agencies with responsibility for American Indian and Alaska Native issues. The Working Group has five subgroups, including one on the Environment and Natural Resources, which is co-chaired by the Director of the EPA American Indian Environmental Office and the Assistant Secretary for the Bureau of Indian Affairs.

White House Council on Environmental Quality

The Council on Environmental Quality (CEQ) is primarily responsible for overseeing the implementation of the National Environmental Policy Act (NEPA) and coordinating environmental issues across the federal Executive Branch. Thus, CEQ plays an important role in the protection of Tribal environments, since the responsibility for this protection is shared by many federal departments and agencies. Also, issues regarding the implementation of NEPA have played a prominent role in the management of Tribal environments. In recent years, CEQ has been working with EPA to strengthen the Tribal role under NEPA and to ensure consultation with affected Tribes when a federal department of agency is developing NEPA documents.

Department of the Interior

The Department of the Interior (DOI) has multiple Offices and Bureaus that have significant responsibilities relating to Indian Tribes. Primarily, the Bureau of Indian Affairs has the lead for the Federal executive on general Indian issues. In addition, the Office of American Indian Trust has the primary responsibility for overseeing the Federal Government's trust obligations, and the Assistant Solicitor for Indian Affairs has the primary role of furthering Indian legal issues and protecting

Indian rights. Also, many of the land use and natural resource bureaus and offices at DOI have responsibilities for issues that affect Tribal environments, such as the Bureau of Land Management, the Office of Surface Mining, the Fish and Wildlife Service, and the National Park Service.

Department of Justice

The Department of Justice (DOJ) plays a unique role in the protection of Tribal environments and natural resources. Generally, DOJ will be requested by an agency referral to file a law suit on behalf of another Federal agency, such as EPA or DOI, or to defend such agencies against a suit. In the context of Tribal environments, EPA and/or DOI have the option to request that DOJ take an enforcement action, when such an action is warranted by law, against a pollution source causing harm to Tribal environmental resources. Given that most Tribal environmental programs are in the early stages of development, this alternative method, as opposed to Tribal enforcement, offers a potentially powerful tool for ensuring the protection of Tribal environments. In order to handle litigation related to Indian Tribes, DOJ established an Indian Resources Section within the Environment and Natural Resources Division. The Environmental Defense, Environmental Enforcement, and General Litigation Sections also play key roles in the Environment and Natural Resources Division with regard to environmental litigation involving Tribes. Also, DOJ recently established the Office of Tribal Justice to coordinate policy initiatives relating to Tribes and to better promote issues of Federal Indian law.

In June 1995, the Attorney General issued the DOJ policy on Indian sovereignty and government-to-government relations with Indian Tribes. The purpose of this policy is:

To reaffirm the Department's recognition of the sovereign status of federally recognized Indian Tribes as domestic dependent nations and to reaffirm adherence to the principles of government-to-government relations; to inform Department personnel, other Federal agencies, federally recognized Indian Tribes, and the public of the Department's working relationship with federally recognized Indian Tribes; and to guide the Department in its work in the field of Indian affairs.

Department of Health and Human Services

The Department of Health and Human Services (HHS) has two Offices that specifically handle Indian issues. The Indian Health Service (IHS) is a public health service designed exclusively to address Indian health issues. As part of many Indian treaties, the federal government guaranteed health care to Indian people in exchange for peace, friendship, and land. IHS has the primary responsibility of carrying out these treaty obligations. Among other services provided, IHS operates numerous hospitals throughout Indian country. The Administration for Native Americans (ANA) is a general Indian service organization that primarily manages various Tribal grant programs. Most important to EPA is the ANA grant program for improving the capability of Indian Tribal governments to regulate environmental quality. This program is similar to the Agency's General Assistance Program in that it is meant to help Tribes develop their overall capacity to implement environmental programs. IHS plays an important role on sanitation issues, especially drinking water and sewer issues, and solid waste disposal. IHS has special authority to compact with Tribes under the Indian Self-Determination and Education Assistance Act (ISDEA) for waste water and drinking

water facilities. IHS is often linked to funding provided by EPA under the Clean Water Act's Indian Set-Aside program. With landfills, IHS has traditionally been involved with designing and setting up landfills on reservations, and has inventoried landfill problems pursuant to the Indian Lands Open Cleanup Act of 1993.⁶

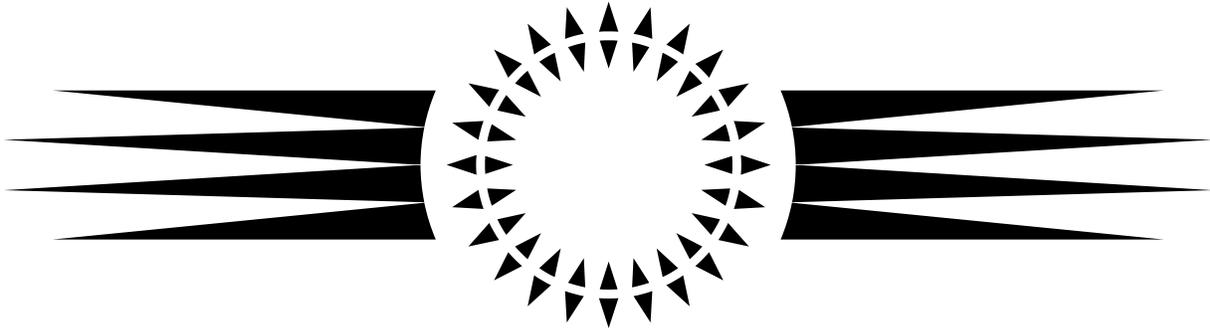
Department of Defense

The Department of Defense (DOD), like DOI, has many activities related to its mission that affect Indian lands. Many DOD facilities, such as military bases, bombing ranges, overflight areas, and laboratories are located on or adjacent to Indian lands. In order to begin addressing some of the environmental harm that has resulted from these facilities, DOD now manages a Tribal grant program for the mitigation of environmental impacts to Indian lands due to Department of Defense activities. In addition, Tribes are also impacted by actions taken by the Army Corps of Engineers (ACE). Tribes have been impacted by ACE projects such as the construction of dams that result in the flooding of reservations and ceded territory and the issuance of dredge and fill permits for wetlands within the Tribes' watersheds.

Department of Agriculture

The United States Department of Agriculture (USDA) has taken some important strides in working with the Indian Nations. In recent years, the USDA has dramatically increased outreach and program delivery to Indian country residents. For instance, within the Rural Development Mission Area (formerly known as "Farmers Home Administration"), home ownership programs have been modified to better meet the needs of Native Americans living on trust lands. Increased emphasis has been placed on loan assistance and leveraging funds, Tribal government consultation regarding housing development issues, and the introduction of culturally-appropriate housing design. Additionally, increased emphasis has been placed on economic development activities and programs in Indian country. Finally, the USDA continues to work with other federal agencies in cooperative efforts designed to meet the needs of Tribal governments (examples of this can be seen in inter-agency agreements, etc.).

⁶ 25 U.S.C. § 3901-3908.



AIR



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Office of Air Quality

MISSION: *Protecting Our Air*

Clean air is critical for a safe, clean environment; having air free of contaminants keeps us healthy and improves our overall quality of life. EPA Region 10 is working with Tribes, states, and local governments to keep the air in the Pacific Northwest and Alaska clean and safe.

Although the 1990 Clean Air Act (“CAA” or “the Act”) is a federal law covering the entire country, the states do much of the work to carry out the Act. The 1990 CAA Amendments included several provisions authorizing tribal governments to develop Federally enforceable programs to manage air quality in Indian country. Until Tribes have the technical capacity and can choose whether to develop independent air quality management programs, EPA has the responsibility to implement the CAA throughout Indian country.

BACKGROUND:

Why Should You Be Concerned About Air Pollution?

Air pollution can make you sick. It can cause burning eyes and nose and irritate throats and lungs, causing trouble in breathing. Some chemicals found in polluted air cause cancer, birth defects, brain and nerve damage and long-term injury to the lungs and breathing passages. Some air pollutants are so dangerous that accidental releases can cause serious injury or even death.

Air pollution can damage the environment. Trees, lakes, and animals have been harmed by air pollution. Air pollutants have thinned the protective ozone layer above the Earth; this loss of ozone could cause changes in the environment as well as more skin cancer and cataracts (eye damage) in people.

Air pollution can damage property. It can dirty buildings and other structures. Some common pollutants eat away stone, damaging buildings, monuments, and statues. Air pollution can cause haze, reducing visibility in national parks, and sometime interfering with aviation.

What are We Breathing?

Outdoor air, also called "ambient air," is a vast blanket of gases surrounding the earth. The air we breathe at ground level is a mixture of invisible and odorless gases, mostly nitrogen and oxygen, with smaller amounts of water vapor, argon, carbon dioxide, neon, helium and hydrogen. Indoor air is also a serious health concern for many people, including tribal communities, but is not regulated under the Clean Air Act. EPA does, however, support work to assist in assessing the existence of indoor air quality problems.

What is Air Pollution?

We say the air is "polluted" when it contains enough unhealthy particles and gases to harm people, animals, plants, and even objects such as buildings and statues. Air pollution can be present as a solid, liquid or gas. When we see smoke, we are really seeing tiny solid particles suspended in the air. Acid rain is an example of gases and liquids mixing with otherwise clean air. Polluted air contains harmful gases and particles, usually as a result of combustion or burning from both natural and man-made sources. The air we breathe depends on natural cleaning forces-- such as wind and rain-- to help remove, dilute and disperse the dirt and pollution in the air.

Where does Air Pollution Come from?

Natural vs. Man-made

Natural air pollutants have always been part of the earth's history. Particles of soot and various gases from volcanoes, forest fires, and decaying organic materials in oceans and swamps enter the atmosphere at irregular intervals, sometimes at levels that have dramatic effects on our climate. Windstorms can fill the air with dust which affects the air hundreds of miles away. The explosion of ash and soot from Mt. St. Helens in May of 1980, for example, affected the air quality throughout the Pacific Northwest and the rest of the country for months after the initial eruption.

Since little can be done by humans about natural pollution, our main concern has to be with the additional pollution that comes from human activities. Most of the gaseous components of air are part of the natural cycle, and ecosystems have natural ways of keeping the many parts of the system in balance. The problem comes when the activities of people introduce large quantities of additional compounds to the air, which can unbalance and disrupt the normal biochemical cycle.

Naturally produced pollutants are not necessarily as serious a problem as man-made pollution because they are not concentrated over large cities and many are less harmful than man-made pollutants.

Air Pollution Sources

Humans burn a variety of materials for fuel and for other purposes. The act of burning releases harmful gases that can pollute the air. In general, the quality of the air depends upon how much and how efficiently the fuel is burned. Such choices affect our lives in many ways; how we choose to move around to get from place to place (transportation choices), how we heat our homes, what we do with garbage and yard waste and how society creates the many products we all use everyday, all contribute to air pollution in some fashion. Air pollution is often the result of incomplete combustion from burning coal, wood, oil and gasoline. Pollutants are also released from materials that "evaporate."

Any place or object from which pollutants are released is a source of air pollution. There are many

different air pollution sources. A source can be a power plant, factory, gas station or farm; cars, trucks and other motor vehicles are sources, as are woodstoves, unpaved roads, and some consumer products.

Mobile sources: Mobile sources are those that move around, such as cars, trucks, buses or motorcycles, and are generally transportation-related.

Stationary sources: A source that stays in one place is considered a "stationary" or point source. Large stationary sources are usually industrial operations that emit large quantities of air pollutants, such as chemical plants, oil refineries and pulp & paper mills.

A "major source" is a Clean Air Act term that refers to a stationary source that produces in excess of a specified amount of pollution per year. In general, a source is considered to be "major" if it emits (or has the potential to emit) more than 100 tons per year of one criteria pollutant, more than 10 tons per year of any single toxic air pollutant, or more than 25 tons per year of any combination of toxic air pollutants. Stationary sources below this limit are referred to as "minor sources."

Area sources: Sometimes called "non-point sources," area sources individually may not release much pollution; however, numerous area sources together can contribute quite a bit of pollution. Examples of area sources of pollution are wood stoves, unpaved roads, dry cleaners, gas stations, and small manufacturing companies.

What are the main air pollutants?

Certain air pollutants are so pervasive that they tend to show up wherever air quality is poor. EPA uses six *criteria pollutants* as indicators of air quality: ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, particulate matter and lead. For each of these, EPA has established "primary" standards to protect public health, and "secondary" standards to protect other aspects of public welfare, such as preventing materials damage, preventing crop and vegetation damage, or assuring visibility. These standards are called the National Ambient Air Quality Standards (NAAQS). Areas of the country where air pollution levels persistently exceed these standards may be designated as "nonattainment areas."

The *criteria* air pollutants to which the NAAQS apply are:

Carbon monoxide (CO): A colorless gas formed when substances burn, particularly fuels like gasoline, oil, wood, etc. Breathing too much carbon monoxide interferes with how the body absorbs oxygen, and therefore especially affects people with respiratory and/or heart disease.

Ozone (O₃): A gas which is formed by a chemical reaction of nitrogen oxides and volatile organic compounds together with sunlight and warm temperatures. At ground-level, ozone is often referred to as "smog". Breathing too much ozone can damage lung tissue, and aggravates respiratory problems like asthma and emphysema. High ozone levels are also harmful to plants, crops and trees, as well as a variety of materials like rubber and paints.

While ground-level ozone is harmful, ozone in the upper atmosphere is beneficial. In the upper atmosphere (approximately 10 miles above the Earth), ozone forms a protective layer around the planet which shields the Earth's surface from the sun's intense ultra-violet radiation; exposure to high levels of UV radiation due to "holes" in the ozone affects creatures like frogs and salamanders, and increases the risk of skin cancer in humans.

Nitrogen dioxide (NO₂): A gas produced from burning fossil fuels like oil and gas; NO₂ is a major component of acid rain and ground-level ozone. Breathing too much NO₂ is harmful to the lungs and aggravates asthmatic symptoms.

Sulfur Dioxide (SO₂): A colorless gas formed during the combustion of fuels containing sulfur, such as coal. Breathing SO₂ irritates the respiratory system and aggravates asthma symptoms.

Particulate matter (PM): Very small airborne particles, less than 10 microns in diameter. Major sources of particulate matter are burning fuels, such as wood in woodstoves and fireplaces, or diesel in motor vehicles; crushing or grinding, such as dust from unpaved roads and construction sites; and from industrial processes. Breathing high levels of particulate matter is harmful to lung tissue and aggravates asthma symptoms. Too much particulate in the air also affects visibility, obscuring how far in the distance one can see.

Lead (Pb): Lead is a heavy metal that is hazardous to human health. Lead occurs in the atmosphere as small particles, typically from emissions from lead smelters and other metal processing plants. In the past, lead was added to some gasoline to improve engine performance, and was released from a car's tailpipe. Levels of lead in the air across the country have decreased by ~90% since the Clean Air Act eliminated the production of leaded gasoline. Breathing high levels of lead can cause brain and other nervous system damage. Children are at particular risk from lead. Some lead-containing chemicals can cause cancer in animals and digestive and other health problems.

Other air pollutants of concern:

Volatile Organic Compounds (VOC): A large group of different compounds which each contain carbon and hydrogen (also known as "hydrocarbons"). VOCs are found in gasoline, solvents, oil based paints and inks, and in many consumer products such as aerosol spray products-- materials which "evaporate". VOCs react with nitrogen oxides, sunlight and heat to form ozone. Many VOCs are considered to be toxic or hazardous air pollutants, referred to as HAPs in EPA's regulations.

Toxic Air Pollutants, also referred to "hazardous air pollutants" ["HAPS"] or "air toxics", are a group of pollutants that are known or suspected to cause cancer or other serious health effects such as reproductive effects, birth defects, or to cause adverse environmental effects. There are literally thousands of sources of toxic pollutants. Because of the substantial risks to human health, these compounds are regulated separately from the criteria air pollutants. The degree to which a toxic air pollutant affects a person's health depends on many factors, including the quantity, duration, and frequency of exposures, the toxicity of the chemical, and personal susceptibility.

We are exposed to literally thousands of toxic air pollutants everyday. Some of these pollutants are

present in the form of gasoline, cleaning solvents, and paint strippers. Large and small manufacturing facilities, as well as people's daily automobile driving, all contribute to air toxic pollution. In the United States, 42 % of air toxic emissions come from mobile sources like cars, trucks, buses or farm equipment. Area sources or smaller sources such as dry cleaners, gas stations, and small manufacturing companies produce 34% of the air toxics nationwide. And 24% of the air toxics come from large stationary sources, known as point sources, such as chemical plants, oil refineries and pulp and paper mills.

THE ROLE OF THE FEDERAL GOVERNMENT, STATES, AND TRIBES:

State and Local Agencies:

The Clean Air Act identifies states as having the primary responsibility for preventing and controlling air pollution. State air quality programs include control programs and regulations, permit programs for businesses and industries, and enforcement programs to assure compliance. Some state programs are approved or delegated by EPA. Federal approval provides consistency among different state programs and ensures that a state program complies with the requirements of the Clean Air Act and EPA rules. State programs approved by EPA do not extend into Indian country unless explicitly stated by EPA in its approval.

Federally Recognized Indian Tribes:

Indian Tribes have been expressly recognized to have authority under the Clean Air Act to manage air quality on their reservations or other areas under the tribal government's jurisdiction if the Tribe qualifies for "treatment in the same manner as a state" (TAS). Although not required to do so, a Tribe may both apply for TAS and develop its own air quality control plan, called a Tribal Implementation Plan (TIP), for approval by EPA. A TIP enacted by a tribal government and approved by the EPA is legally binding under both tribal and federal law and may be enforced by the Tribe, EPA, and the public.

Besides TIPs, there are other Clean Air Act programs for which Tribes may receive approval or delegation, such as Title V permit program, New Source Performance Standards, and National Emission Standards for Hazardous Air Pollutants. Where Clean Air Act programs are not approved or delegated to Tribes, it is EPA's responsibility to implement the Clean Air Act in Indian country. EPA recognizes the primary role for Tribes in protecting air resources in Indian country, and is working with Tribes to protect the air in the absence of approved or delegated tribal programs.

The Tribal Authority Rule:

The 1990 CAA amendments mandated that EPA issue regulations to implement tribal authority under the Clean Air Act in Indian Country. This regulation, known as the Tribal Authority Rule, was issued in 1998 and establishes how tribal governments can apply to EPA for approval under the Clean Air Act to administer air quality management programs on their reservations and in non-reservation areas within their jurisdiction in a manner similar to States. The rule establishes a flexible approach to air quality management, the "modular" approach, allowing tribal governments to implement those provisions of the Clean Air Act that will address most effectively the air quality concerns of their individual reservations.

The CAA does not require Tribes to implement air programs and affirms that where Tribes opt not to carry out their own program to protect air quality, EPA will develop federal program to ensure adequate protection of air quality in Indian Country. It is hoped, however, that the “modular” approach will enable Tribes to begin in incremental ways to take charge of their air quality and work in partnership with EPA to protect the environment. Tribes are treated in the same manner as states for all provisions of the CAA, except for those listed in section 49.4 of the rule.

Important Elements of the Tribal Authority Rule:

- ▶ **Jurisdiction:** Tribes may seek EPA approval for CAA authority over all air resources within the exterior boundaries of the reservation, including those on non-Indian owned fee lands, and over any other land where the Tribe can demonstrate jurisdiction.
- ▶ **Flexibility:** Tribes are not required to implement all provisions of the CAA in order to be eligible. They may choose to develop those programs that most directly address their problems and concerns.
- ▶ **Capacity Building:** EPA will provide financial and technical assistance to Tribes interested in implementing CAA programs.
- ▶ **Federal Implementation:** The federal role remains central in the development of CAA programs in Indian Country. EPA has affirmed its trust responsibility to protect the environment in Indian country and explicitly committed to “promulgate without unreasonable delay such federal implementation plan provisions as are necessary or appropriate to protect air quality.”

The Tribal Authority Rule lays out the requirements to apply for eligibility under the CAA to manage a Federally-enforceable air quality program. Those criteria for eligibility include demonstrating that the Tribe: (1) is federally recognized; (2) has a governing body carrying out substantial governmental duties and powers; and (3) is capable of implementing the program consistent with the CAA and applicable regulations. The Tribe must also identify the exterior boundaries of the reservation and, for non-reservation areas, must demonstrate the basis for jurisdiction.

Ref: <http://www.epa.gov/fedrgstr/EPA-AIR/1998/February/Day-12/a3451.htm>

Federal Air Rules for Reservations

On March 15, 2002, EPA proposed rules to create federally-enforceable air quality regulations on the 39 Indian reservations in Idaho, Oregon, and Washington. These rules, known as the Federal Air Rules for Reservations (FARR), would ensure that residents within the boundaries of the reservations enjoy air quality protection similar to that existing outside the reservations. For a fact sheet and other information about these rules see EPA’s web site [<http://www.epa.gov/r10earth/tribalairrules.htm>].

GRANTS FOR AIR QUALITY ACTIVITIES:

Grant funding is available to support activities by Tribes to assess and manage air quality on reservations. Such funding is generally limited with awards based on the applicant's demonstrated air quality needs and capacity to manage the grant. Federally-recognized Tribes are eligible to seek EPA funding to conduct air quality activities and develop tribal air programs under at least three separate authorities:

- ▶ Indian Environmental General Assistance Program (42 USC §4368b)
- ▶ Clean Air Act Project funding (CAA §103(b))
- ▶ Clean Air Act Program funding (CAA §105)

Each of these provisions offers opportunities and limitations that might affect a Tribe's decision on the appropriate authority to use to obtain support for its program. (In addition to the statutory limitations, tribal grants are subject to cost allowability limitations set forth in OMB Circular A-87). There are other EPA grant programs, such as Environmental Justice (EJ), Environmental Education (EE), and Pollution Prevention Incentive to States and Tribes (PPIS) that may also be available to support of some air-related activities.

Air Quality Activities Allowed under General Assistance Program Grants:

EPA's Indian General Assistance Grant Program (GAP) provides resources to eligible Tribes to plan, develop, and establish an environmental protection program. This includes building the administrative, technical, legal, enforcement, communications, and environmental education and outreach infrastructure.

Planning and development of an environmental protection program may include conducting a baseline assessment of environmental degradation for specific media (e.g., air, water). For instance, in developing an air pollution control program, a Tribe could use GAP funds for a baseline assessment of air quality. A Tribe could also use GAP funds for other activities in support of building its air quality program such as completing an air pollution emissions inventory or setting up an ambient air quality monitoring network, if needed to characterize the air quality of a reservation, as part of building the capacity to operate and manage an environmental program.

This funding might be of particular interest to Tribes concerned about committing to an air pollution program infrastructure before they have a complete understanding of the air quality conditions within Indian country. Including a baseline multi-media assessment of Indian country in a GAP grant provides an avenue for a Tribe to collect the data needed to make media-specific decisions about media program implementation without taking on the burden of managing a number of media program grants.

For example, a Tribe may have concerns about its aquatic resources and suspect air deposition as a pollution pathway. It may also be reluctant to take on multiple grants and a large staff just to find out if there is a problem. In this case, it might be appropriate for the Tribe to work with EPA to develop a GAP work plan that would enable the Tribe to build an environmental protection

program that addresses both air and water pollution. A baseline assessment of both water quality and air quality could be conducted if it is in support of planning, developing, or establishing such a program.

Tribes should be aware that this authority is not appropriate “for the principal purpose of solving particular problems at particular places,” because these activities are not for support of planning, developing or establishing an environmental protection program.

Clean Air Act Section 103 Project Grants:

CAA §103(a) establishes EPA’s authority to “conduct, and promote the coordination and acceleration of, research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, effects (including health and welfare effects), extent, prevention, and control of air pollution.” CAA § 103(b)(3) authorizes EPA to “make grants to air pollution control agencies, to other public or nonprofit private agencies, institutions, and organizations, and to individuals, for [these] purposes.” This broad authority has been used by many Tribes to begin work on tribal air programs. Tribes have used the CAA §103 authority to begin air quality assessments, develop emissions inventories, and set up air quality monitoring networks to collect baseline data on ambient air quality within the context of an investigation, survey, or study *project*.

CAA §103 grants are *project* grants, and are approved for a performance period of up to five years. This limitation should not constrain Tribes interested in assessing air quality and undertaking initial developmental activities since this kind of activity should generally not take more than five years to complete. It is also possible for Tribes to seek multiple project grants under this authority as long as no single grant activity extends beyond five years in a single grant’s cycle, and multiple grants are for distinctly different purposes. However, a §103 grant provides no guarantee of on-going funding beyond the project period.

Clean Air Act Section 105 Program Grants:

CAA §105 authorizes funding for “implementing programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards.” (CAA §105(a)(1)(A)). The CAA further defines implementation as “any activity related to the planning, developing, establishing, carrying-out, improving, or maintaining of such programs.” (CAA §105(a)(1)(A)). The authority is further restricted to state and regional air pollution control agencies as well as agencies of an Indian Tribe, which have been eligible to receive funding under this authority in the same manner as states since the 1990 Clean Air Act amendments.

Eligible Tribes have authority, if they choose to take it on, to develop and implement federally-enforceable CAA programs with funding support under CAA §105. In addition, Tribes who seek eligibility to receive a CAA §105 grant under the 40 C.F.R. §35.573(a) provisions to be treated in the “same manner as a state” are also eligible for a reduced matching requirement (5% to 10%, depending on the situation). Tribes are generally eligible to receive §105 funding for operating ongoing air quality programs subject to certain limitations. Proposed programs must satisfy the requirements in 40 C.F.R. §35.511, including:

- ▶ Consistency with 40 C.F.R. Part 31 (requirements involving grants);
- ▶ Consistency with all applicable federal statutes; regulations; circulars; executive orders; and EPA delegations, approvals, or authorizations;
- ▶ Feasibility, considering the applicant’s existing circumstances, past performance, program authority, organization, resources, and procedures (40 C.F.R. part 35.511(a)(4)).

A Tribe seeking funding under CAA §105 should work with the EPA Regional Office to ensure that these requirements are fulfilled. These requirements provide assurance that funding is being used as intended by Congress. Eligibility for CAA §105 funding does not assure any particular level of funding, although Tribes who have established eligibility to CAA 105 grant support have a greater assurance of at least some level of ongoing support than do Tribes receiving funding under CAA Section 103 project grant.

Quality Assurance Project Plans:

Many tribal programs undertake projects or programs, under the above grant support authorities, that involve the collection or creation of environmental data (an example is ambient monitoring). While there is some flexibility in the Regional Offices regarding how this requirement is implemented, in general, Tribes must have an approved quality assurance project plan (QAPP) to assure the quality of data being collected or created, prior to beginning the part of the project or program that involves data collection (40 C.F.R. §31.45). Grant funding for costs incurred to collect data without an EPA approved Quality Assurance Project Plan (QAPP) may be disallowed.

An EPA guidance document is available at <http://www.epa.gov/quality1/qs-docs/r5-final.pdf>, and the Institute For Tribal Environmental Professionals and Northern Arizona University offers regular workshops for Tribes to learn how to develop these plans.

* * *

AIR QUALITY ACTIVITIES IN INDIAN COUNTRY

There are a variety of Clean Air Act topics that may be of interest to Tribes in considering what, if any, air quality activities they wish to pursue. Following are brief descriptions of some of these topics.

- * Emission Inventories
- * Mobile Sources and Emissions
- * Air Monitoring & Modeling
- * Agricultural and Forestry Burning/Smoke Management
- * Air Toxics
- * Citizen Complaint Response
- * Indoor Air
- * Radon and Radiation
- * Title V: Permitting of Major Sources under Part 71

Emission Inventories:

An emission inventory identifies air pollution sources located within a particular geographical area and the type and amount of pollution being emitted by each source to the atmosphere. This information is used to help identify the source of air quality problems in an area. It's also used to assess potential air quality problems in an area. EPA maintains databases for collecting this information from state, local and tribal air agencies.

An initial step in assessing the nature of air quality on a reservation can consist of a more basic assessment, called a source inventory, which consists of collecting all available data about the numbers and types of potential air pollution sources on the reservation, through such activities as phone book searches and "windshield surveys" done by driving around the reservation and simply observing what activities are occurring that may emit air pollution.

Mobile Sources and Emissions:

Motor vehicles are a significant source of air pollution for all criteria pollutants. These include both on-road motor vehicles, as well as non-road motor vehicles. On-road motor vehicles include automobiles, light weight trucks, and heavy duty trucks, including diesel engine vehicles. Non-road vehicles include construction vehicles, farm/agriculture vehicles, railroad locomotives, and all-terrain vehicles.

There are a number of federal control programs that regulate emissions from mobile sources. The oldest program is the EPA program of federal emission standards for new motor vehicles. Motor vehicles inspection and maintenance (I&M) programs are required in carbon monoxide and/or ozone non-attainment areas. I&M programs are designed check whether cars are being maintained to keep pollution down.

Air Quality Monitoring

Air quality monitoring is often used to measure the amount of pollution in the air. Before determining whether air monitoring is needed, information about the area is evaluated. Key information includes emission inventories, climatological summaries, and local geographical characteristics. If an assessment of the area shows monitoring is needed, a monitoring site is selected based on the monitoring objective and desired spatial scale.

Since particulate matter (PM) is emitted by all combustion sources, PM monitoring is typically the initial type of monitoring conducted in most areas. EPA has set federal standards for both PM10 and PM2.5 microgram-sized particles because these small particles are capable of entering the lungs and causing respiratory health problems. Because PM sources are numerous and because of the associated health risks, PM10 and PM2.5 monitors are the most common monitors operated by Region 10 Tribes.

Initial PM monitoring can be conducted with “mini-vol” monitors that can identify “hot” spots where potentially high levels of PM pollution may be occurring. If PM concentrations are suspected of exceeding the PM standards, Federal Reference Method (FRM) monitors are used to determine if an area is in attainment or non-attainment for the standard. For some purposes a continuous (non-filter based) monitor is more useful, as it provide real time data that can, for example, be used in managing agricultural and forestry burn decisions. The need to monitor for other criteria pollutants (such as ozone, SO₂, and NO₂) is determined by a more comprehensive evaluation of sources impacting tribal lands

Air Quality Modeling

Air quality models are simulation tools that can be used to predict the air quality levels produced by pollution sources. These modeling tools are frequently used to assess future ambient impacts produced by a proposed pollution activity, analyze air quality benefits of different pollution control

strategies, and locate areas where maximum air quality levels are likely to exist. For example, modeling is used to show that a control strategy selected as part of a State/Tribal Implementation Plan (SIP/TIP) revision will achieve air quality standards. Air quality modeling is also used to determine whether construction of a new facility will meet air quality standards. EPA has developed several models suitable for regulatory application. These air quality models are usually computerized and require high-powered systems for operation. All the regulatory air quality models and guidance intended for use by State, tribal, and local agencies have been made available through the SCRAM area on the EPA's Technology Transfer Network (TTN) Bulletin Board System [www.epa.gov/ttn/scram] The role of the EPA Region 10 is to ensure consistency in the application of air quality models for regulatory purposes by routinely working with the States, tribal, and local agencies in the Region.

Agricultural and Forestry Burning Practices/Smoke Management:

A significant "area source" of pollution on some reservations is caused by human activities related to burning from either agricultural or forestry practices. EPA Region 10's goal is to ensure agricultural field burning does not endanger public health or welfare; and to prevent or minimize other environmental impacts from burning such as regional haze and nuisance smoke. We recognize that the states and Tribes play a key role in addressing agricultural and forestry-burning. Our plan is to work in partnership with all interested and affected people and organizations to learn how this type of burning is currently managed and to help identify and address areas where improvements are needed.

Air Toxics:

Toxic air pollutants, also known as hazardous air pollutants (HAPs), are those pollutants that are known or suspected to cause cancer or other serious health effects such as reproductive effects, birth defects, or to cause adverse environmental effects. Most air toxics originate from human-made sources, including mobile sources (e.g., cars, trucks, buses) and stationary sources (e.g., factories, refineries, power plants), as well as indoor sources (e.g., some building materials and cleaning solvents). Some air toxics are also released from natural sources such as volcanic eruptions and forest fires. EPA is working to assess and reduce air toxics releases of 188 pollutants to the environment. See [<http://www.epa.gov/ttn/atw/188polls.html>] for the HAP list.

A Tribe that wishes to identify whether air toxics may be a particular health concern on its reservation would typically begin by conducting an emissions inventory of all sources of air pollution on the reservation. Based upon this identification of sources, the Tribe can then better evaluate whether HAPs are likely to be impacting the reservations communities.

Regional Haze:

Congress has made it a national goal to prevent any future and remedy any existing visibility impairment in the major National Parks and Wilderness Areas (mandatory Class I federal areas) across the country. EPA has promulgated requirements for states to develop and submit implementation plans that will achieve reasonable progress towards achieving natural visibility

conditions. The federal rule has established 2064 as the date by which all mandatory Class I areas will achieve natural conditions.

States, Tribes, Federal Land Managers, and EPA Regions in the western United States are working together in the Western Regional Air Partnership to develop implementation plans to meet those requirements.

Citizen Complaints Response:

Complaints regarding air quality incidents on reservations are received and investigated by EPA Region 10, where possible in partnership with the Tribe. Inspections can be conducted to verify technical information and advice can be provided to assist with the resolution of air quality issues. When ongoing action is needed for resolution, compliance will normally be tracked.

Indoor Air Quality:

Although the Clean Air Act focuses on ambient air quality, the quality of indoor air is a major area of concern for many Tribes. Sources of indoor air pollution include oil, gas, kerosene, coal, wood, and tobacco products, and building materials and furnishing such as asbestos-containing insulation, damp carpets, household cleaning products, lead based paints, and radon. The EPA provides hotlines, publications, outreach, and other initiatives to improve the quality of air in our homes, schools, and offices. We offer in depth on-site training in several indoor air topics. For more information about the indoor air program, see EPA web site [www.epa.gov/iaq].

Radon and Radiation:

Radiation has been a natural part of the earth's environment since its formation. Our mining and use of these naturally radioactive materials in medicine, power generation, consumer products, and industrial equipment inevitably results in emissions and wastes. Recognizing the hazard, Congress designated EPA as the primary federal agency for protecting people and the environment from harmful and avoidable (controllable) exposure to radiation. Tribes can conduct surveys to determine whether radon is an environmental concern on their reservation.

Title V: Permit Program For Sources Under Part 71:

Title V of the Clean Air Act requires each state to develop and submit to EPA an operating permit program under regulations promulgated by EPA at 40 CFR 70. Under regulations issued by EPA in July 1996, EPA issues Title V operating permits to facilities located on reservations and other areas of Indian Country unless a Tribe has applied for and received approval of its own Title V operating permit program. The Title V program requires major stationary sources of air pollution and certain other sources to obtain an operating permit that includes the emission limitations and other requirements that apply to the source and such other conditions as are necessary to assure

compliance with the terms of the permit. The title V operating permits program is a vehicle for ensuring that existing air quality control requirements are appropriately applied to facility emission units in a single document and that compliance with these requirements is better assured.

For a brief overview of the operating permit program, refer to EPA's *Air Pollution Operating Permit Program Update* located on the Internet at [<http://www.epa.gov/oar/oaqps/permits.html>]

New Source Review:

EPA's New Source Review program requires all new major sources and existing sources with major modifications to obtain permits-before commencing construction. The requirement applies whether the major source or major modification is planned for an area where the NAAQS are exceeded (nonattainment areas) or an area where air quality is meeting the NAAQS or is unknown (attainment and unclassifiable areas). Permits for sources in attainment and unclassifiable areas are referred to as prevention of significant air quality deterioration (PSD) permits. The review process for PSD includes the following:

- ▶ Evaluation of Best Available Control Technology (BACT), which is based on the most stringent control available for a similar type of source; Installation of Best Available Control Technology (BACT)
- ▶ Performance of an ambient air impact study
- ▶ Performance of additional impact studies including visibility, soils, and vegetation.

Restrictions in nonattainment areas are more severe. The review process for NSR in nonattainment areas includes:

- ▶ Evaluation of Lowest Achievable Emission Rate (LAER) technology; LAER is derived from either of the following; (1) the most stringent emission limitation contained in the implementation plan of any State for such class or category of source; or (2) the most stringent emission limitation achieved in practice by such class or category of source.
- ▶ Provision for "offsets" representing emission reductions that must be made from other sources. Emissions offsets are generally obtained from existing sources located in the vicinity of a proposed source and must (1) offset the emissions increase from the new source or modification and (2) provide a net air quality benefit.

For Further Information:

EPA Tribal Air Program Web Page: <http://www.epa.gov/air/Tribal/airprogs.html>

Region 10 Office of Air Quality Web Page:

<http://yosemite.epa.gov/r10/AIRPAGE.NSF/webpage/Air+Quality?OpenDocument>

The Tribal Environmental and Natural Resource Handbook:

<http://www.epa.gov/indian/pdfs/tribook.pdf>

Institute for Tribal Environmental Professionals, Northern Arizona University:
<http://www4.nau.edu/itep/intro.html>

Tribal Air Monitoring Support Center:
<http://www4.nau.edu/tams/>

Application Kit for Federal Assistance:
<http://www.epa.gov/ogd/AppKit/index.htm>

40 CFR Part 31 and Part 35: Regulations applicable to CAA 103 and CAA 105 grants.
http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfrv1_00.html

Developing a Tribal Implementation Plan Guidance document, EPA, October 2002
<http://www.epa.gov/air/tribal/tip2.html>

Region 10 - Office of Air Quality

Contacts List

Program	Name	Phone	Email	Mail-stop
Tribal Air Program Lead	Mary Manous	(206) 553-1059	manous.mary@epa.gov	OAQ-107
Tribal Air Grants	Diana Boquist	(206) 553-1586	boquist.diana@epa.gov	OAQ-107
Federal Air Rules for Reservations	Debra Suzuki	(206) 553-0985	suzuki.debra@epa.gov	OAQ-107
Citizen's Air Quality Complaints	Jay Hirama	(206) 553-1777	hirama.jay@epa.gov	OAQ-107
Indoor Air	Ann Wawrukiewicz	(206) 553-2589	wawrukiewicz.ann@epa.gov	OAQ-107
Air Toxics	Lisa McArthur	(206) 553-1814	mcarthur.lisa@epa.gov	OAQ-107
Smoke Management: Ag and Forestry	Scott Downey	(206) 553-0682	downey.scott@epa.gov	OAQ-107
Emission Inventory Reports	Madonna Narvaez	(206) 553-2117	narvaez.madonna@epa.gov	OAQ-107
Criteria Pollutants/ Regional Haze	Steve Body	(206) 553-0782	body.steve@epa.gov	OAQ-107
Radiation/Radon	Vacant	(206) 553-4273		OAQ-107
Quality Assurance Project Plans	Christopher Hall	(206) 553-0521	hall.christopher@epa.gov	OEA-095
Air Quality Monitoring	Keith Rose	(206) 553-1949	rose.keith@epa.gov	OAQ-107
Monitoring Data	William Puckett	(206)553-1702	puckett.bill@epa.gov	OEQ-095
Air Quality Modeling	Mahbubul Islam	(206) 5536985	islam.mahbubul@epa.gov	OAQ-107
Mobile Sources and Emissions	Wayne Elson	(206) 553-1463	elson.wayne@epa.gov	OAQ-107
Title V Operating Permits	Doug Hardesty Lucita Valiere	(208) 378-5759 (206) 553-8087	hardesty.doug@epa.gov valiere.lucita@epa.gov	<u>IOO</u> <u>OAQ-107</u>
New Source Review	Dan Meyer	(206) 553-4150	meyer.dan@epa.gov	<u>OAQ-107</u>

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LAND



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Office of Waste and Chemicals Management (OWCM)

The OWCM works with governments (federal, Tribal, state, and local), industry and the public to protect human health and the environment by proper management of solid and hazardous wastes and toxic chemicals.

Office of Waste and Chemicals Tribal Program Areas

- ✿ Solid Waste
- ✿ Hazardous Waste
- ✿ Asbestos
- ✿ Lead
- ✿ PCB's
- ✿ Toxics in Your Community (TRI)

There are three main statutes that authorize and focus OWCM activities:

The **Resource Conservation and Recovery Act (RCRA)** establishes a system to manage wastes. Hazardous wastes are controlled from "cradle to grave" by permitting facilities, regulating treatment, storage and disposal, providing compliance assistance, and taking enforcement actions when necessary. Non-hazardous wastes, such as household waste, is primarily controlled at the local level, with EPA setting national standards to ensure sound disposal. The Agency encourages conservation of resources of all wastes through prevention and recycling.

The **Emergency Planning and Community Right-to-Know Act (EPCRA)** requires certain facilities to report on the releases of listed toxic chemicals annually. Facilities also report pollution prevention and recycling data. EPA's Toxic Release Inventory (TRI) provides information on toxics in your community so citizens, businesses, and governments can work together to protect the quality of the land, air and water.

Under the **Toxic Substances Control Act (TSCA)**, EPA has broad authority to regulate or ban the import, manufacture, use and disposal of almost all chemical substances in the United States. In EPA Region 10, our focus is assuring the safe use and proper management of polychlorinated biphenyls (PCBs), asbestos, chemicals in commerce (including import/export of chemicals), and lead.

Solid and Hazardous Wastes

EPA's programs address two kinds of wastes. These are defined in two "subtitles" of the Resource Conservation and Recovery Act, RCRA. Subtitle D deals primarily with the generally non-hazardous household wastes found in municipal landfills. Subtitle C deals with hazardous wastes, generally from manufacturing or commercial sources.

Solid Waste

The term "landfill" is used to designate a solid waste disposal site designed, built and operated in compliance with RCRA. Landfills usually have a state-issued permit and are periodically inspected by the state. A "dump" is a place where wastes are just thrown away, perhaps down a ravine or gully, A community may operate a dump, fencing and gating it to prevent unauthorized entry, and burying the waste regularly. But if it's not in compliance with the applicable sections of RCRA, it's still just a dump. An "open dump" is usually unregulated, un-contained and un-maintained. Such dumps are often "wildcat" dumps, started by someone who had a quantity of trash and didn't want to take it to the landfill or transfer station. Tribal lands as well as National Forest lands and even National Parks often host many such eyesores.

The problems caused by municipal solid waste (MSW) dumps and landfills have become a source of public concern in recent years. Even though they do not typically contain the high concentrations of toxic and hazardous materials found in a Subtitle C landfill, citizens have become more aware of the potential threat to health and the environment from MSWs, Even household wastes can contain a lot of hazardous materials from toxic cleaning agents and pesticides to lubricants, batteries and other electronics, and even drugs. Communities faced with the rising costs of both nearby land and transportation of wastes to more remote sites, have become more concerned about the generation and management of solid waste. To make waste management more effective governments adopt an integrated approach to waste management. This approach involves: (1) reducing the amount of waste that is generated; (2) increasing the recycling of materials such as paper, glass, steel, plastic--thus recovering these materials rather than discarding them; and (3) providing safer disposal by improving the design and management of landfills.

The Region 10 Solid Waste Program offers several types of technical expertise to assist interested Tribes with integrated approaches to waste management on their lands.

Indian Lands Open Dump Clean-up Program

In 1994, Congress passed the Indian Lands Open Dump Cleanup Act which directed the Indian Health Service (IHS) to survey dumps on Tribal lands. Subsequently, the IHS joined with EPA, the Bureau of Indian Affairs and the Departments of Defense and Agriculture (Rural Utilities Service) to begin to address the open dumps identified. Tribes are invited to submit brief proposals for funding to assist them in (1) assessing their dumps and the communities' future solid waste management needs, (2) planning to address those needs, (3) developing alternatives to existing open dumps such as transfer stations or even RCRA-compliant landfills, and (4) closing and cleaning up open dumps. "Planning" typically takes the form of developing or updating an Integrated Solid Waste Management Plan including Tribal codes and ordinances.

Proposals are generally due around the end of February and funding may be available as early as May. More specific information is published in the Federal Register and mailed to all Federally-

recognized Tribes and Alaskan Native Villages early in the fall. Successful proposals are specific, clear, detailed and focused on eliminating not only existing open dumps but the conditions which gave rise to them.

Tribal Circuit Rider

Region 10's Circuit Rider provides Tribes with reservation specific help on all types of solid waste problems. The Circuit Rider is involved in the on-the-ground implementation of the OWCM Tribal program in Indian Country in Idaho, Oregon, and Washington. The Tribal Circuit Rider responds to Tribal informational requests, technical concerns, and educational/training issues for solid waste management, recycling, waste stream reduction, and solid waste landfills.

Tribal Solid Waste Advisory Network (TSWAN)

TSWAN is a consortium of Tribes who are dedicated to improving solid waste management on tribal lands. The Network serves as a clearinghouse for interested Tribes to access information on all facets of integrated solid waste management. To this end, they offer a library website, hold quarterly membership meetings to discuss/resolve specific waste issues and offer training in Casino waste recycling.

Contact information for TSWAN:
Kami Snowden, Executive Director
TSWAN
635 Marcella Lane
Cheney, WA 99004
(509) 235-6007 phone/fax

e-mail: ksnowden_tswan@centurytel.net
<http://tswan.org/main/main.html>

Waste Reduction/Recycling Strategies

The Regional Solid Waste Program offers a variety of information services on reducing and recycling wastes. These services include:

- ✓ Household Hazardous Waste: Provide literature, respond to calls, give presentations on safe management, safer substitutes.
- ✓ Waste Reduction: Provide information on EPA WASTE WISE Program for businesses; provide general information on waste reduction.
- ✓ Recycling: Provide information on recycling programs for tribal offices and schools. Provide information on buying recycled content products.
- ✓ Casino and Medical Wastes: In 2003-2004, EPA will be working with Region 10 Tribes to develop best management practices for casino wastes, as well as for solid and toxic wastes generated at tribal health clinics.
- ✓ Problem Wastes: information on fluorescent light tubes, white goods (appliances), batteries, used oil, universal wastes, etc.

Hands-on Sessions:

The EPA Recycling Coordinator and Waste Prevention Outreach Liaison offers hands-on demonstrations covering:

- ✓ "Clean green" alternatives to household & yard toxic wastes in schools, tribal offices, homes.
- ✓ School waste prevention projects: Earth Day activities, recycling, composting/gardening.
- ✓ Environmentally preferable shopping: for kids and for adults.
- ✓ Buying and identifying "green" products and packaging: for kids and adults.

Solid Waste Management Assistance Grants

Discretionary funds have been extremely limited in recent years under this grant program. Approximately \$40,000 was available for all of EPA Region 10 in FY2003 for recycling, waste reduction, and product stewardship projects.

Source Reduction/Pollution Prevention (SR/P2) Grants Program

Offered for the first time in 2003 by EPA Headquarters, the SR/P2 grants program may be continued in 2004. Approximately \$1 million was budgeted for FY2003, for proposals addressing source reduction/pollution prevention principles, with a deadline of May 30, 2003. Proposals were to involve the following: Design for the Environment (DfE); Environmentally Preferable Purchasing (EPP); pollution prevention projects of general interest; pollution prevention projects of interest to States, regions, and/or Tribes; and Persistent, Bioaccumulative and Toxic (PBT) Chemicals. Website: http://www.epa.gov/p2/pubs/2003RFP_sourcereduction.htm

For more information on recycling or any of the above recycling grant programs please contact the Recycling Coordinator listed at the end of this chapter.

Hazardous Waste

Hazardous waste is prevalent throughout all levels of commerce and industry. Wastes are identified as hazardous if they pose a potential danger to human health and/or the environment when not properly treated, stored, transported, disposed or otherwise managed. Potential dangers include explosions, fires, corrosive destruction of materials, chemical reactions and/or health impairing exposure to toxic chemicals. The greater the quantity or concentration of chemicals exhibiting any of these dangers, the greater the need to assure their proper management.

In 1976, Congress enacted the Resource Conservation and Recovery Act (RCRA) as the primary regulatory vehicle to assure that hazardous waste is properly managed from the point of its generation to its ultimate disposal or destruction, referred to as "cradle-to-grave." RCRA establishes a very complex and comprehensive set of requirements to define which hazardous waste is subject to regulation as well as the responsibilities of anyone who generates, transports, stores, treats, disposes or otherwise manages hazardous waste. At this time, waste generated by individual households is not subject to federal RCRA requirements. However, it is very likely that some types of hazardous waste are generated by businesses in your community or by your municipal facility operations themselves.

Because hazardous waste includes objects such as solvents, corrosives and materials containing heavy metals like chromium, cadmium and lead, vehicle maintenance shops often generate hazardous waste that may be subject to RCRA requirements. Any discarded material must be evaluated to determine if it has been listed by EPA as hazardous waste or if the waste exhibits any of the following characteristics: ignitability, corrosivity, reactivity or toxicity as determined by the Toxicity Characteristic Leaching Procedure (TCLP) test.

In addition to used materials which might be considered hazardous waste, you must be careful with your management of products that are no longer wanted or needed, and you now wish to discard. Leftover pesticides from grounds-keeping operations and old paint thinner must be fully evaluated before a disposal determination is made concerning the waste. EPA has identified several hundred chemical products which, if disposed of, would be considered "listed hazardous waste."

Another possible concern for Tribal communities is the operation of a trash collection system and/or a landfill. Normally, because household wastes are currently exempt from RCRA regulation, Tribal landfills are regulated under the Subtitle D Municipal Solid Waste Landfill Criteria which is intended to insure proper management of the landfill. However, the addition of commercial waste materials collected and/or co-disposed with the household materials might trigger RCRA jurisdiction over the entire facility.

There are several categories of hazardous waste generators which fall under the RCRA program requirements. They can be found in 40 CFR Part 262:

(1) Full Generator - Facilities that generate more than 1,000 kilograms (kg) per month of any hazardous waste or more than one kilogram of any "acute" hazardous waste (A kilogram is approximately 2.2 pounds and 1,000 kg is approximately five, 55 gallon drums of material).

(2) Small Quantity Generator -Facilities that generate less than 1,000 kg per month of hazardous waste but more than 100 kilograms per month. Small quantity generators are given additional time to comply with new regulations and for on-site storage of their waste.

(3) Conditionally Exempt Generator - Facilities that generate less than 100 kilograms a month of any hazardous waste are conditionally exempt from the RCRA regulations.

(4) Transporters - A transporter under Subtitle C is defined as any person engaged in the off-site transportation of hazardous waste within the United States. This definition covers transport by air, rail, highway, or water. Transporters of hazardous waste represent the critical link between the generator and the ultimate off-site hazardous waste treatment, storage, or disposal facility. The transporter regulations were developed jointly by EPA and the Department of Transportation (DOT) to avoid contradictory requirements between the two agencies. A transporter must comply with the regulations under 49 CFR Parts 171-179 (The Hazardous Materials Transportation Act) as well as those under 40 CFR Part 263 (Subtitle C of RCRA).

(5) Treatment, Storage and Disposal Facilities (TSDF) - A TSDF can encompass one or any combination of these three functions (treatment, storage, and disposal). A detailed definition of each function can be found in 40 CFR Part 260.10. A TSDF is the last link in the "cradle-to-grave"

hazardous waste management system. All TSD's that handle hazardous waste need to obtain an operating permit and abide by the treatment, storage and disposal (TSD) regulations under 40 CFR Parts 264 and 265.

(6) Used Oil Management Standards - These standards are found in 40 CFR Part 279 and are applicable to those who generate, transport, transfer, collect, process or refine. The standards were developed to ensure all used oil would be recycled unless a handler disposed of it in accordance with Subpart C.

For Indian Country, EPA, Region 10 issues RCRA permits to facilities who treat, store or dispose of hazardous wastes on Tribal lands. A notable exception to this is in the State of Washington, where the State has the authority to issue permits and to implement its federally authorized hazardous waste program at facilities located on non-trust lands within the Puyallup Reservation; pursuant to a settlement agreement finalized in 1988 and ratified by Congress in 1989. The RCRA permit specifies conditions and requirements the facility must follow in order to treat, store or dispose of hazardous wastes in accordance with the regulations. All facilities that currently or plan to treat, store or dispose of hazardous wastes are subject to the permitting process.

The federal regulations which govern the permitting process include: The Solid Waste Disposal Act., as amended by the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984, The Toxic Substances Control Act, and Title 40 of the Code of Federal Regulations (CFR).

RCRA regulations were first published in 1980 and are constantly being amended. Once you determine that you are a handler of hazardous waste (i.e., generating, storing, transporting, etc.), you must notify EPA and receive an EPA RCRA identification number. Different timetables and responsibilities apply to the different activities. Full generators may accumulate waste on-site for up to 90 days without triggering a requirement to obtain a storage permit. Small quantity generators have up to 180 days. Securing a permit authorizing the treatment, storage, or disposal of hazardous waste is a very expensive and lengthy process. Thus, many companies and reservations look for ways to reduce the amount of produced hazardous waste in order to reduce expense and regulatory burdens. Waste reduction can be accomplished through better housekeeping, careful purchasing, changes in process and a variety of other ways. Hazardous waste generators should examine their waste streams and consider whether there might be a way to reduce what is being generated.

Tribal Hazardous Waste Management Grant Program

The EPA has made significant progress in developing a regulatory scheme ("cradle to grave") for the management of hazardous waste (identification, generation, treatment, storage, and disposal). However, RCRA defines Tribes as municipalities and they cannot receive authorization from EPA to operate hazardous waste programs in lieu of the Federal government. To address this concern, Congress, through the Fiscal Year 1999 EPA Appropriations Act (P.L. 105-276), gave the EPA Administrator authority to provide financial assistance to Tribal governments for the development and implementation of hazardous waste programs. In accordance with the EPA Indian Policy of 1984, EPA recognizes Tribal governments as the primary parties for managing programs for reservations. These funds are meant to support the development of hazardous waste program capacity and to enhance Tribal government efforts to avoid hazardous waste mismanagement on Tribal lands. The purpose of the Hazardous Waste Grant Program for Indian Country is to provide capacity building grants to federally

recognized Tribes and Tribal organizations. Its goal is to encourage comprehensive integrated hazardous waste management practices that are protective of human health and the environment by:

- building Tribal capacity for developing and implementing hazardous waste activities;
- developing Tribal organizational infrastructure;
- achieving economic sustainability of Tribal hazardous waste programs; and
- building partnerships among Tribes, federal agencies, states and local communities.

For further information on the Hazardous Waste Grant Program or other sources of hazardous waste program support from EPA, contact your regional hazardous waste Tribal program coordinator and visit the Office of Solid Waste Tribal Waste Management Program website located at <http://www.epa.gov/tribalmsw/>.

Please see contacts at the end of this chapter that are available for assistance under the RCRA Hazardous Waste program.

Asbestos

There are a number of laws that govern how asbestos materials are to be handled in schools, public and commercial building, and buildings that are to be demolished. The laws that govern asbestos management and removal include: the Asbestos Hazard and Emergency Response Act (AHERA), the Asbestos School Abatement Reauthorization Act and the National Emission Standards for Hazardous Air Pollutants for Asbestos (NESHAP).

On October 22, 1986 the President signed the Asbestos Hazard Emergency Response Act (AHERA) into law. The Act required EPA to develop regulations creating a comprehensive framework for addressing asbestos hazards in target areas. Schools were of special concern in the statute. The Act mandated the construction of a model accreditation program for individuals who conduct inspections for asbestos, develop management plans, or design and perform abatement work. Asbestos is also regulated under the authority of the National Emission Standards for Hazardous Air Pollutants in the Clean Air Act.

Other provisions of AHERA require all Tribal, public and private elementary and secondary schools to conduct inspections for asbestos-containing building materials, as well as developing management plans, and implementing response actions in a timely manner. Specifically, each local education agency, or LEA, must carry out the following actions:

- (1) Designate and train a person to oversee asbestos-related activities in the LEA
- (2) Inspect all school buildings for both friable and nonfriable asbestos-containing building materials.
- (3) Prepare a management plan for managing asbestos and controlling its exposure in schools, followed by a plan submission to the appropriate state agency. A time frame for the implementation of these actions should be included in the plan.
- (4) Use only professionally accredited persons to conduct inspections and develop the management plan, as well as required triennial reinspections.
- (5) Provide custodial staff and short-term workers with information about the location of asbestos-containing materials. Post warning labels as required.
- (6) Survey all locations of asbestos-containing materials for damage every six months, while appropriate steps are being taken to repair the problem.

(7) Awareness training is to be provided to custodial and maintenance staff (at least 2 hours), and to those employees whose duties require them to be in direct exposure to asbestos (14 hours of additional training). The additional training must explain proper work practices and the use of protective equipment when disturbing asbestos-containing materials.

(8) Notify the public about asbestos inspections and make the asbestos management plan available for review.

(9) Utilize accredited individuals to design and conduct asbestos abatement actions that are necessary and appropriate to protect health and the environment. These methods must be documented in the management plan.

(10) Keep detailed records of all asbestos-related activities in each school plan, and make them available for citizen review.

LEA's were required to begin implementation of their management plans by July 1989. Updated and maintained management plans are required to reflect activities of ongoing operations and maintenance, periodic surveillance, inspection, reinspection, and response action activities.

At the time AHERA was enacted, other buildings besides schools were also targeted as areas for reducing the human health and environmental hazards associated with asbestos. The National Emission Standards Hazardous Air Pollutants (NESHAP) for asbestos, promulgated under Section 112 of the Clean Air Act, specifies emission control standards for the milling, manufacturing, and fabricating of asbestos; for demolition activities; and for the handling and disposal of asbestos-containing waste materials.

Under NESHAP, all owners/operators of a demolition or renovation must thoroughly inspect the affected facility for the presence of asbestos before commencement of the action. This includes category I and II nonfriable asbestos. Private residences of four or less are exempt from NESHAP.

Under NESHAP, renovations require notification to the appropriate regulatory agency, including facilities containing no asbestos. Work practice procedures, waste disposal requirements, and record keeping provisions apply to those demolition operations where the amount of regulated asbestos-containing material (as defined in Section 61.141) meets or exceeds 260 linear feet on piping, 160 square feet on other facility components, or 35 cubic feet of asbestos-containing material in containers, when it is measured.

NESHAP requires at least one representative trained in the provisions of this regulation to be on site during any removal of asbestos-containing materials. The AHERA contractor/supervisor course meets the NESHAP training requirements. Also, a ten working day advance notification to EPA is required regarding the removal of such materials.

The Asbestos School Abatement Reauthorization Act, passed in 1990, required accreditation of personnel working on asbestos activities in schools and public and commercial buildings. Specifically, The Model Accreditation Plan, revised in February 1994, required the use of accredited inspectors, workers, supervisors, project designers, and management planners (schools only) when conducting asbestos activities at schools and public and commercial buildings.

What do I need to do if I want to convert an older building to a school building?

An AHERA accredited inspector will need to conduct an inspection of the building prior to its use as a school building and an accredited management planner will need to develop a management plan. Implementing the management plan includes assigning an asbestos coordinator for the school district; conducting six-month periodic surveillance inspections to assure that asbestos remains in good condition; conducting three year reinspections; issuing annual notifications to students, teachers, parents and building occupants on asbestos activities and management plan availability; and conducting operations and maintenance activities and asbestos removal, where appropriate. Accredited workers, supervisors, and project designers will need to be used for large scale asbestos activities. Should renovation be required, NESHAP requirements on notifications and work practices need to be followed.

What resources are available from EPA to conduct inspections or removal/clean up asbestos?

Until 1993, EPA had a grant and loan program for asbestos removal at schools. This funding was available for financially needy schools with major asbestos hazards. Congress chose not to provide money for this fund after 1993. However, EPA can provide technical assistance and advice on conducting inspections and on asbestos management and removals. We have numerous documents on various asbestos-related issues, as well as a video lending library.

For more information please see the Asbestos contact information listed at the end of this chapter.

Additional Information

The following documents can be obtained through the EPA information Center at 1-800-424-4372.

National Emission Standard for Hazardous Air Pollutants; Asbestos NESHAP Revision; Final Rule, 40 CFR 61.

“The Asbestos Informer,” EPA.

“Asbestos/NESHAP Adequately Wet Guidance”, EPA.

“Asbestos/NESHAP Regulated Asbestos-Containing Materials Guidance,” EPA.

“Reporting and Record keeping Requirements for Waste Disposal,” EPA.

“Common Questions on the Asbestos NESHAP,” EPA.

“A Guide to the Asbestos/NESHAP, as Revised,” EPA, November 1990.

Lead

Childhood lead poisoning is a serious, yet preventable environmental illness. Experts believe that blood lead levels as low as 10 micrograms per deciliter are associated with children's learning and behavioral problems. High blood lead levels cause devastating health effects, such as seizures, coma, and death. Over the past 30 years, the U.S. has made great progress in combating this disease by addressing a wide range of sources of lead exposures. The Federal government has phased out lead in gasoline, reduced lead in drinking water, and banned or limited lead use in consumer products, including toys, food cans, and residential paint. States and municipalities have initiated programs to identify and treat lead poisoned

children and to rehabilitate deteriorated housing. Parents, too, greatly contributed to reducing their children's exposure to lead.

The U.S. children's blood lead levels significantly decreased during the 1970's and 1980's. However, almost one million children under six still have blood lead levels above 10 micrograms per deciliter, with a disproportionate number of them living in inner cities; thus, lead poisoning is a major concern associated with environmental justice issues. There are also significant numbers of children living in suburban and rural areas that suffer from lead poisoning.

EPA's current lead program focuses on the primary source (lead based paint) lead-poisoning in children in the U.S. today. A 1991 report issued by the Department of Housing and Urban Development (HUD) showed that lead-based paint was used in millions of older homes and housing units in the United States. Studies showed that lead-based paint has a tendency to become incorporated in household dust as it cracks and weathers, lead paint also may chip or release particles into the air as a result of routine friction on impact surfaces (such as windows, window sills, doors).

Young children may ingest the lead-contaminated dust during typical childhood behavior such as crawling on floors and then putting their fingers in their mouth or mouthing toys or other objects that are covered with contaminated dust. Some children exhibiting pica behavior (a chronic tendency of mouthing or eating non-food objects) could also swallow paint chips and be lead poisoned.

Title IV of the Toxic Substances Control Act arose from the Title X Residential Lead Based Paint Hazard Reduction Act of 1992. Title X regulations have several requirements. For example, anyone doing lead abatement work is required to be trained and certified, and must perform such work in a safe manner for the benefit of both human health and the environment. Also, any person(s) buying or leasing property must be notified by the seller(s) of known lead hazards, issued a lead hazard pamphlet, given an opportunity to inspect the property and be advised of any lead hazards in any contract, lease, or sale of the property.

Title X mandated EPA to fulfill several responsibilities under the Act. They include the following:

- To write regulations concerning training and certification of lead abatement workers.
- To develop a Model program for states, territories, and Tribes to adapt.
- To define proper abatement procedures.
- To develop renovation and remodeling guidelines.

Over time, EPA has fulfilled these goals, as well as implementing further developments under the lead program.

Tribal governments can help to protect community members from lead poisoning. Two important components in achieving this goal are educating the community in the identification of lead hazards and teaching communities to handle lead hazards properly.

Additional Information

Lead based paint regulations can be found in 40 CFR Part 745.

About Lead Grants

There are two lead Tribal grant programs. One is for Tribal lead grants to conduct lead inspections and risk assessments, and to conduct lead outreach activities. The other Tribal lead grant program is to develop authorized programs to prevent lead poisoning through the training of workers who remove lead-based paint, the accreditation of training programs, the certification of contractors, and renovation education programs.

Tribal Lead Grant Program

The Tribal Lead Grant program will allow Tribes to test and analyze lead in blood, paint, dust and soil, conduct lead inspections and risk assessments, and conduct lead outreach activities. FY03 grants will provide approximately \$1.4 million for Indian Tribes. This will be the third round of Tribal Grants issued under this program since FY99.

For more information please contact:

Darlene Watford

US EPA

OPPTS/OPPT/NPCD

1200 Pennsylvania Ave, NW (7404T)

Washington, DC 20460

202-566-0516

Lead Poisoning Prevention Grant Program

EPA awards grants to states and Tribes to develop authorized programs to prevent lead poisoning through the training of workers who remove lead-based paint, the accreditation of training programs, the certification of contractors, and renovation education programs.

For more information please contact the Regional Lead Coordinator (contact info listed at the end of this chapter).

Resources:

Tribal Relational Environmental Numeric Health Database System (TRENHDS)

This database was built by Tribes for Tribes to help access specific needs of the Tribal population to allow each user Tribe to track the overall health and well being of their population and to identify areas of concern related to environmental pollutants. Chemical residues affect subsistence foods, medicinal herbs, homes and unborn children.

<http://www.bluejaydata.com/trenhds/>

EPA Lead Programs

EPA lead regulations, lead compliance assistance, educational and outreach resources, technical and scientific studies on lead, industrial lead releases, links to other EPA and non-EPA lead-related sites.

<http://www.epa.gov/lead/>

National Lead Information Center

Provides the general public and professionals with information about lead hazards and their prevention.
www.epa.gov/lead/nlic.htm

HUD Office of Healthy Homes and Lead Hazard Control

HUD lead regulations, compliance assistance information, educational resource, technical studies, grant information, community outreach activities and news.
<http://www.hud.gov/offices/lead/>

Lead Listing

Listing of lead service providers and lead analysis labs accredited under EPA National Lead Laboratory Accreditation Program. Listed for entire US - search listings by state. <http://www.leadlisting.org>

National Safety Council (NSC) Environmental Health Center (EHC)

Lead consumer product alerts, disclosure rule information, educational resources, newsletter and contacts.
<http://www.nsc.org/ehc/lead.htm>

Polychlorinated Biphenyls (PCBs)

The Toxic Substances Control Act (TSCA) prohibits the manufacture of PCBs, controls the phase-out of their existing uses, and sees to their safe disposal. Between 1929 and 1977, most PCBs were sold for use as insulating fluids in electric transformers and capacitors. PCBs were also used in circuit breakers and fluorescent light ballasts. Although PCBs are no longer commercially made in the United States, many electric transformers and capacitors once filled with PCBs are still in service. Additionally, PCBs currently are being inadvertently produced as byproducts during the manufacture of certain organic chemicals.

Several Tribal territories, reservations, and virtually every municipality and utility in the United States has been in possession of regulated PCB equipment at some time. Manufacturers inadvertently contaminated about twelve percent of the mineral oil-filled electrical equipment in use prior to 1976 by using the same pumps and lines to fill their premium PCB equipment and their mineral oil equipment.

The majority of electrical equipment is not considered to contain high levels of PCBs and the regulations make three distinctions on equipment:

- “High level PCB” - liquid filled equipment containing over 500 ppm of PCBs; has most stringent regulation.
- “PCB contaminated equipment” - equipment containing between 50 and 499 ppm; usually regulated in cases of spills and at the point of disposal.
- “Non-regulated equipment” - equipment contains under 50 ppm.

In Region 10, inspections are currently conducted on Tribal land by federal or state inspectors working under a Cooperative Agreement with the Regional Office.

EPA intends to allow use of contaminated and PCB equipment for the remainder of its useful life as long as the equipment is properly monitored, maintained, and used in a totally enclosed manner. When its useful life expires, the equipment must be disposed of as dictated by law.

Abandoned Equipment

If a Tribal member discovers abandoned electrical equipment suspected of containing PCBs, he or she should obtain the following information which will be helpful in determining what type of electrical equipment it is and safe handling methods.

- All equipment that contains high levels of PCBs must be marked with a 6"x6" bright yellow label which says in large black letters, "WARNING CONTAINS PCB."
- All transformers and capacitors are manufactured with a nameplate which contains the name of the manufacturer, the unit serial number, the voltage rating, the gallons of liquid, and the type of liquid. It may also contain the word "OIL" or the words "NONFLAMMABLE LIQUID."
- Any photographs taken of the abandoned material would also be helpful.
- The liquid in the abandoned electrical equipment may also need to be tested to determine the level of PCBs.

PCBs are harmful to Human Health and the Environment

When PCBs are released into the environment they do not easily break apart. Instead they persist for many years, bioaccumulate, and bioconcentrate in organisms. Well documented tests on laboratory animals show that various levels of PCBs cause reproductive effects, gastric disorders, skin lesions, and cancerous tumors. Exposures to PCBs in humans can cause chloracne (a painful, disfiguring skin ailment), liver damage, nausea, dizziness, eye irritation, and bronchitis. PCBs may enter the body through the lungs, the gastrointestinal tract, and the skin. After they are absorbed into the body, PCBs circulate in the blood throughout the body and stay in fatty tissues and a variety of organs, including liver, kidneys, lungs, adrenal glands, brain, heart, and skin.

Additional Information

PCB regulations can be found in 40 CFR, Part 761.

For more information regarding equipment distinctions, summary of PCB regulations, PCB disposal please contact the Regional PCB Coordinator.

Toxics in Your Community - Toxic Release Inventory (TRI)

Background

Congress passed the Emergency Planning and Community Right-to-Know Act (EPCRA) in 1986. Section 313 of the EPCRA establishes the Toxics Release Inventory Program (TRI) and mandates that certain businesses submit reports each year reporting the amounts of 654 chemicals and chemical categories the facilities released, either routinely or by accident. Starting with reporting year 1994, all federal facilities were also required to report.

The purpose of TRI is to provide to community and government officials information about chemical releases into the environment. In many cases this information has stimulated reductions in emissions, both through a focusing of facility managers' attention on wastes and increased involvement by the public.

EPCRA Section 313 Release Reporting Requirements

A factory, plant or other facility is subject to the reporting requirements if it meets all of the following three criteria:

- ◆ It conducts manufacturing operations included in the Standard Industrial Classification (SIC) codes 10 (except 1011, 1081, and 1094); 12 (except 1241); 20 through 39; 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. § 6921 *et seq.*); 5169; 5171; or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis). In addition, all federal facilities are included.
- ◆ It has 10 or more full-time employees (or the equivalent of 20,000 hours per year)
- ◆ It manufactures, imports, processes or otherwise uses any of the listed toxic chemicals under EPCRA Section 313(c) and 40 C.F.R. § 372.65, in excess of the threshold quantity established under EPCRA Section 313(f) and 40 C.F.R. § 372.25, § 372.27, or § 372.28, during the calendar year. Manufactures or processes more than 25,000 pounds or otherwise uses more than 10,000 pounds of any listed chemical during the calendar year. Persistent, bioaccumulative and toxic (PBT) chemicals are subject to different thresholds of 10 pounds, 100 pounds or 0.1 grams depending on the chemical.

Getting Information About the Toxic Chemical Releases

The primary purpose of EPCRA Section 313 is to make annual toxic chemical release and transfer data available for public scrutiny. EPA satisfies this mandate by annually publishing the Public Data Release (PDR), State Fact Sheets, and several data access tools, including the TRI Explorer (<http://www.epa.gov/triexplorer>) and Envirofacts (<http://www.epa.gov/enviro>). Annual PDRs and State Fact Sheets form the focal point of EPA's efforts to make TRI data publicly available, as EPA issues these publications directly to state officials, the media, libraries, business interests, and community groups.

Ways TRI Can Help Your Tribe

The TRI database can provide your Tribe with the following types of information:

- * Which toxic chemicals were released into the environment from a specific facility or facilities in a specific community.
- * How much of each chemical was released into the air, water and land.
- * How chemical wastes were treated on site and the efficiency of the treatment.
- * How much of the chemicals were transported away from the site of the facility for recycling, treatment or disposal.

The TRI data can be accessed by year, chemical, facility, county, city and zip code in a format tailored to meet your needs.

EPA Region 10's Public Environmental Resource Center maintains a video lending library and distributes documents pertaining to the Toxics Release Inventory Program for those residing in Alaska, Idaho, Washington and Oregon.

The EPCRA Hotline provides regulatory, policy, and technical assistance to Federal agencies, local and state governments, the public, the regulated community, and other interested parties in response to questions related to EPCRA. The Hotline provides information on the availability of documents related to EPCRA and copies of selected EPCRA documents on a limited basis.

The hotline is open weekdays from 8:30 a.m. - 7:30 p.m. EST. For more information or assistance, call (800) 424-9346 (or 703 412-9810). Numerous documents pertaining to TRI are available through the EPCRA Hotline or from the Internet at <http://www.epa.gov/tri/>.

EPA's Enforcement and Compliance Assurance Office provides information on enforcement statistics, penalty policies, policy on supplemental environmental projects, self-disclosure policy, enforcement cases, compliance assistance programs and documents, and numerous other resources concerning enforcement and compliance.

OSWER Hotline

The Office of Solid Waste and Emergency Response (OSWER) has a hotline to answer questions about several regulations. When calling the hotline, you will need to be familiar with the names of the regulations it covers and have very specific questions in mind. The hotline is designed to answer questions about the following regulations: Resource Conservation and Recovery Act (RCRA), Underground Storage Tanks (UST), Superfund and Emergency Planning and Community Right-to-Know. The numbers for this hotline are: 1-800-424-9346 or 1-800-535-0202. Telecommunications device for the deaf (TDD) access is available at (800) 553-7672.

Office of Waste and Chemicals Management Contact Information

Program	Name	Phone	Email	Mail-stop*	
Solid Waste	Grover Partee	(206)553-6697	partee.grover@epa.gov	WCM-128	
TSWAN	Fran Stefan	(206)553-6639	stefan.fran@epa.gov	WCM-128	
Indian Lands Open Dump Clean-up Program	Grover Partee	(206)553-6697	partee.grover@epa.gov	WCM-128	
Circuit Rider	Al Latourette	(206)553-8202	latourette.al@epa.gov	WCM-128	
Recycling Coordinator	Domenic Calabro	(206)553-6640	calabro.domenic@epa.gov	WCM-122	
OSWER Hotline	N/A	1-800-424-9346 1-800-535-0202 TDD: 1-800-553-7672	N/A	N/A	
Asbestos	Carmen Caldwell	(206)553-4762	caldwell.carmen@epa.gov	WCM-128	
Regional Lead Coordinator	Barbara Ross	(206) 553-1985	ross.barbara@epa.gov	WCM-128	
PCBs	Dan Duncan	(206)553-6693	duncan.daniel@epa.gov	WCM-128	
Hazardous Waste Handlers/Tribal Land	WA	Jack Boller	(360)753-9428	bolter.jack@epa.gov	WOO
	OR, ID, AK	Jamie Sikorski	(206)553-5153	sikorski.jamie@epa.gov	WCM-126
Hazardous Waste Handlers/Inventory	Ofelia Erickson	(206)553-2583	erickson.ofelia@epa.gov	WCM-122	
	Jack Boller	(360)753-9428	bolter.jack@epa.gov	WOO**	
Technical Assistance/Hazardous Waste	Jack Boller	(360)753-9428	bolter.jack@epa.gov	WOO**	
Voluntary Cleanup Actions	Jan Palumbo	(206)553-6702	palumbo.jan@epa.gov	WCM-121	
Hazardous Waste Permits					

Hazardous Waste Management Grants for Tribes	Nina Kocourek	(206)553-6502	kocourek.nina@epa.gov	WCM-122
Toxics in Your Community (TRI)	Christina Colt	(206)553-4016	colt.christina@epa.gov	WCM-128
EPCRA Hotline	N/A	1-800-535-0202 TDD: 1-800-553-7672	N/A	N/A

***EPA Address:**

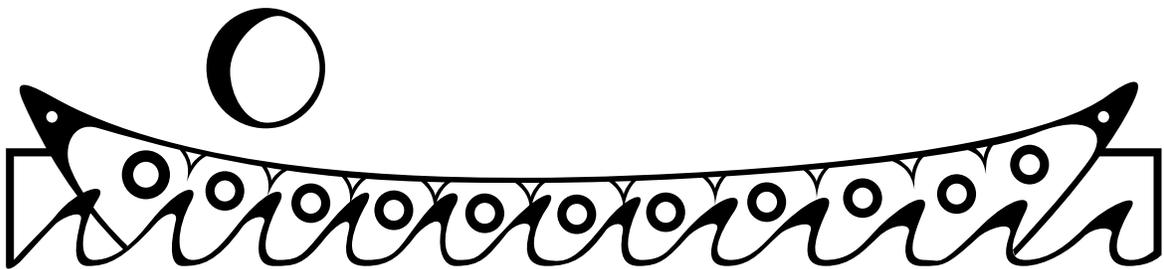
US Environmental Protection Agency Region 10
Name, Mail-stop ____
1200 6th Avenue
Seattle, WA 98101

****WOO - Washington Operations Office Address:**

US Environmental Protection Agency
Washington Operations Office
300 Desmond Dr. S.E. Suite 102
Lacey, WA 98503

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WATER



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Office of Water

MISSION:

EPA Region 10's Office of Water's mission is to restore, maintain, and enhance the overall quality of the Region's water resources in order to protect the health and diversity of the environment for present and future generations by protecting diverse ecosystems and ensure healthy watersheds; safeguarding human health through vigorous protection of ground and surface waters and drinking water sources; preventing and minimizing the discharge of pollutants to land, air, and water; and promoting stewardship for the Region's waters through education and public involvement.

Tribal Water Program Activities

- ✿ Drinking Water
- ✿ Ground Water Protection
- ✿ Water Quality Standards
- ✿ Watershed Restoration (TMDLs)
- ✿ Wastewater/NPDES
- ✿ Grants

Useful information on EPA's water programs which impact Tribes can be found on EPA Region 10's Tribal Water Programs website at www.epa.gov/r10earth/tribalwater.htm.

Drinking Water

The work of Region 10's Drinking Water Unit (DWU) is comprised of several different programs: Safe Drinking Water Act (SDWA) oversight in States and Direct Implementation for Indian Tribal Water Systems, Drinking Water Compliance Program, Compliance Data Management, State Revolving Funds (SRF), and the Construction Grants Indian Set Aside (ISA) programs under the SDWA and Clean Water Act (CWA). These programs are authorized primarily under the recently reauthorized SDWA of 1996 and other statutes, regulations and guidance, whose common goal is safe drinking water and protection of public health. More information on the major program areas and services of the DWU is listed below or you can visit the web site at: <http://www.epa.gov/r10earth/>

Tribal Drinking Water Protection Program

One of the most basic needs of any community is safe and clean drinking water. Over 500,000 people rely on the quality of drinking water provided by community water systems owned by Tribes. Many Tribes have seen treatment costs increase over the past decade, and contaminant threats continue to increase as old infrastructures, such as septic tanks, underground gas tanks, and wastewater facilities, deteriorate. In 1998, seven percent of public water systems serving tribal populations violated health-based contaminant-related federal drinking water standards.

Public Water System Supervision (PWSS) Program

EPA implements the PWSS (drinking water) program on Indian Lands until the individual Tribes determine to seek and obtain program primacy within their reservations. At this time EPA regulates about 100 public water systems and is aware of at least 180 additional drinking water systems on Indian Lands that currently report to the respective state drinking water programs. Limited funding and personnel have caused EPA to leverage available financial and personnel resources with other agencies and NGOs for the best possible protection of public health and compliance with Safe Drinking Water Act requirements.

Currently, Region 10 is funding two Tribal Utility Consultant positions with the Indian Health Service to assist Tribes with their drinking water systems. Additionally, Region 10 is funding two Senior Environmental Employee positions within Region 10 to provide additional technical support and data tracking support to public water systems on Indian Lands. In 2002, the Region also made grants to the Small Utilities Service Corporation (SUSC), which in turn contracted with Arasmith Consulting Resources (ACR) to provide a wide range of technical support and training to water operators and utilities staff on Indian Lands. These services include onsite circuit rider assistance, water system/utility evaluations and development support, workshops and hands-on training, as well as training for operator certification. Many of these training opportunities are brought to the reservations or nearby locations to minimize travel time and costs to participants. The services themselves are provided at no charge to the Tribes, or to staff from non-tribal water systems located on Indian Lands.

Information on EPA's drinking water standards and requirements for small water systems may be found online at EPA's drinking water website, www.epa.gov/safewater and its connecting links, or by calling Craig Paulsen at (206)-553-4350. Training schedules, as well as downloadable information and links to other technical service providers, may be found online at www.susc.org, or by calling ACR at (541)-928-5211.

Direct Implementation on Tribal Lands

EPA directly implements drinking water programs on Indian Lands including Public Water System Supervision (PWSS), Corrosion Control, Underground Injection Control (UIC), and Wellhead Protection. Compliance assistance is supported through technical assistance, on-site support hands-on training and coordination with Indian Health Service (IHS) resources.

The Drinking Water Unit responsibilities are essentially the same role that states play when they have assumed primacy for a program (accepted delegation), as well as performing in a federal oversight role until such time as these programs may be delegated to the individual Tribes. There are 43 Indian Tribes in Region 10 that have public water systems, not including some 226 Alaska Native Villages which are being addressed through a separate EPA/State/Native Corporation series of programmatic efforts, pending resolution of jurisdictional issues in the courts. EPA sponsors a technical assistance program to help tribal water operators and tribal utility managers meet the requirements of the SDWA as they provide safe drinking water to their people. The Unit works with the Indian Health Service, contractors and the Native American Water Association to provide workshops, circuit rider assistance, apprenticeships, and other support to assist Tribes in developing their own utility organizations, as a means to protect public health and the reservation environment. Monitoring results required of the approximately 115 public water systems that serve the 38 Tribes are tracked to facilitate compliance assistance and, when necessary, undertake formal enforcement actions to ensure compliance with SDWA requirements.

Additional Information:

Safe Drinking Water Hotline - 1-800-426-4791 or email: hotline-sdwa@epamail.epa.gov

“The First STEP for Small Drinking Water Systems in Understanding Drinking Water Regulations”, EPA Office of Ground Water and Drinking Water, March 2002, Publication# EPA 816-R-02-004. *This document is one in a series of Simple Tools for Effective Performance (STEPP) documents for small drinking water systems produced by EPA. All of these documents are available from EPA by calling the Safe Drinking Water Hotline (phone number listed above) and requesting the document by its publication number.*

EPA’s Small Systems Web Site - <http://www.epa.gov/safewater/smallsys.html>

Technical Assistance:

National Rural Water Association

1-800-332-8715

<http://www.nrwa.org>

Rural Community Assistance Program

(703) 771-8636

<http://www.rcap.org>

Rural Utilities Service

(202) 720-0962

<http://www.rurdev.usda.gov/rus/index.html>

EPA Regional Office - please see end of this chapter for contact information.

Source Water Protection

Nationwide, more than 80 percent of drinking water systems report having at least one potential source of contamination within two miles of their water intake or well. Sometimes the source of drinking water contamination is something commonly used and is not noticed because it may take years to reach the water supply. One solution is protecting the source from contamination instead of remediation, added chemical treatment, and investment of new technology. Protecting the source can be more cost effective. If harmful pathogens and chemicals are kept out of the river, lakes, or aquifers that Tribes use as drinking water then the risk to human health is lowered significantly. This first barrier - **source water protection** - is not the only barrier to safeguard human health against waterborne contaminant threats. Yet it is an important first step that can save money and decrease risks to human health. Currently only 3,300 out of 55,000 water suppliers use protection measures to lower the risk of source water contamination. A tribal water supply operator should assess the sources of drinking water and identify the potential problems to help determine what actions are needed to prevent contaminants of the drinking water sources.

For more information on source water assessments please see “Drinking Water Quality in Indian Country: Protecting Your Sources.” This document makes reference to other materials that are helpful in determining how to conduct a source water assessment.

Wellhead Protection

EPA Region 10 has started a new program to support efforts to protect drinking water supplies on tribal lands. Evergreen Rural Water of Washington carries out the program in order to protect the health of Native American communities. A facilitator is supplied to make sure that local goals are set based on the unique needs of each community. The facilitator can assist in susceptibility assessments; grant applications, public education campaigns, drafting regulations, and emergency planning. For more information call Evergreen Rural Water of Washington, Oregon Association of Water Utilities, or the Idaho Rural Water Association: Washington Area Tribes (800) 272-5981, Oregon Area Tribes(503) 873-8353, Idaho Area Tribes (800) 962-3257

Underground Injection Control (UIC) Program

The UIC Program works with State and local governments to oversee underground injection of waste in order to prevent contamination of drinking water resources. The Underground Injection Control (UIC) Program, authorized by the Safe Drinking Water Act, is designed to prevent ground water contamination from injection wells. Most injection wells in the Pacific Northwest and Alaska are relatively simple devices used to emplace fluids into the shallow subsurface under the force of gravity. Examples include sumps, drywells, and drainfields. The threat posed to ground water quality varies markedly, and depends mostly upon the volume and nature of the fluids injected, well construction, and the hydrogeologic setting. The federal UIC regulations and additional state requirements are based upon a protective performance standard.



Ground Water Protection

EPA/IHS Tribal Onsite Sewage System Evaluation Project

The Environmental Protection Agency (EPA) and Indian Health Service (IHS) are working together to evaluate large capacity on-site systems (designed to serve 20 or more people) serving Tribal Casino's, offices or schools within Region 10. The purpose of this evaluation is to assess the performance and identify any impacts to ground water.

Possible outcomes from this project include recommendations for individual system operators and supporting data for EPA to use in setting environmental policy related to large capacity on-site systems.

For more information please see the supporting document "Quality Assurance Project Plan." You may find it on the EPA R10 web site at: <http://www.epa.gov/r10earth>.

For EPA project contacts please check contact list at end of chapter, see Ground Water Protection.

Sole Source Aquifer Program

A sole source aquifer (SSA) is an underground water supply designated by the Environmental Protection Agency (EPA) as the "sole or principal" source of drinking water for an area.

The Safe Drinking Water Act authorizes EPA to designate aquifers which are the sole or principal source of drinking water for an area. To meet the criteria for designation, a sole source aquifer must supply at least 50 percent of the drinking water to persons living over the aquifer and there can be no feasible alternate source of drinking water. Once designated, EPA can review proposed projects that are to receive federal funds and which have the potential to contaminate the aquifer.

For more information please see the EPA website: <http://www.epa.gov/r10earth>
Or contact the Sole Source Aquifer Program Specialist

Leaking Underground Storage Tank (LUST) Program & Underground Storage Tank (UST) Program

The LUST Program works with states and Tribes to clean up known releases from USTs using a federal trust fund, as well as state insurance and clean-up funds.

If a release is discovered please contact your technical assistance provider immediately. Please see the technical assistance contact information listed below. The sooner a release is reported the easier and usually cheaper it will be to cleanup. Contamination from a UST release can potentially impact off-site lands such as neighboring water wells, basements (vapor), etc.

EPA has awarded nearly \$4 million dollars in USTfields Grants to states and Indian Tribes nationwide for site assessment and cleanup of releases from USTs. Check out the EPA HQ USTfields web site <http://www.epa.gov/swerust1/ustfield/index.htm> for further details, or contact Wally Moon, EPA, for more information.

The EPA contacts available for technical assistance under the UST program are listed at the end of this chapter.

Additional Information (Contact your Regional EPA office)

“Musts for USTs: A Summary of the New Regulation for Underground Storage Tank Systems,” U.S. EPA, OUST, 7/90

“Dollars and Sense: A Summary of the Financial Responsibility Regulations for Underground Storage Tank Systems,” U.S. EPA, OUST, 12/88

“Don’t Wait Until 1998, Spill, Overfill and Corrosion Protection for Underground Storage Tanks,” U.S. EPA, OUST, 4/94

“Closure Guidance for Underground Storage Tanks (USTs) on Indian Lands, Region 10 EPA,” U.S. EPA R10, 2/02

Water Quality Standards

Water Quality Standards for Indian Country

The EPA’s Indian Policy, established in November of 1984, and 1987 amendments to the Clean Water Act, section 518, have led to greater involvement by Indian Tribes in the water quality standards program. The Agency, directed by EPA’s Indian Policy, is to “give special consideration to tribal interests in making Agency policy and to ensure involvement of tribal governments in decision making and management of environmental programs which affect reservation lands.” Section 518 of the Clean Water Act (CWA) requires EPA to promulgate regulations that specify how the Agency will treat a Tribe in a manner similar to that in which it treats a State for certain CWA programs. In addition, section 518 requires EPA to establish a mechanism to resolve any unreasonable consequences that may arise when an Indian Tribe and a State adopt different water quality standards on a common body of water, also known as a dispute resolution mechanism. The necessary regulations and associated guidance for the 1987 Amendment to the CWA have been in place since December 12, 1991. There is no statutory requirement that a Tribe must apply for treatment in the same manner as a State for the water quality standards program. Nor is there a time limit for the application to be submitted.

Water quality standards are laws or regulations adopted by an Indian Tribe or a State to protect the quality of its water and to act as the goals for water quality that’s desired. At the core of any State’s or Indian Tribe’s water quality management program is water quality standards because the program must meet the standards. Water quality standards are adopted for specific waterbodies. All waters in the United States must have water quality standards, which includes rivers, streams, intermittent streams, lakes, ponds, wetlands, and marine waters.

When water quality standards are set a Tribe or State designates “uses” for each waterbody, and adopts water quality “criteria” to protect the “designated uses.” Water quality standards must also contain an antidegradation policy and method for implementing it. Programs that are designed to improve or protect water quality must also meet water quality standards. For example, permits issued under the National Pollutant Discharge Elimination System (NPDES) must meet water quality standards.

Criteria for administering a water quality standards program?

CWA, section 518(e) and 40 CFR 131.8(a) states that an Indian Tribe must meet certain criteria to administer a water quality standards program. There are four main criteria:

- ✓ the Tribe must be recognized by the Secretary of the Interior;
- ✓ the Tribe must have a governing body which exercise substantial duties and powers (this includes governmental functions that promote the security, health, safety, and welfare of an affected population);
- ✓ the water quality standards program to be administered by the Tribe must include management and protection of the water resources within the borders of the Indian Reservation (a demonstration of why the Tribe has jurisdiction over activities of non-Indians within the Reservation is also needed – EPA can be consulted for guidance on this); and
- ✓ the Tribe is expected to be reasonably capable of implementing an effective water quality standards program (this means that the Tribe must have the necessary management and technical skills to implement a program, or must submit a plan for acquiring those skills).

EPA will work with tribal representatives to assure that the application for authority and the tribal program are complete, so that tribal recognition as a State may be granted. EPA also works with Tribes to develop the necessary management and technical skills required to develop and implement water quality standards.

Process for the review of a Tribal application:

- ✧ Tribe submits an application for treatment as a State to the EPA Regional Administrator (John Iani);
- ✧ EPA public notices the application and requests comment from neighboring governmental entities regarding the jurisdictional portion of the application
- ✧ The Regional Administrator evaluates the application, considers all comments from neighboring entities, and makes a determination. Although EPA considers the comments from other government entities, EPA makes an independent evaluation of the Tribes's application.
- ✧ If the Regional Administrator determines that a Tribe has demonstrated authority with respect to a specific area, the Tribe will be granted authority to assume the water quality standards program for the areas where the authority is certain.

The intent of Congress and EPA's Indian Policy is to support and assist tribal governments in assuming authority to manage various water programs. Authority also exists for EPA to reassert control over certain water programs if a Tribe fails to properly execute the water quality standards program.

Establishing water quality standards for waters within the Reservation:

There are three pathways that a Tribe may take in regards to water quality standards.

One path is to do nothing. The waters will not be protected by any water quality standards. If EPA issues an NPDES permit for tribal waters the adjacent State's water quality standards are generally used to develop effluent limits in the permit. There are no Federal WQS that can be used for Tribes that do not adopt their own. EPA continues to examine, in consultation with Tribes, whether to do a national promulgation of water quality standards for Indian country to fill this regulatory gap.

Another path, available to all Tribes, is to develop and adopt water quality standards under tribal law without obtaining treatment in the same manner as a State under the Clean Water Act or submitting the standards to EPA for review and approval under the Clean Water Act. This may be the decision if a Tribe does not feel that they can demonstrate jurisdictional authority over all waters on the Reservation as required by the process for being approved for treatment in the same manner as a State under the Clean Water Act for water quality standards. EPA is available to work with the Tribe and informally review draft standards, and in so doing can help assure that the standards will be consistent with the Clean Water Act. Although these Tribally adopted water quality standards will not be EPA approved, if there came a time when the Tribe decided to pursue and receive WQS program authority then it would be a much easier process to have the water quality standards approved. While Tribally adopted water quality standards are not legally binding under the Clean Water Act, they can sometimes help influence State decisions in regards to adjacent bodies of water and can be used on-Reservation for control of regulated nonpoint sources.

The third path, available to Tribes with reservation status, is to receive WQS program authority, adopt Tribal water quality standards and work with EPA to get them approved. Tribal water quality standards must meet the Federal CWA standards. Tribes follow the same process as States in developing and adopting water quality standards, including providing for public review and comment before finalizing the standards. EPA's review and approval of the standards must meet not only the CWA requirements, but must also include consultation with the US. Fish and Wildlife Service or NAA Fisheries under Section 7 of the Endangered Species Act. Therefore the review and approval process can be somewhat lengthy. The key to working with the EPA water quality standards staff is to contact them **early and often** for review of drafts of the standards and to make sure that the most recent developments in the standards and criteria programs are available for the Tribe's use in their standards. EPA approved water quality standards are legally binding and will directly influence decisions that are made about Tribal waters and upstream waters.

Finally, EPA may promulgate Federal Standards in cases where EPA finds it necessary. If the Administrator of EPA believes that water quality standards are critical to protect a waterbody and the Tribe is not developing standards and has not applied for treatment in the same manner as a State such a case may occur. EPA promulgates Federal standards only as a last resort and does so with tribal involvement. These promulgations are resource-intensive, so EPA will generally seek other ways to work with the Tribe to assure that Clean Water Act standards are in place if needed.

What happens if a Tribe and a State have adopted different standards on the same body of water (such as a lake), or on a segment of a body of water (such as a river)?

The mechanism for resolving situations such as this is referred to as the "dispute resolution mechanism." Dispute resolution is the mechanism for resolving unreasonable consequences that arise as a result of different water quality standards set by States and Indian Tribes on a common body of water. The parties to a State-Tribal dispute are the State and the Tribe and may also include NPDES permittees, citizens, citizen groups, or other affected entities. Dispute resolution actions must be consistent with one or a combination of options: mediation, arbitration, and default procedure.

EPA resolves disputes when:

- ✓ Unreasonable consequences result from differing standards on adjacent jurisdictions
- ✓ Dispute is between State and Indian Tribe
- ✓ Effort is made to resolve without EPA
- ✓ Requested relief is consistent with CWA

- ✓ Differing standards were approved by EPA
- ✓ Valid written request was submitted to EPA

Either a State or a Tribe may request that EPA resolve a dispute. The written request to EPA is to include:

- ✓ Statement of unreasonable consequences
- ✓ Description of actions taken to resolve dispute
- ✓ Indication of the water quality standards provision in question
- ✓ Data to support alleged unreasonable consequences
- ✓ Statement of the relief sought

For more information on the dispute resolution mechanism please see 40 CFR Part 131.7.

Resources

For Developing Water Quality Standards

- ✿ Training: 5 day workshop held in Washington D.C. - “Water Quality Standards Academy.”
Contact: Bill Kramer (202) 566-0385
- ✿ Helpful Documents: Please call the water quality standards unit and they will help determine which documents would be of most use. Usually the most helpful documents are examples of other Tribally adopted and EPA approved water quality standards (see: <http://epa.gov/wqsdatabase>). EPA also maintains an online reference library that can be accessed at <http://www.epa.gov/OST/library/wqstandards>. The on-line library contains technical and policy documents to guide the development of standards.

CONTACT INFORMATION:

Office of Water, Water Quality Standards and Planning Unit – please see the website at <http://www.epa.gov/r10earth/wqs.htm>

Please see end of chapter contact information or visit the National EPA water quality standards website: <http://www.epa.gov/ost/standards/tribal/>

✿ Watershed Restoration (TMDLs)

Watershed Restoration Unit (WRU)

The Watershed Restoration Unit (WRU) provides technical support to Region 10 states and authorized Tribes to develop technically sound Total Maximum Daily Load (TMDL) documents (water clean-up plans). EPA reviews and either approves or disapproves TMDLs, which are developed by States or authorized Tribes. In some cases, EPA prepares or jointly prepares TMDL documents. Authorized Tribes are defined as Tribes with EPA approved “Treatment as a State (TAS)” status and water quality standards (WQS).

Overview of Current Total Maximum Daily Load (TMDL) Program and Regulations

Section 303(d) of the Clean Water Act

Under section 303(d) of the 1972 Clean Water Act, states, territories, and authorized Tribes are required to develop lists of impaired waters that do not meet water quality standards that states, territories, and authorized Tribes have set for them. The law requires that these jurisdictions establish priority rankings for waters on the lists and develop TMDLs for these waters.

Nationally over 40% of our assessed waters still do not meet the water quality standards states, territories, and authorized Tribes have set for them. This amounts to over 20,000 individual river segments, lakes, and estuaries. These impaired waters include approximately 300,000 miles of rivers and shorelines and approximately 5 million acres of lakes -- polluted mostly by sediments, excess nutrients, and harmful microorganisms. An overwhelming majority of the population - 218 million - live within 10 miles of an impaired water.

What is a Total Maximum Daily Load (TMDL)?

A Total Maximum Daily Load (TMDL) is a "pollution budget" for a polluted water body, which provides a written assessment of water quality problems, identifies the pollutant sources that contribute to the problems, and sets pollutant allocations for these sources. A TMDL is required by the federal Clean Water Act for any water body that does not meet the state's⁷ WQS for a specific pollutant. A TMDL clearly identifies the links between the water body use impairment or threat of concern, the causes of the impairment or threat, and the pollutant reductions that are needed for the water body to meet the state or authorized Tribe's water quality standard for that pollutant.

What Is The TMDL Process?

The TMDL process provides a flexible assessment and planning framework for identifying load reductions or other actions needed to attain water quality standards (i.e. water quality goals to protect aquatic life, drinking water, and other water uses). The process has three steps:

1. Identify Quality Limited Waters- States and authorized Tribes identify and prepare a list of waters that do not or are not expected to meet water quality standards.
2. Establish Priority Waters/Watersheds- States and authorized Tribes prioritize waters/watersheds and target high priority waters/watersheds for TMDL development.
3. Develop TMDLs- For listed waters, States and authorized Tribes develop TMDLs that will achieve their water quality standards, allowing for seasonal variations and an appropriate margin of safety. For waters lying entirely within tribal boundaries or for portions of waters that lie within tribal boundaries and where the Tribe does not have authorization to develop TMDLs, EPA can develop the TMDLs on tribal waters, usually with major assistance from the Tribe in the development of these TMDLs. In waters which are on both state and tribal boundaries, EPA, the Tribe and the state will often develop the TMDLs jointly.
- 4.

EPA has 30 days in which to approve or disapprove a TMDL. If EPA disapproves a TMDL, EPA has 30 days to establish the TMDL. EPA must seek public comment on the TMDL it establishes.

⁷ The term "State" in this section refers to both states and Tribes with EPA-approved "treatment-as-a-state" status and water quality standards.

What Do TMDLs Address?

TMDLs should address all significant stressors which cause or threaten to cause waterbody use impairment, including:

- point sources (e.g., sewage treatment plant discharges),
- nonpoint sources (e.g., runoff from fields, streets, range, or forest land), and
- naturally occurring sources (e.g., runoff from undisturbed lands).

A TMDL is the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources and natural background pollutants, and an appropriate margin of safety. TMDLs may address individual pollutants or groups of pollutants, as long as they clearly identify the links between:

- the waterbody use impairment or threat of concern,
- the causes of the impairment or threat, and
- the load reductions or actions needed to remedy or prevent the impairment.

What are TMDLs Based On?

TMDLs are usually based on readily available information and studies. In some cases, complex studies or models are needed to understand how stressors are causing waterbody impairment. In many cases, simple analytical efforts provide an adequate basis for stressor assessment and implementation planning.

TMDLs and Implementation Measures

While development of the TMDL is a regulatory requirement, the TMDL itself is not a regulatory or enforcement tool; it does not in and of itself require pollution sources to take cleanup actions. Rather, the TMDL provides an analytical basis for planning and implementing pollution controls, land management practices, and restoration projects needed to protect water quality. Implementation actions may be done through voluntary efforts, or through regulatory programs such as National Pollutant Discharge Elimination System (NPDES) permits or Superfund. States and authorized Tribes are required to include approved TMDLs and associated implementation measures in State and Tribal water quality management plans or basin plans.

How Tribes Can Get Involved:

- The Watershed Restoration Unit (WRU) coordinates and, when appropriate, consults with federally recognized Indian Tribes as part of the process of developing and/or reviewing TMDLs which impact tribal reservations and/or tribal resources that are outside of Indian reservation boundaries (including treaty-protected “usual and accustomed” hunting and fishing areas and subsistence areas under state and federal jurisdiction).
- In certain cases, WRU will develop TMDLs on tribal waters, with major assistance with the Tribes. Tribes usually provide data, input on the technical approach, and even prepare portions of the TMDL documents.
- EPA recommends that Tribes get involved early in state-led efforts to develop TMDLs. The Tribe can provide its own knowledge, data and information as well as its perspective on these state-led efforts.

- Every year WRU has an annual planning process with states that identifies the TMDLs that will be done in the upcoming year. EPA provides Tribal leaders with a state's list of TMDLs scheduled for development during the next year via hard copy and email. Tribes can identify TMDL actions in which they would like to be involved early in the process.
- EPA recommends that the Tribes actively participate during public comment periods during TMDL development. Check regularly the Region 10 state websites as they announce the public comment periods for draft water quality assessments and TMDLs at <http://www.state.ak.us/dec/dawq/tmdl/index.htm> (AK), <http://www.deq.state.id.us/water/water1.htm> (ID), <http://www.deq.state.or.us/wq/tmdls/tmdls.htm> (OR), <http://www.ecy.wa.gov/programs/wq/tmdl/index.html> (WA)
- For more information on the Tribal Coordination and Consultation Policy for the TMDL Program please contact the Tracy Chellis at 206-553-6326 or review the policy on EPA's website under either at www.epa.gov/r10earth/tmdl.htm or www.epa.gov/r10earth/tribalwater.htm (under TMDLs).

For more information, see EPA Region 10's TMDL web site at:

<http://www.epa.gov/r10earth/tmdl.htm>

This website contains information on:

- Region 10 Impaired Waters List
- Region 10 Specific TMDL Information
- AK, ID, WA and OR TMDL Information
- Columbia and Snake River TMDLs
- Region 10 TMDL Contacts
- Overview of the TMDL Process (statute/regulations)
- Technical Documents
- Water Quality Standards

Other useful websites include the national TMDL website at www.epa.gov/owow/tmdl/ and EPA Region 10's tribal water programs website at www.epa.gov/r10earth/tribalwater.htm.

Wastewater/NPDES

NPDES Permits Program

The work of Region 10's National Pollutant Discharge Elimination System (NPDES) Permits Unit (NPU) is comprised of several different programs: NPDES Permits, pretreatment, the wet weather (including stormwater), biosolids, and NEPA. These programs are authorized under the Clean Water Act (CWA) and other regulations and guidance, whose common goal is to protect waters of the United States for their designated uses (i.e. recreation, drinking water, aquatic life etc.). More information on the program is listed below or you can visit the web site at: <http://www.epa.gov/r10earth/>

NPDES Permits Program

EPA Region 10 issues NPDES permits to all facilities in Idaho and Alaska, to facilities on tribal lands in Oregon and Washington, and to federal facilities in Washington. Managing the permit program also includes permit administration (permit processing, public noticing, public hearings, data management, etc.) as well as oversight of the Oregon and Washington NPDES permit programs. NPDES permits are

required for any point source that discharges pollutants to waters of the United States. Waters of the United States includes lakes, streams, marine waters, natural wetlands, irrigation canals, tundra etc. NPDES permits contain effluent limits which reflect the more stringent of technology-based limits or limits necessary to meet water quality standards. Permits also include requirements for monitoring, reporting and specialized planning. Before EPA can issue or reissue an NPDES permit on tribal land, those Tribes that are authorized to administer the water quality program must certify that the NPDES permit is consistent with Tribal water quality standards by issuing a Clean Water Act Section 401 certification. During the 2003-2005 planning cycle the NPU expects to issue permits to approximately 50 facilities on tribal lands in an effort to reduce the backlog of all facilities (major and minor) to 10% by 2005.

Pretreatment Program

EPA, the delegated states of Oregon and Washington, and publically owned treatment works (POTWs) manage pretreatment programs that regulate the discharge of industrial wastewater into sanitary sewer systems. Pretreatment programs include ordinances, education, inspections, monitoring and enforcement. Such requirements are designed to control pollutants which can interfere with treatment plant processes, pass through the municipal treatment plant, causing problems in receiving bodies of water, contaminate sludge enough to limit beneficial uses, or threaten worker health and safety.

Region 10's pretreatment program directly oversees the implementation of 14 approved municipal pretreatment programs in Alaska and Idaho. In addition, the Region oversees the delegated State pretreatment programs in Oregon and Washington. The Region also oversees categorical industrial users discharging to POTWs other than those with approved pretreatment programs.

For inquiries regarding the pretreatment program please see the contact information at the end of this chapter.

Wet Weather Program

The wet weather program places controls on the discharge of storm water as well as untreated overflows from sewage treatment collection systems that are designed to carry both storm water and sewage (i.e., combined sewer systems) and those that are only designed to carry sewage (separate sewer systems). Approximately 30% of identified cases of water quality impairment are attributable to wet weather events as documented in CWA Section 305(b) reports.

Storm Water

When it rains or snows, the water that runs off of city streets, parking lots, and construction sites can wash sediment, oil, grease, toxics, pathogens, and other pollutants into nearby storm drains. Known as storm water runoff, this pollution is a leading threat to public health and the environment today. The storm water provisions, Section 402(p) of the CWA, defines the NPDES permit program for storm water discharges to require permits for discharges from eleven categories of industry, construction sites greater than five acres, and certain municipal separate storm sewer systems. This first phase of the program focused on the largest sources of contaminated runoff – big cities, large construction sites, and heavy manufacturing related industries.

Phase II of the storm water program, established in 1999, requires smaller municipalities within urban areas to obtain MS4 permits and develop storm water management strategies. Phase II also

enlarges the scope of the construction permitting program to include any construction activity disturbing at least one acre.

For more information please see the stormwater contact listed at the end of this chapter.

Combined Sewer Overflows (CSO)

CSO facilities are sewers that are designed to carry both storm water and sanitary wastewater in the same pipe to the sewage treatment plant. In periods of heavy rainfall or snowmelt, the wastewater volume can exceed the capacity of the sewer system or treatment plant and overflow to the nearest body of water. In response to this national problem, EPA developed the 1994 CSO Control Policy which includes the technology-based *Nine Minimum Controls* and the requirement to meet water quality criteria through development and implementation of a *Long Term Control Plan*. There are 15 CSO facilities in Region 10 (11 in Washington, 3 in Oregon and 1 in Alaska) none of which are on tribal lands. On December 21, 2000, the Weather Water Quality Act of 2000 amended Section 402(q) of the Clean Water Act by requiring that “permits, order, or decrees issued, after the date of enactment, shall conform to the Combined Sewer Overflow Control Policy...”

Sanitary Sewer Overflows (SSO)

Most sewer collection systems were built to carry only sanitary wastewater. However, due to problems such as infiltration (i.e., leaky pipes) and inflow (i.e., flow from manholes and roof drains) of non-sanitary waters these sewers can release raw sewage before reaching the treatment plant. In order to address SSOs, EPA is revising the national regulations for 1) Capacity, management, operation and maintenance (CMOM) 2) Record keeping and reporting 3) Public notification of overflows 4) Municipal satellite collection system permitting and 5) Prohibition of SSOs. This SSO Rule is expected to be published as proposed in the Federal Register during Summer of 2003. The preamble to the rule will also discuss permitting of peak excess flow treatment facilities that are built to handle high flow events.

Biosolids Program

Municipal wastewater sludge, also referred to as biosolids, are by-products of the wastewater treatment process. Regulations (found in 40 CFR 503) pertaining to biosolids ensure that sewage sludge and septage is properly handled in disposal or reused as a soil conditioner or fertilizer. Application of the regulations apply to Tribal communities if the treatment system includes any form of central treatment or mechanical plant.

Region 10 implements the biosolids program by issuing NPDES permits for sludge generating facilities, developing cooperative agreements and delegations with States, and controlling septage through complaint investigation. *However, the program is self-implementing (i.e., a permit is not required for the regulations to the apply or enforcement action to be taken).*

For the biosolids program contact information please see the end of this chapter.

National Environmental Policy Act (NEPA) Program

Implementation of the NEPA program in Region 10 entails the preparation of Environmental Assessments (EAs), Finding of No Significant Impacts (FNSIs), Environmental Impact Statements

(EISs), and Records of Decision (ROD) for new source NPDES permits and wastewater/drinking water construction grant projects.

An EA provides documentation to evaluate potential impacts and the need for an EIS. If the impacts are not considered significant, a FNSI is prepared. However, if the impacts are considered significant, a comprehensive EIS is developed which discloses the overall impacts of proposed actions and alternatives. The agency decision is documented in a ROD.

EPA assumes the role of lead agency for NPDES permit actions that occur on private lands, state lands, or tribal lands and where there is no other federal agency with a permit action. However, more often the responsible land management agency acts as lead agency for the EIS, with EPA acting as a cooperating agency.

For inquiries about NEPA please see the end of this chapter.

Additional Information

Refer to the Federal Water Pollution Control Act of 1972, 33 U.S.C. 1342.

“EPA Administered Permit Programs: The National Pollutant Discharge Elimination System,” the Federal Register, 40 CFR 122.

Regulations for sewage treatment plants can be found in the Federal Register, 40 CFR 133.

The Sewage Sludge Final Rule can be found in the Federal Register, 40 CFR Part 503.

“Pretreatment Requirements; Final Rule,” the Federal Register, 40 CFR 403.

❁ Grants

Clean Water Act (CWA) SRF Indian Set Aside (ISA)

The CWA ISA Grant Program provides grant money for planning, design and construction of wastewater treatment facilities for Indian Tribes and Alaska Native Villages. EPA administers grants in cooperation with the Indian Health Service (IHS). This partnership maximizes the technical resources available through both agencies to address tribal sanitation needs. The ISA Program uses IHS’s Sanitation Deficiency System (SDS) to identify high priority wastewater projects for funding. More information can be found on the EPA R10 website at:

<http://www.epa.gov/r10earth/>

Click Water Quality, then Drinking Water, then scroll down to Tribal/Indian Infrastructure Grants Program.

For ISA contacts please see the end of this chapter.

Drinking Water Infrastructure Grants (DWIG) Tribal Set-Aside (TSA) Program

The TSA program is a set-aside of funds from annual federal appropriations made to fund the State Revolving Fund (SRF), a loan fund authorized under the 1996 Amendments to the Safe Drinking Water Act (SDWA). It is important to understand that while the SRF is a loan program, the DWIG TSA

program is strictly for grants to federally recognized Indian Tribes, which includes all the Alaska Native Villages. The grants may be used for expenditures by Tribes and villages for public water system expenditures that address the most significant threats to public health associated with public water systems that serve Indian Tribes. In consultation with the Indian Health Service (IHS) and the Tribes in their Region, each EPA Region will be responsible for identifying potential projects, for prioritizing those projects, for selecting the ones to receive funding from its share of the Set-Aside Program allowance. The national TSA Program guidelines are available to public access on the EPA internet website at:

<http://www.epa.gov/safewater/tribes.html>

The EPA R10 TSA guidelines were written to minimize the repetition of the national guidelines. The national guidelines should be read and understood before the R10 guideline document is reviewed. The R10 TSA guidelines are available at:

<http://www.epa.gov/r10earth/>

For TSA contacts please see the end of this chapter.

References: "Final Guidelines: Drinking Water Infrastructure Grants Tribal Set-Aside Program EPA Region 10", EPA R10, August 1999. EPA 910-B-99-003

Clean Water Act Section 104(b)(3) Water Quality Cooperative Agreements/Grants

Under the authority of Section 104(b)(3) of the Clean Water Act, EPA makes grants to state water pollution control agencies, interstate agencies, municipalities, Indian Tribes and other nonprofit institutions to promote the prevention, reduction and elimination of pollution. Further, the Clean Water Action Plan (CWAP), released in February 1998, presents a broad vision of watershed protection, and includes a new, cooperative approach to restoring and protecting water quality. The CWAP asks state, federal, tribal, and local governments to work with stakeholders and interested citizens to: 1) identify watersheds with the most critical water quality problems, and 2) work together to focus resources and implement effective strategies to solve these problems. Priority consideration is being given to implementing the CWAP and project covering watersheds, and activities addressing stormwater, combined sewer overflows, mining, on-site systems, and animal feeding operations

Section 104(b)(3) funds are to be used to focus on innovative demonstration and special projects. Among the efforts eligible for funding are research, investigations, experiments, training, environmental technology demonstrations, surveys, and studies related to the causes, effects, extent and prevention of pollution. These activities or projects could fall under one of the following 104(b)(3) funding categories as indicated in guidance to the regions.

- Institutional Coordination
- NPDES Permits
- Environmental Management Systems (EMS)
- Monitoring and Assessment
- Program Measures and Environmental Indicators
- Public Participation/Outreach

This information is also posted on the EPA web site at:

<http://www.epa.gov/owm/mab/indian/index.htm>

To obtain more information about the program, contact the Section 104(b)(3) Regional Coordinator. The Regional Coordinator solicits and evaluates project proposals for funding. For CWA 104(b)(3) grants contact information please see the end of this chapter.

Clean Water Act Section 106 Tribal Pollution Grant Control Program

Grants under Section 106 of the CWA are intended to assist Indian Tribes in carrying out effective water pollution control programs. Up to three percent of the national section 106 allocation of funds is set aside specifically for Indian Tribes. Federally-recognized Indian Tribes or Intertribal Consortia meeting the requirements for Treatment as a State (TAS), as set forth under Section 518 (e) of the Clean Water Act are eligible for these grants. Each member of an Intertribal Consortium must meet the requirements for TAS. In addition, Tribes must have EPA--approved work plans. Either Tribal staff or consultants can be used. Some Tribes have used 106 monies along with multi-media funds and other grant monies.

Section 106 grants may be used to fund a wide range of water quality activities including: water quality planning and assessments; development of water quality standards; ambient monitoring; development of total maximum daily loads; issuing permits; ground water and wetland protection; nonpoint source control activities (including nonpoint source assessment and management plans); and Unified Watershed Assessments (UWA) under the Clean Water Action Plan (CWAP). Where a Tribe already has an established water pollution control program, it is encouraged to begin implementing specific program elements, e.g., developing nonpoint source controls, developing and revising Tribal water quality standards, or developing and implementing ground water programs.

Section 106 funds may be used to fund UWA activities under a Section 106 grant agreement, as approved by the Regional Administrator. A Tribe need not have an approved UWA to apply and receive a Section 106 grant. Tribes must provide a 5% non-federal match of approved grant work plan costs. Recognizing that some Tribes will not be able to meet the match requirement with either Federal funds authorized by statute for matching purposes, or with Tribal funds, EPA welcomes Tribal in-kind contributions toward the match.

Several successful projects have been carried out under the 106 program. Some examples include:

- Development and refinement of Best Management Practices regime
- Implementation of water quality standards programs
- Reviewed stream classification system/Rapid bioassessment of streams
- Evaluation study of pesticide contamination of surface water
- Groundwater inventory study
- River siltation assessment

Additional Information

“Indian Nations: Water Quality Planning & Management,” The Federal Register, vol. 54, no. 68, Apr. 11, 1989.

“Clean Water for Indian Tribes: A Guide to Financial and Technical Assistance Programs of the United States Environmental Protection Agency,” EPA.

Framework Document for Section 106 Grants (March 1996).

This information can be found on the EPA website at:

<http://www.epa.gov/owm/mab/indian/index.htm>

For CWA 106 grants contact information please see the end of this chapter.

Nonpoint Source Pollution Control

Section 319(h) of the Clean Water Act provides financial assistance for the abatement of water pollution from nonpoint sources. These sources refer to multiple, diffuse sources of pollution. Primary nonpoint sources of pollution include runoff from urban areas, agricultural activity, mining and forestry. The major pollutant from nonpoint sources by volume is sediment. However, runoff may also carry oil, gasoline heavy metals, and other chemical substances, as well as viruses and other oxygen-demanding compounds.

Up to one third of one percent of the national section 319 allocation is set aside for Native Americans with TAS status. Tribal communities can utilize 319 non-regulatory funds for information and education projects to implement strategies for controlling pollution. Eligibility for funds is determined based upon a Tribes EPA-approved nonpoint source assessment and nonpoint source management plan (look to the section 106 program for funding of the assessment and management plans). A project implementation plan and work plan is also required. Generally, a matching of 40% in non-federal funds is necessary.

Additional Information

“Indian [Nations]: Water Quality Planning & Management,” the Federal Register, Vol. 54, No. 68, April 11, 1989, EPA.

“Guidance on the Award and Management of Nonpoint Source Program Implementation Grants under Section 319(h) of the Clean Water Act,” June 11, 1993, EPA.

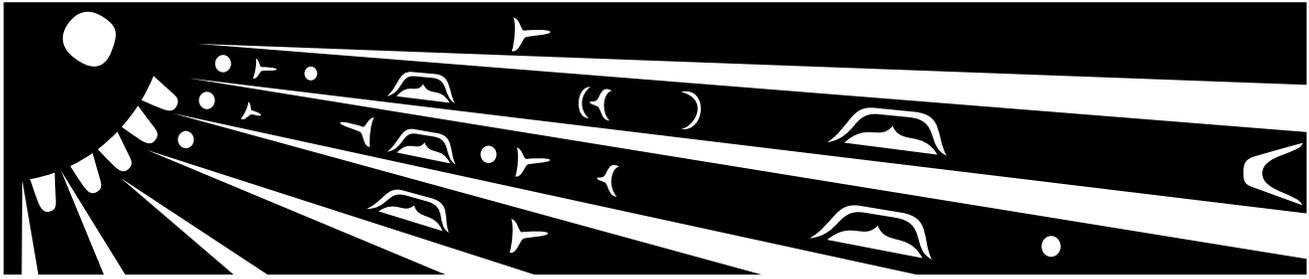
EPA Tribal Contacts in the Office of Water

Program	Name		Phone	Email	Mail-stop*
PWSS	Craig Paulsen		206-553-4350	paulsen.craig@epa.gov	OW-136
Direct Implementation	Craig Paulsen		206-553-4350	paulsen.craig@epa.gov	OW-136
Source Water Protection	Maryann Helferty		206-553-1587	helferty.maryann@epa.gov	OW-137
Wellhead Protection	Jennifer Parker		206-553-1900	parker.jennifer@epa.gov	OW-137
UIC	Robin Slate		360-753-9082	slate.robin@epa.gov	OW-137
Groundwater Protection	Eric Winiecki		206-553-6904	winiecki.eric@epa.gov	OW-137
Sole Source Aquifer Program	Todd Bender		206-553-0344	bender.todd@epa.gov	OW-137
UST/LUST	AK	Jackie Poston	907-271-3541	poston.jacqueline@epa.gov	AOO
	WA	Mike Shephard	206-553-0702	shepherd.mike@epa.gov	OW-137
	ID	Gary McRae	208-378-5765	mcray.gary@epa.gov	IOO
	OR	Jim Greeves	360-753-8072	greeves.jim@epa.gov	OOO
	All & \$**	Wally Moon	1-800-424-4372; (206) 553-6903	moon.wally@epa.gov	OW-137
Water Quality	Sally Brough		206-553-1295	brough.sally@epa.gov	OW-131
	Marcia Lagerloef		206-553-0176	lagerloef.marcia@epa.gov	OW-131
TMDL's	Tracy Chellis		206-553-6326	chellis.tracy@epa.gov	OW-134
NPDES	Kelly Huynh		206-553-8414	huynh.kelly@epa.gov	OW-130
Storm Water	Misha Vakoc		206-553-6650	vakoc.misha@epa.gov	OW-130
Pretreatment	Michael Le		206-553-0325	le.michael@epa.gov	OW-130
Biosolids	Dick Hetherington		206-553-1941	hetherington.dick@epa.gov	OW-130
CWA ISA/TSA	AK	Dennis Wagner	907-271-3651 800-781-0983 (AK only)	wagner.dennisx@epa.gov	AOO
	PNW	Geoff Keeler	206-553-1089 800-424-4372	keeler.geoff@epa.gov	OW-136
NEPA	Hanh Gold		206-553-0171	gold.hanh@epa.gov	OW-130

CWA 104(b)(3) Grants	Bettina Stokes	206-553-2575	stokes.bettina@epa.gov	OW-131
CWA 106 Grants	Alan Moomaw	360-753-8071	moomaw.alan@epa.gov	WOO

* US EPA Region 10, Mail-stop _____
1200 Sixth Avenue
Seattle, WA 98101

**Grants



MULTI-MEDIA



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Indian Environmental General Assistance Program (IGAP)

The EPA Indian Environmental General Assistance Program (IGAP) is administered by the American Indian Environmental Office and Office of Water under the Indian Environmental General Assistance Program Act of 1992, P. L. 12-497, Section 11, 42 U.S.C. 4368b, as amended, (Public Law 103-155, 11-24-93).

The objective of the program is to provide grants/cooperative agreements to tribal governments and intertribal consortium to build Tribal environmental, administrative, and legal capacity to administer environmental regulatory programs on tribal lands. EPA provides technical assistance in the development of the multi-media projects which can be addressed with this funding.

Activities eligible for funding under this program are those for planning, development and establishment of Tribal capability to implement environmental protection programs, including the development of solid and hazardous waste programs. IGAP funding provides the opportunity for Tribes to develop an integrated environmental program, develop the capability to manage specific programs and establish a core program for environmental protection. IGAP provides the opportunity for Tribes to define and develop administrative and legal infrastructures, to conduct baseline assessments and/or monitoring and do short and long range strategic planning.

The primary purpose of IGAP is to support the development of elements of a core environmental program such as: (1) providing for tribal capacity-building to assure an environmental presence which will allow for identifying environmental programs and projects, including developing proposals for environmental program grants and managing environmental work, (2) fostering compliance with federal environmental statutes by developing appropriate tribal environmental programs, ordinances and services, and (3) establishing a communications capability to work with Federal, State, Local and other Tribal environmental officials.

Although the primary purpose of IGAP is still capacity building, in March 2000, the regulations which govern IGAP grants were amended to allow for the implementation of solid and hazardous waste programs.

Restrictions to IGAP

The principal focus of this program is the development of general tribal environmental capability. Assistance will be provided under this program only for activities which the agency determines are appropriate to carry out the purposes of the Act. No single grant awarded under this program may be for an amount exceeding ten percent of the total annual funds appropriated under Section (h) of the Act.

Those eligible to receive financial assistance are Federally recognized Tribal governments and intertribal consortia. A Tribal government refers to any Tribe, band, nation or other organized group or community, including Alaska Native Villages or regional or village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq., which is recognized by the U.S. Department of the Interior as eligible for the special services provided by the United States Government to Indians because of their special status). A consortium is defined as a partnership between two or more Indian tribal governments authorized by the governing bodies of those Tribes to apply for and receive assistance under this program (see 40 CFR 35.504 for complete information on the eligibility of Intertribal Consortium to receive IGAP funding).

Program Highlights

- (1) IGAP replaces the Multi-Media Assistance Program which was offered by the Agency during Fiscal Years 1991 through 1993.
- (2) The project period for IGAP grants can be for 1-4 years; the grantee can reapply if additional time is needed for capacity-building.
- (3) New grants will be for a minimum of \$75,000. Amendments to grants may be made in amounts as are appropriate.
- (4) Funds awarded under the grant remain available throughout the project period of the grant, any funding not used by the end of the project period is deobligated.
- (5) The Agency's standard grant application, reporting and audit procedures apply to the Program.
- (6) Capacity-building activities are eligible for funding but generally not construction or site-specific actions.
- (7) General assistance funding does not preclude a Tribe from also receiving program or project-specific assistance.

Region 10 applicants should consult their Tribal Coordinators for more information.

EPA Alaska Oil and Gas Sector

Oil and gas land and outer continental shelf (OCS) leasing, exploration and development in Alaska is increasing significantly in terms of activity level e.g. numbers of projects, the amount of land involved and pace. This shift is attributable to an attempt to meet national energy needs and local, state and national government support for expanded resource extraction. Furthermore, the expansion is beyond the traditional geographic areas most commonly developed, often into areas that are more environmentally sensitive, have higher aesthetic values placed on them i.e. ANWR, and are more heavily used for traditional and subsistence ways of life. This expansion has raised concerns about potential degradation of the Arctic and Sub-Arctic environments, and potential risk to subsistence lifestyles of the 229 federally recognized Tribes in the State of Alaska.

Both the national and state administrations have indicated their support for and encouragement of more aggressive natural resource extraction, as recently as in the 2003 State of the Union address. Presidential Executive Order 13212 calls for expedited and streamlined decision making by federal agencies, on energy projects involving the federal government. Significant dialogue in the recent gubernatorial election focused on the need for additional energy development in the state. (The state budget is substantially dependent upon oil and gas royalties and the actual revenues have been declining in recent years.)

Areas previously offered for lease by state and federal land management agencies every three or five years are now being offered annually. Discoveries not considered commercially viable years ago are now being considered with renewed interest. When exploration results in resource discoveries of commercial value, the companies want to move very quickly through NEPA and federal and state permitting processes. As additional discovery of commercial quantities of gas resources occurs, pressure increases for a pipeline on the scale of the TransAlaska Oil Pipeline to bring the gas to the lower 48 states, adding distribution to the leasing, exploration and development activity.

The State of Alaska is immense, 1/5 the size of the lower 48 states. It has more coastline than the rest of the United States combined. Wetlands cover approximately 174,683,900 acres, or about 43% of the State. Ecosystems vary from Arctic to sub-arctic to coastal rain forest. Onshore and offshore oil development have the potential to affect water quality, fisheries (commercial and subsistence), endangered and threatened species, marine and terrestrial mammals, wetlands, air quality, environmental justice and subsistence harvest of essential resources such as caribou, salmon and vegetation. The Arctic, in particular, is an extremely sensitive environment, with slow regeneration due to permafrost, short summer season and cold temperatures. Impacts can occur on both a project-specific and cumulative level. Coupled with Alaska's wealth of extractible resources, the challenges are many and varied to develop in a responsible and environmentally protective manner that minimizes effects including noise, disturbance, habitat alterations, threat of oil spills, impacts to migration patterns, subsistence resources, traditional cultures and way of life.

What is the EPA Oil and Gas Sector?

The EPA Oil and Gas Sector is an effort that involves staff from various media offices. Activities include integrating program media specific information and permitting requirements to poise EPA for timely and relevant involvement with Tribal governments, federal and state partners, stakeholders, and industry to ensure **environmental protection** and **statutory compliance** with activities associated with oil and gas development in the State of Alaska. Many areas of responsibility allow EPA to influence the conduct of oil and gas activity and ensuing environmental and human health impacts. These include:

National Environmental Policy Act (NEPA) for review and/or preparation of Environmental Impact Statements; NPDES permitting; UIC permitting and state oversight; air source permitting on the Outer Continental Shelf and state oversight; Wetlands and Ocean Disposal; RCRA site closure; and Government-to-Government consultation with Tribes. EPA's implementation of these programs are intended to support protection of high quality habitat for wildlife, especially protected marine mammals and threatened and endangered species; viability and success of subsistence food gathering by Tribal members; and high quality of watersheds and airsheds.

In addition to Government-to-Government consultation with the 229 federally recognized Tribes in Alaska, EPA is collaborating with thirteen other federal and state agencies involved with the oil and gas industry. Please see the list of state and federal counterparts below. EPA is also working with the Alaska Native Corporations. Additional stakeholders include trade associations, citizen groups and associations, and environmental advocacy groups. These groups are all stakeholders and are important for EPA to engage as the Alaska Oil and Gas sector conducts business. If you are interested in issues surrounding oil and gas development please, contact Anita Frankel or Jean Gamache.

For more information on the EPA Oil and Gas Sector please contact:

Anita Frankel
US Environmental Protection Agency R10
1200 Sixth Avenue Mail Stop OI-085
Seattle, WA 98101
Phone: 206-553-2963
Email: frankel.anita@epa.gov

Jean Gamache
US Environmental Protection Agency
Alaska Operations Office
222 W. 7th Ave. #19
Anchorage, AK 99513-7588
Phone: 907-271-6558
Email: gamache.jean@epa.gov

Oil and Gas Contact Websites

Federal Government

Department of Interior

Minerals Management Service [Http://www.mms.gov/alaska/](http://www.mms.gov/alaska/)

Bureau of Land Management [Http://www.ak.blm.gov/](http://www.ak.blm.gov/)

Fish and Wildlife Service [Http://www.fws.gov/](http://www.fws.gov/)

Corps of Engineers <http://www.poa.usace.army.mil/reg/>

State Government

Department of Natural Resources - Division of Oil and Gas <http://www.dog.dnr.state.ak.us/oil//>

Department of Environmental Conservation <http://www.state.ak.us/dec/>

Department of Fish and Game <http://www.state.ak.us/adfg/>

Oil and Gas Project Specific Websites

Alpine [Http://www.alpine-satellites-eis.com](http://www.alpine-satellites-eis.com)

Point Thomson <http://projects.ch2m.com/PtThomsonEIS>

NW National Petroleum Reserve [Http://www.ak.blm.gov/nwnpra](http://www.ak.blm.gov/nwnpra)

Pesticides

The U.S. Congress has given the Environmental Protection Agency (EPA) the authority to regulate registration, production, sales, and distribution of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Under FIFRA, the States can have primacy for enforcing proper use of pesticides within their perspective state if the State has adequate pesticide use laws and regulations, can adequately enforce those laws, and agrees to provide records showing compliance with the first two criteria. No pesticide may legally be sold or used in the United States unless it has been registered by EPA and bears an official EPA registration number. Additionally, EPA reserves the right to suspend or cancel the registration of any pesticide. Tribes have the option to enter into cooperative agreements with EPA to develop Tribal pesticide programs.

In 1996, Congress unanimously passed the Food Quality Protection Act to serve as a comprehensive health-based standard for all food. This Act, signed into law by President Clinton on August 3, 1996, includes a provision that protects children from pesticide risks and provides consumers with information about the pesticides in their food. U.S. pesticides must be labeled. Labels must list active ingredient(s), precautionary statements and first aid, and include instructions for use, storage and disposal of contents and containers. Limits to chemical residues are set by EPA for human and animal food consumed in the United States. Pesticide residues, that remain attached to food products, are enforced by the Food and Drug Administration (FDA). Levels of pesticide tolerance allowed by law to remain in or on a harvested crop have statistically shown not to cause unreasonable adverse health effects.

In addition to enforcement standards, EPA's pesticide program deals with occupational safety issues for agricultural and pesticide handlers, applicator certification and training, as well as worker protection standards. As published in August 1992, these provisions strengthened previous standards involving reduced risk to pesticide exposure and the extension of coverage to those in the field.

Under the Endangered species Act, EPA is responsible for the protection of listed species and their habitats from pesticide exposure. Efforts are now under way to strengthen this program.

The program also deals with pesticide groundwater issues. In June 1996, EPA proposed that management plans be required continued for legal use of certain pesticides posing a groundwater contamination risk.

Additional Information

U. S. EPA FIFRA Amendments of 1988; Schedule of Implementation, 54 Federal Register 18078, April 26, 1989.

Pesticides Contact Information

Program/Information Regarding	Name	Phone
Endangered species, Enforcement	General Assistance/Staff	206-553-2870
Reference EPA R10 grants, Groundwater, Worker Protection, etc. (non-emergency)	General Assistance/Staff	206-553-1091
Human Health & Environmental Effects of Pesticides Information	National Pesticide Telecommunications Network	1-800-858-7378
Human Pesticide Emergency	Alaska Poison Control Center	1-800-478-3193
	Idaho Poison Control Center	1-800-632-8000
	Oregon Poison Control Center	1-800-452-7165
	Washington Poison Control Center	1-800-732-6985
Alaska Project Officer	Garrett Wright	206-553-1495
Oregon Project Officer		
Washington Project Officer		
Idaho Project Officer	Allan Welch	206-553-1980
Tribal Project Officer	Theresa Pimentel	206-553-0257

Office of Enforcement and Compliance (OEC)

The OEC coordinates multi-media enforcement and compliance assurance activities in Region 10; tracks tips and complaints from Tribes regarding possible violations of environmental laws; distribution of Multi-media enforcement policy and enforcement information from headquarters (HQ).

The Office of Enforcement and Compliance (OEC) shall lead the regional effort to achieve full compliance with environmental laws by all EPA regulated entities in Region 10.

OEC will direct development of the regional enforcement and compliance plan which will serve as a focal point for regional offices with compliance and enforcement functions. OEC will oversee regional implementation of the plan and otherwise facilitate regional enforcement and compliance efforts by performing the following primary functions:

- serving as the primary regional contact with the Office of Enforcement and Compliance (Headquarters);
- recommending regional enforcement and compliance resource allocations;
- orchestrating regional participation in national enforcement and compliance initiatives;
- functioning as the enforcement and compliance policy contact on the Executive Team;
- ensuring individual media program State/EPA enforcement agreements are consistent with one another and with national policy;
- advocating the use of multimedia, pollution prevention, environmental justice, ecosystems, and emerging strategy approaches in regional enforcement and compliance efforts; and
- implementing the Federal Facility Compliance Program.

OC MM Tribal Funding Grants

These funds are intended to assist the Tribes (in a multimedia approach) 1) to identify their environmental management and protection priorities and goals; 2) to identify cultural, institutional, legal, and resource barriers to compliance with all applicable environmental regulations; 3) to identify the EPA programs and resources available to address their tribal priorities and goals; 4) to develop the regulatory authority and to build the capacity for environmental programs; 5) to incorporate appropriate compliance assurance mechanisms in the course of regulatory and program development.

Grants are available to federally recognized Tribes

Time frames and funding varies depending on allocation from HQ.

Contact: Michele Wright (206) 553-1747 email - wright.michele@epa.gov

Office of Environmental Assessment (OEA)

The primary function of the Office of Environmental Assessment is the collection, analysis, and assessment/interpretation of scientific data. This includes a wide range of activities, such as collecting and analyzing environmental samples, conducting compliance inspections of pollution sources, ensuring that data is of known and documented quality and is adequate to support the objectives for which it was collected, conducting health and ecological risk assessments, conducting special studies, and performing modeling, engineering and economic analyses. OEA includes Region 10's laboratory in Manchester, Washington. Within the constraints of limited resources, OEA can and has provided these services to Tribes in the Pacific Northwest.

Tribes receiving grants from EPA must have a quality assurance program plan, as well as specific quality assurance plans for projects that involve collecting data. The plans must be approved by EPA. OEA provides training and assistance to Tribes in developing their QA plans and has developed model templates that make it easier for Tribes to write their own plans.

OEA can train tribal inspectors in the conduct of compliance inspections and can assist them in obtaining federal credentials to inspect sources regulated by either the Tribe or EPA. In limited situations, OEA can inspect facilities for or with Tribes. Pollution sources not regulated by a Tribe are regulated and inspected by EPA.

OEA assists Tribes in conducting human health and ecological risk assessments. OEA can participate with Tribes to help define an environmental problem and design a study plan to address it. In very limited cases, OEA has been able to conduct risk surveys or assessments for Tribes. OEA has made recommendations to EPA's Indigenous People Subcommittee to study tribal health effects from exposure to mixtures of contaminants in fish and shellfish. OEA also recommended the development of cumulative risk guidelines that are appropriate to the needs of Tribes.

The Office of Research and Development (ORD) runs a grant program that allows Tribes to study their risks from subsistence foods and cultural practices. The program is titled, "Lifestyle and Cultural Practices of Tribal Populations and Risks from Toxic Substances in the Environment." For further information, contact Nigel Fields at fields.nigel@epa.gov or (228) 688-1981.

OEA Contact: OEA Deputy Director - (206)553-1200

Tribal Science Council

In a manner consistent with the U.S. Environmental Protection Agency (EPA) Indian Policy and trust responsibility, the mission of the Tribal Science Council is to provide a forum for interaction between Tribal and Agency representatives of mutual benefit and responsibility to work collaboratively on environmental scientific issues. The Council will address a wide range of scientific issues including research, monitoring, modeling, information technology, and training in Indian country. Composed of senior Agency managers and tribal scientists from each Region the Council held their "kick-off" meeting in December of 2001. Three high priority areas for Tribes were identified at the meeting - subsistence, quality assurance, and appropriate handling of sensitive/proprietary information.

Region 10 Contact: Patricia Cirone - (206)553-1597

Pollution Prevention

The Pollution Prevention Act of 1990 establishes that pollution prevention is EPA's preferred approach for protecting human health and the environment. The primary goals of pollution prevention are to prevent pollutants at their source and to conserve natural resources.

Pollution prevention is an important advancement because:

- ✿ many significant pollutants are either non point (and thus hard to regulate) or poorly regulated.
- ✿ wastes that have been prevented at the source do not get transferred between the media (soil, air, water)
- ✿ pollution prevention usually contributes to overall efficiency and cost effectiveness which makes businesses more competitive.

Pollution Prevention Grants

Federal pollution prevention grants to states and Tribes are primarily intended to support the delivery of pollution prevention technical assistance to businesses.

"The Administrator shall make matching grants to States (interpreted to include Tribes) for programs to promote the use of source reduction techniques by businesses." PPA of 1990

There are several ways in which Tribal leaders can use pollution prevention resources to protect the well-being of their communities.

- Provide pollution prevention training for Tribal businesses. (encourage product substitution and environmentally sound operation modifications)
- Develop Tribal ordinances that preclude the use of polluting substances (examples might be certain packaging or pesticides)
- Emulate/teach pollution prevention practices by having tribal government participate in resource conservation efforts like Energy Star Schools or Wave (an EPA water conserving initiative for hotels).

For more information please contact:

Carolyn Gangmark
US EPA Region 10
1200 Sixth Avenue
OEA-095
Seattle, WA 98101
Phone: 206-553-4072
Email: gangmark.carolyn@epa.gov

ENVIRONMENTAL JUSTICE

An Overview

Environmental justice is the fair treatment of people of all races, cultures and incomes with respect to the development, implementation and enforcement of environmental laws, regulations, programs, and policies. Fair treatment means that no racial, ethnic or socioeconomic group should bear a disproportionate share of the negative environmental consequences resulting from the operation of industrial, municipal, or commercial enterprises or from the execution of federal, state, local and Tribal programs and policies.

On April 29, 1994 President Clinton released a memorandum regarding the Government-to-Government relationship with Native American Tribal governments. The importance of implementing federal policies in a sensitive, knowledgeable manner with respect for Tribal sovereignty was its primary focus. The President set forth several principles for executive departments and agencies to follow in dealing with Federally recognized Tribes. The Administration's commitment was illustrated through these guidelines, which are briefly outlined below:

- The head of each executive department will ensure the rights of Tribal sovereigns.
- Executive departments must consult, to the greatest extent permitted by law, with Tribal governments in taking actions that impact federally recognized Tribes.
- All executive departments and agencies must assess the impacts of policies, programs, plans, and activities on Tribal trust resources, and assure that these concerns are addressed throughout the development process.
- The aforementioned governmental entities shall work cooperatively and remove impediments in addressing the specific or unique needs of Tribal communities.

With priorities towards assuring and enhancing the government-to-government relationship in place, concerns arose over the scope of environmental degradation occurring on or near Tribal lands. In the 1992 report, *Environmental Equity: Reducing Risk for All Communities*, EPA found that minority and low-income communities experienced higher than average exposure to toxic pollutants than the general population. Shortly thereafter, the Office of Environmental Justice was established to address this problem. Three objectives were initiated: (1) identification and assessment of pollution sources, (2) implementation of environmental awareness and training programs for affected residents, and (3) work with community stakeholders in devising strategies for environmental improvements. In achieving these objectives, EPA has worked with other Federal agencies and Tribal governments to develop comprehensive environmental programs which address situations where there are disproportionately high and adverse human health or environmental effects in Indian country.

In June of 1993, the Office of Environmental Justice was delegated the authority to solicit, select, oversee, evaluate, and distribute information on the effectiveness of the projects, as well as determine the feasibility of the practices, methods, techniques, and processes in environmental justice areas. In recent years, EPA has worked with Tribes, The TOC, and The National Environmental Justice Advisory Committee to develop Tribal environmental programs in the spirit of environmental justice, enhancing sovereignty and overall Tribal environmental well-being.

EPA realizes that environmental concerns for Native Americans differ depending upon the Tribal values inherent within each community, as well as the specific physical attributes of the environmental problems they face. Additionally, Tribal environmental priorities are affected by the Tribe's relationship to the ecosystems in which they live. Subsistence on fish, game, and indigenous vegetation all play a significant role in a Tribe's overall well-being. Tribal needs involving environmental justice range from help in accessing safe drinking water to remediation of hazardous waste.

Tribal environmental justice advocates have raised a range of environmental concerns. They include comprehensive Tribal environmental program development, environmental effects on urban Indians and Native Alaskans, and the participation of Native American grassroots advocates in environmental protection. While environmental justice has brought renewed attention to the environmental concerns of Native Americans, it is not meant to replace the more than two hundred years of Federal Indian law and policies. The Federal/Tribal relationship, as defined in the United States Constitution, treaties, statutes, and federal court decisions, sets forth a framework of rights and responsibilities to be carried out by the Government and the Tribes. Therefore, while environmental justice emphasizes issues regarding Native American participation and disproportionate effects on indigenous communities, it is not intended to supersede Tribal sovereignty, treaty rights, the Federal trust responsibility or the government-to-government relationship. Rather, it should support these tenets of Federal Indian Law by encouraging the development of Federal/Tribal environmental programs comparable in protection to Federal/State environmental programs.

Small Grants Program

The purpose of the Small Grants program is to provide financial assistance to Tribal communities. EPA supports projects for any affected Tribal group eligible under applicable statutory authorities. Examples include community-based organizations such as churches, schools, educational agencies, colleges or universities, among other non-profit organizations. Tribal governments who are working on or plan to carry out projects addressing environmental justice issues can utilize the funds. Funds can be used to develop a new activity or contribute to the substantial improvement of existing activities.

Pre-applications will serve as the sole basis for evaluation and recommendation for funding under the Small Grants program. All relevant information and necessary forms for submitting a pre-application are stated below. EPA will award grants based on the merits of the pre-application.

Eligible Activities

To be selected for an award, the proposed project must include one or more of the following four objectives:

- (1) Identification of improvements in communication and coordination among existing community-based grassroots organizations and local, state, tribal, and federal environmental programs, as well as all other stakeholders. Facilitate communication, information exchange, and partnerships among the Tribes to address environmental injustices. Examples include workshops, awareness conferences, establishment of community stakeholder committees and community newsletters.
- (2) Stimulate a consciousness among the general public regarding local environmental justice issues or problems and encourage the community to take action to address those issues. Examples include reforestation efforts, monitoring of socioeconomic changes due to environmental abuse and stream monitoring.
- (3) Develop and demonstrate an environmental justice practice, method or technique having wide application, or addressing a high priority environmental justice issue.
- (4) Education regarding risk reduction and pollution prevention. This may include seeking technical experts to demonstrate how to access, analyze, and interpret public environmental data. Geographic Information Systems (GIS), Toxic Release Inventories (TRI), and other databases are all relevant areas of consideration.

Priority will be given to Tribes whose projects help to improve the environmental quality of affected communities by developing an environmental justice strategy having wide application. Enhancement of community skills in addressing environmental justice issues, and establishing or expanding environmental and public health information systems for local communities should also be areas of concern.

Projects should enhance critical thinking, problem solving, and the active participation of affected communities in the decision-making process. Environmental justice efforts may include, but are not necessarily limited to gathering, observing, measuring, classifying, experimenting, as well as other data-gathering techniques that assist individuals in confronting environmental justice issues. Environmental justice projects should engage and motivate individuals to weigh various issues to make informed and responsible decisions as they work to address environmental injustices.

The items discussed above are relative and can be defined differently among the applicants from various geographic regions. Each pre-application should define these terms as they relate to a specific project. The pre-application should include a succinct explanation of how the project can serve as a model in other settings and how it addresses a high-priority environmental justice issue. The degree to which a project addresses a high-priority environmental justice issue will vary. Therefore, it must be defined by the applicant according to its individual situation

Available Funding

In fiscal year 1994, seventy grants totaling \$507, 000 were awarded. The ceiling for any one grant is \$20,000 in Federal dollars. Depending on the funds appropriated by Congress, EPA's nine Regional Offices having federally recognized Tribes will each have approximately \$300,000 to award. Applicants are not required to cost share.

For More Information Please Contact: Victoria Plata - (206)553-8580

Office of Environmental Cleanup (ECL)

Overview

This chapter describes the work that is done by the Office of Environmental Cleanup in EPA Region 10. Following the description of each basic type of work, a list of resources that may be useful to Tribes is provided. The resources are typically grants that may be available, but also include training or technical assistance. If you have any questions about the work or resources, please e-mail or call the identified contact person.

Most of ECL's work is implementing the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Commonly known as "Superfund," CERCLA authorized the U.S. Environmental Protection Agency to identify and clean up hazardous substances sites that threaten public health and the environment. Superfund operates along three main tracks:

- ❁ site discovery and evaluation to determine whether a site warrants listing on the National Priorities List (NPL);
- ❁ investigation and cleanup of sites listed on the NPL; and
- ❁ emergency response to remove imminent and substantial threats to human health and the environment at both NPL and non-NPL sites.

As part of our emergency response program, ECL implements a number of planning and prevention programs, including the Oil Pollution Act (OPA); Clean Air Act 112(r); Spill Prevention, Control, and Countermeasures (SPCC); and the Emergency Planning and Community Right-to-Know Act (EPCRA).

ECL also implements the Brownfields program, the purpose of which is to return sites to productive use that are currently unused because of perceived or actual contamination.

Site Discovery and Evaluation to Determine Whether a Site Warrants Listing on the National Priorities List (NPL)

If a Tribe or a member of the public has a concern about a release or threatened release of a hazardous substance, pollutant, or contaminant, they can petition EPA to investigate the problem to determine whether action under Superfund is needed. (Before submitting a petition, it is always a good idea to check with EPA to see if the site is already listed in EPA's CERCLA database, "CERCLIS," or if any data and reports already exist about the site. "CERCLIS" is an acronym for the Comprehensive Environmental Response, Compensation and Liability Information System.) The term "release" includes any means by which a substance could be exposed to the environment, such as by spilling, leaking, discharging, dumping, injecting, and escaping. Under CERCLA any member of the public may formally petition the Federal government to conduct a preliminary assessment (PA). A PA is the first step in the evaluation EPA conducts to verify the existence of the reported released hazardous substance or waste. The PA is designed to distinguish between sites that pose little or no threat to human health and the environment and sites that require further investigation. If the PA shows that there is a serious immediate threat, EPA may use Superfund money through the emergency removal program to quickly remove the hazardous substance.

If the threat is not immediate and the PA recommends further study, EPA will conduct a Site Inspection (SI) which typically involves collecting waste and environmental samples to determine the substances present at the site and whether they are being released to the environment. The primary objective of the SI is to identify which sites have a high probability of qualifying for the National Priorities List (NPL).

At the completion of both the PA and SI, EPA applies the Hazard Ranking System (HRS) to derive a site score and determine either that further investigation is necessary or that the site should receive a "no further remedial action planned" (NFRAP) recommendation. A NFRAP recommendation means that further action under the Federal Superfund program is not planned; however, action may still be appropriate under some other program such as a state or Tribal cleanup program. Except in emergency situations where a release or a threat of release could pose an imminent threat to human health and the environment, petitioners should be aware that under Superfund EPA cannot pursue investigation and cleanup of certain types of sites. For example, the law says Superfund does not cover petroleum or natural gas, engine exhaust emissions, normal use of fertilizer or pesticides, asbestos in buildings, certain releases within a workplace, and some releases of nuclear materials. However, under the Oil Pollution Act, EPA does have emergency response authority to respond to these types of releases and the Superfund Emergency Response Program, described above, should be contacted in these instances.

Petitioners should also be aware that on federally owned non-Indian lands, the federal agency responsible for the property is required to conduct the PA and subsequent investigations and cleanups. However, EPA oversees that effort and determines whether the site should or should not be listed on the NPL. Sites with an HRS score of 28.5 points or greater are eligible for proposal to the NPL and a formal HRS package may be prepared.

Resources

- ✿ EPA can provide a Site Assessment Cooperative Agreement at a site where EPA is conducting a site assessment. The purpose of these cooperative agreements is to provide for technical participation of the Tribe, or Tribes, in the cleanup process. A cooperative agreement is a type of grant. These are awarded on a non-competitive basis. We have awarded grants only to NPL caliber sites that are undergoing "expanded" site investigations.

Region 10 Contact: Denise Baker (206) 553-4303

Email: baker.denise@epa.gov

- ✿ ATSDR Public Health Assessments: The Agency for Toxic Substances and Disease Registry, ATSDR, is an agency of the U.S. Public Health Service. It was established by Congress in 1980 under CERCLA. Since 1986, ATSDR has been required by law to conduct a public health assessment at each of the sites on the EPA National Priorities List. If appropriate, ATSDR also conducts public health assessments when petitioned by concerned individuals. Public health assessments are carried out by environmental and health scientists from ATSDR and from the states with which ATSDR has cooperative agreements.

ATSDR Contact: Richard Kauffman (206) 553-2632

Email: kauffman.richard@epa.gov

ATSDR Website: <http://www.atsdr.cdc.gov/>

Investigation and Cleanup of Sites Listed on the NPL

Sites on the NPL are investigated to determine the risks they pose to human health and the environment. If the risks they pose exceed the risk thresholds set in CERCLA, the sites are cleaned up to eliminate, reduce or control those risks and bring them within acceptable federal and state standards.

Each NPL site has an assigned EPA remedial project manager (RPM) who is responsible for managing the investigation and cleanup of the site. Because under Superfund, EPA seeks to get the responsible parties to pay for and conduct the investigation and cleanup, the RPM often oversees the work of these responsible parties.

There are numerous possibilities under CERCLA for Tribes to be involved in NPL sites. There are funding mechanisms called cooperative agreements through which Tribal involvement can be supported. To apply for these funding sources, Tribes must be federally recognized. In addition, Tribes can be involved as a natural resource trustee. In that capacity, the Tribe may be in a position to seek compensation for the natural resource damage caused by the contamination at the site.

Resources

- ✿ EPA can provide a Support Agency **Cooperative Agreement** to a Tribe, or Tribes, to allow their technical participation at NPL sites where EPA is conducting an investigation or cleanup. A cooperative agreement is a type of grant. These are awarded on a non-competitive basis.
- ✿ **Technical Assistance Grants (TAG):** Community groups may be eligible for a Technical Assistance Grant in situations where there is a Superfund site is listed or proposed for listing on the National Priorities List. Tribal governments are not eligible for these types of grants, but a community group that includes Tribal members may be eligible. EPA can award TAGs of up to \$50,000 per site. TAGs allow an interested community group to participate in technical issues regarding a site. For instance, a community group could use the funds to hire an independent expert to help them interpret technical data, understand site hazards, and become more knowledgeable about the different technologies that are being used to clean up sites like the one they are concerned about.

Region 10 contact: Debra Sherbina (206) 553-0247
Email: sherbina.debra@epa.gov

Emergency or Time-Critical Response to Remove Imminent and Substantial Threats to Human Health and the Environment at NPL and Non-NPL Sites

On Scene Coordinators (OSCs) are the key EPA staff who respond to time-critical situations involving oil or hazardous substances. One of the OSCs is on-call 24 hours a day to respond to emergencies.

An EPA OSC can be reached either through a nationwide toll free number at the **National Response Center, 1-800-424-8802**, or through a local **Seattle 24-hour number which is (206) 553-1263**. The **National Response Center (NRC)** must be contacted immediately when a oil release to navigable waters occurs. The minimum amount for oil reportable quantity is a sheen. The release of a hazardous substance (ex. chemicals) must be reported if the amount exceeds the reportable quantity (RQ). The EPA list of reportable quantities for hazardous substances is called the "List of Lists" and can be found at the following website:

[http://yosemite.epa.gov/oswer/ceppoweb.nsf/vwResourcesByFilename/title3.pdf/\\$File/title3.pdf](http://yosemite.epa.gov/oswer/ceppoweb.nsf/vwResourcesByFilename/title3.pdf/$File/title3.pdf) In Alaska, Idaho, and Oregon there are OSCs that can be contacted directly during regular business hours.

EPA has the capability to respond to emergencies and can conduct an emergency action to cleanup a site until it is stabilized and no longer poses the initial threat. Before it does so, EPA evaluates via screening of telephone calls whether an emergency, on-scene response is necessary. A release or threat of release of a hazardous substance that could pose harm to public health or the environment forms the basis for a response. Examples of threats from a release include inhaling toxics released to air, drinking water highly contaminated by a hazardous substance, direct contact with hazardous substances, or explosion hazards.

To expedite matters callers reporting incidents should provide the following information, if possible:

- ✿ Incident location
- ✿ Material name (if known) or generic description (oil, hazardous substance, other)
- ✿ Source of spill (pipeline, underground or above ground tank, drums, etc.)
- ✿ Medium affected (land, air, water, other)
- ✿ Cause of spill (dumping, transportation accident, other)
- ✿ Whether other agencies have been notified

EPA's initial response to calls and site assessment to determine need for an emergency response is part of its overhead costs. However, callers should be aware that while EPA can and will respond to emergencies on Tribal lands, EPA will seek to recover costs of any cleanup it conducts from individuals who are liable for the contamination. To help identify parties who may be liable for a contamination problem, EPA relies on both civil and criminal investigators. This may have implications for Tribes and Tribal members. While EPA does not consider Tribes to be liable under Superfund, this does not extend to individual Tribal members nor to Tribal corporations.

If you wish to report illegal dumping activity, call the **EPA Criminal Investigation Office at (206) 553-8306**. This office will pursue illegal dumpers but does not have an emergency response component to clean up the illegally dumped materials. The EPA Emergency Response Team, discussed above, would need to be contacted.

Response to a release of oil or hazardous substances that occurs on federally owned, non-Indian lands, such as Department of Defense (DoD) or Forest Service lands, is the responsibility of that federal agency. If the release leaves the property boundary or is not being adequately addressed by the responsible federal agency, EPA may get involved.

Resources

- ✿ Local Government Reimbursement (LGR) is federal funds available to Tribes and local governments for costs related to temporary emergency measures conducted in response to releases or threatened releases of hazardous substances. Reimbursement to Tribes for Emergency Response to Hazardous Substance Releases: EPA is authorized under Section 123 of the Superfund Amendments and Reauthorization Act of 1986 (SARA - a part of CERCLA) to reimburse federally-recognized Indian Tribes and local governments for expenses incurred in carrying out temporary emergency measures in response to hazardous substance threats. Temporary emergency measures may include such activities as erecting security fencing to limit access, responding to fires and explosions, and other actions that require immediate response at the Tribal government or local level. (Be aware that petroleum is excluded from this provision. This includes petroleum, natural gas, crude oil, or any other specified fractions thereof that are not otherwise specifically designated as CERCLA hazardous substances.) CERCLA specifically limits reimbursement to \$25,000 per single response. This \$25,000 cap plus the limited availability of funds for the program may not allow EPA to reimburse Tribal or local governments for all response costs that may qualify. An application package can be obtained at the **LGR website: <http://www.epa.gov/superfund/programs/er/lgr/>** or by contacting the **EPA's LGR Program by calling the LGR Help Line at 800-431-9209 or e-mail at lgrinfo@epa.gov**. The application package contains detailed, line-by-line instructions for completing the application. **The Region 10 contacts for this is Beth Sheldrake at (206) 553-0220 and Mary Goolie at (907) 271-3414.**
- ✿ **Training:** ECL can offer training, mostly centered around emergency response. Types of training include health and safety training, incident command system training, and other specialized technical training. Our ability to offer training may be subject to some limitations such as the availability of funds, when and where the training can be offered, minimum enrollment requirements, etc.

Emergency Response Planning and Spill Prevention Programs

Oil Pollution Act (OPA)

EPA enforces the oil spill liability and penalty provisions under the Oil Pollution Act of 1990, which provide incentives to facility owners/operators to take the necessary steps to prevent oil spills. OPA improved the nation's ability to prevent and respond to oil spills by establishing provisions that expand the federal government's ability, and provide the money and resources necessary, to respond to oil spills. The OPA also created the national Oil Spill Liability Trust Fund, which is available to provide EPA or the U.S. Coast Guard up to one billion dollars per spill incident.

In addition, the OPA provided new requirements for contingency planning both by government and industry. The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) was expanded in a three-tiered approach: the Federal government is required to direct all public and private response efforts for certain types of spill events; Area Committees -- composed of federal, Tribal, state, and local government officials -- must develop detailed, location-specific Area Contingency Plans; and owners or operators of vessels and certain facilities that pose a serious threat to the environment must prepare their own facility response plans.

OPA also increased penalties for regulatory noncompliance, broadened the response and enforcement authorities of the Federal government, and preserved State authority to establish laws governing oil spill prevention and response.

National Website: <http://www.epa.gov/oilspill/opaover.htm>

Region 10 contacts: Beth Sheldrake (206) 553-0220 WA, OR, ID
Mary Goolie (907) 271-3414 AK

Spill Prevention, Control, and Countermeasures (SPCC) Program

As a cornerstone of EPA's strategy to prevent oil spills from reaching our nation's waters, the Agency requires that certain facilities develop and implement oil spill prevention, control, and countermeasures, or SPCC Plans. Unlike oil spill contingency plans that typically address spill cleanup measures after a spill has occurred, SPCC plans ensure that facilities put in place containment and other countermeasures that would prevent oil spills from reaching surface waters. Under EPA's Oil Pollution Prevention regulation, facilities must detail and implement spill prevention and control measures in their SPCC Plans. Specific requirements for SPCC plans are described in the Code of Federal Regulations, at 40 CFR 112.

Each SPCC plan, while unique to the facility it covers, must include certain elements. To ensure that facilities comply with the spill prevention regulations, EPA periodically conducts on-site facility inspections. EPA also requires owners and operators of facilities that experience two or more oil spills within a 12-month period to submit their SPCC Plans and other information to EPA for review.

A copy of the entire SPCC Plan must be maintained at the facility if the facility is normally attended for at least eight hours per day. Otherwise, it must be kept at the nearest field office. The SPCC Plan must be available to EPA for on-site review and inspection during normal working hours.

National Website: <http://www.epa.gov/oilspill/opprover.htm>

Region 10 contact: Carl Kitz (206) 553-1671 WA, OR, ID
Matt Carr (907)271-3616 AK

Emergency Planning and Community Right-to-Know Act (EPCRA)

In 1986 Congress passed a law to help local communities, including Indian reservations, protect public health and safety and the environment from chemical hazards. This law, the Emergency Planning and Community Right-to-Know Act (EPCRA), known as Title III of the Superfund Amendments and Reauthorization Act (SARA), requires that detailed information about the nature of hazardous substances (Tier II reports) in or near reservations be made available to the public and that comprehensive emergency plans be prepared to deal with chemical accidents. The law also provides stiff penalties for

companies that do not comply, and it allows citizens to file lawsuits against companies and local or Tribal government agencies to force them to obey the law.

The requirements of EPCRA form the State and Tribal Emergency Response Commissions (SERCs and TERCs.) The SERCs and TERCs, in turn, help the Local Emergency Planning Committees (LEPCs) by offering training and technical assistance. In this country, we have a network of over 3,000 Local Emergency Planning Committees (LEPCs), whose responsibilities include creating an emergency response plan for their Local Emergency Planning District (LEPD) and gathering the detailed information about the nature of hazardous substances (Tier II reports) that industry is required to submit. In addition, LEPCs provide public education about chemical hazards and risk reduction to local industry, public health officials, fire chiefs, the media, and others.

EPA published a rule-making in the Federal Register (July 26, 1990) designating Indian Tribes and their chief executive officers as the implementing authority for Title III on all Indian lands. EPA's policy is to work with Tribes on a "government-to-government" basis. Unless Tribal leaders choose another of their various options to comply with Title III, EPA regards Federally recognized Tribal reservations as a Tribal Emergency Response Commission (TERC), with the same responsibilities as States for carrying out provisions of the law.

Resources

- ✿ We can provide grants to assist Tribes in doing work necessary to comply with EPCRA. To reinforce SERCs, TERCs, and LEPCs in their leadership, the U.S. Environmental Protection Agency (EPA) awards annual grants for specific projects in chemical emergency planning and accident prevention. These grants are directed through the Agency's Chemical Emergency Preparedness and Prevention Office (CEPPO). Our ability to provide these grants is subject to funding availability. We may also be able to provide technical assistance.
- ✿ Following is a CEPPO Tribal Assistance Grant product that has been developed in Region 10: Yukon River Inter-Tribal Watershed Council (YRITWC) Community Emergency Response Plan (CERP) template. This product can be found for download on the EPA Region 10 web page under Superfund and then Tribes.

National Website:

<http://yosemite.epa.gov/oswer/CeppoWeb.nsf/content/epcraOverview.htm>

Region 10 contact: Suzanne Powers (360) 753-9475 Region 10 Enforcement
Beth Sheldrake (206) 553-0220 WA, OR, ID
Mary Goolie (907) 271-3414 AK

Clean Air Act Section 112(r)

The risk management program rule [also known as Clean Air Act Section 112(r)] is designed to prevent serious chemical accidents that could affect public health and the environment, and to improve the response to any accidents that do occur. The rule requires facilities that use more than threshold amounts of certain types of chemicals to implement a risk management program, and to have filed a Risk Management Plan (RMP) with EPA by June 21, 1999. In its RMP, a facility analyzes hazards, documents a five-year accident history, coordinates with local first responders, and puts a program in place to prevent chemical accidents.

Region 10 can provide information about complying with CAA Section 112(r); designing or submitting a Risk Management Plan; using the EPA's 112(r) website or downloading software from the website; and signing up for a training course, newsletter or presentation on 112(r).

National Website:

<http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/RMPoverview.htm>

Region 10 Website:

<http://yosemite.epa.gov/r10/cleanup.nsf/9f3c21896330b4898825687b007a0f33/8efee80db8215d4588256a9600715543?OpenDocument>

Region 10 Contact: Calvin Terada (206) 553-4141

Email: terada.calvin@epa.gov

Brownfields Program

Brownfields are properties that are abandoned or underused because of environmental contamination from past industrial or commercial practices. Often the potential liability associated with contamination complicates business development, property transactions or expansion on the property. The purpose of the Brownfields program is to return these sites to productive use. It's designed to empower Tribes, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up, and sustainably reuse brownfields. Brownfields strategies include funding pilot programs and other research efforts, clarifying liability issues, entering into partnerships, conducting outreach activities, developing job training programs, and addressing environmental justice concerns.

Resources

- ❁ **Brownfields Assessment Pilots:** Tribes that apply and are selected as a Brownfields Assessment Pilot can receive up to \$200,000 to use for site assessment.
- ❁ **Job Training Pilots:** Tribes can receive up to \$200,000 for a job training pilot related to Brownfields.
- ❁ **Revolving Loan Fund Pilots for Cleanup:** Tribes can receive up to \$500,000 to make loans to accomplish cleanup. In order to qualify for revolving loan funds, a Tribe must first have been a Brownfield Assessment Pilot, or have completed a Targeted Brownfield Assessment
- ❁ **Targeted Brownfield Assessment:** An EPA (or in some cases State) contractor comes out to the Tribal site and assesses the property(ies), provides results to the Tribe. The site does not have to be an NPL site to be eligible for this type of assessment, but there are some restrictions on the types of sites that can be assessed.
- ❁ **Technical Assistance:** helping connect Tribes with available assistance programs or resources (e.g, HUD money, State money).

National Website: <http://www.epa.gov/swerosps/bf/>

Region 10 Website: <http://yosemite.epa.gov/r10/cleanup.nsf/webpage/Brownfields>

Region 10 Contact: Timothy Brincefield (206) 553-2100

Email: brincefield.timothy@epa.gov

Office of Environmental Cleanup (ECL) Contact List

National Response Center: 1-800-424-8802

Seattle 24-hour number: (206) 553-1263

EPA Criminal Investigation Office: (206)553-8306

Program	Name	Phone	Email	Mail-stop*
ECL Tribal Specialist	Denise Baker	206-553-4303	baker.denise@epa.gov	ECL-115
Site Discovery & Evaluation (NPL)	Denise Baker	206-553-4303	baker.denise@epa.gov	ECL-115
ATSDR	Richard Kauffman	206-553-2632	kauffman.richard@epa.gov	ECL-117
Investigation & Clean-up (NPL)	Debra Sherbina	206-553-0247	sherbina.debra@epa.gov	ECO-081
Emergency Response	Beth Sheldrake Mary Goolie	206-553-0220 907-271-3414	sheldrake.beth@epa.gov goolie.mary@epa.gov	ECL-116 AOO/A
OPA	Beth Sheldrake Mary Goolie	206-553-0220 907-271-3414	sheldrake.beth@epa.gov goolie.mary@epa.gov	ECL-116 AOO/A
SPCC	Carl Kitz Matt Carr	206-553-1671 907-271-3616	kitz.carl@epa.gov carr.matthew@epa.gov	ECL-116 AOO/A
EPCRA	Suzanne Powers Beth Sheldrake Mary Goolie	360-753-9475 206-553-0220 907-271-3414	powers.suzanne@epa.gov sheldrake.beth@epa.gov goolie.mary@epa.gov	WOO ECL-116 AOO/A
Clean Air Act Section 112(r)	Calvin Terada	206-553-4141	terada.calvin@epa.gov	ECL-116
Brownfields	Susan Morales	206-553-7299	morales.susan@epa.gov	ECL-112

*Mailing Address:

US EPA R10

Attn: Contact Name, Mail-stop _____

1200 Sixth Avenue

Seattle, WA 98101

LINKS, RESOURCES & GRANTS



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Helpful Websites

FEDERAL INDIAN PROGRAMS

Senate Committee on Indian Affairs

<http://www.senate.gov/~scia>

Indian Health Services

<http://www.ihs.gov>

Office of Indian Education Programs

<http://www.oiep.bia.edu/>

American Indian Environmental Office

<http://www.epa.gov/indian/>

TRAINING SITES

Tools, Technical Assistance Training

<http://www.epa.gov/epahome/training.htm>

The Training Exchange

<http://www.trainex.org>

GENERAL INTEREST/MEDIA

Daily Oklahoman

<http://www.oklahoman.com>

Indian Country Today

<http://indiancountry.com>

Indian Trust Assets Management

<http://www.doi.gov/indiantrust/index.html>

Indigenous Environmental Network

<http://www.ienearth.org>

Tulsa World

<http://www.tulsaworld.com>

Oklahoma Indian Times (OKIT)

<http://www.okit.com>

National Congress of American Indians (NCAI)

<http://www.ncai.org>

Native American Bar Association

<http://www.nativeamericanbar.org>

Native American Rights Fund

<http://www.narf.org/pubs/justice/1999FALL/fall1999.htm>

BNA, Inc. (compiles electronic news i.e. environmental news, major rule comment period calendar)

<http://www.bna.com/>

AIR LINKS

Clean Air Act

<http://www.epa.gov/oar/caa/contents.html>

U.S. EPA General Air Information

<http://www.epa.gov/airlinks/>

U.S. EPA Federal Register notices

<http://www.epa.gov/fedrgstr/EPA-AIR/>

U.S. EPA Office Of Air & Radiation "Tribal AIR"

<http://www.epa.gov/oar/tribal>

U.S. EPA Region VI Air Programs

http://www.epa.gov/earth1r6/6pd/air/air_main.html

U.S. EPA Source/Emission Inventory Improvement Program

<http://www.epa.gov/ttn/chief/eiip/techreport>

U.S. EPA Source/Emission Inventory Training

<http://www.epa.gov/ttn/chief/eidocs/index.html#basic>

U.S. EPA Ozone Alerts

<http://www.epa.gov/airnow>

U.S. EPA Ambient Monitoring Technology Information Center

<http://www.epa.gov/ttn/amtic/>

U.S. EPA Monitor & Source Air Data

http://www.epa.gov/aqspubl1/annual_summary.html

Central States Regional Air Planning Association (CENRAP)

<http://www.cenrap.org/>

Community Health Track

<http://health-track.org>

State of Oklahoma Air Quality Program

<http://www.deq.state.ok.us/air1/air.html>

State of Texas Department of Air Quality
<http://www.tnrc.state.tx.us/air/index.html>

Air Monitoring Equipment & Services Graseby/Anderson
<http://www.graseby.com/>

Monitoring Lab
<http://www.monitorlabs.com/>

Thermo Environmental Instruments
<http://www.thermoei.com/>

ESC
<http://www.envirosys.com>

Campbell Scientific
<http://www.campbellsci.com>

Rupprecht & Patashnick Co., Inc.
<http://www.rpco.com>

IML Science
<http://www.imlinc.com/>

Inquest Environmental (Air Quality Specialist) (573) 474-8110

SUPERFUND LINKS

Region 6 EPA Superfund Homepage
<http://www.epa.gov/earth1r6/6sf/6sf.htm>

U.S. EPA Superfund Homepage
<http://www.epa.gov/superfund/>

U.S. EPA Integrated Risk Information System
<http://www.deq.state.ok.us/index.html>

Superfund Tribal Reform Program
<http://www.epa.gov/oerrpage/superfund/programs/reforms/types/tribal.htm>

Oklahoma Department of Environmental Quality (ODEQ)
<http://www.deq.state.ok.us/index.html>

Technical Outreach for Communities
<http://www.toscprogram.org/>

Superfund Innovative Network

<http://www.lafollete.wisc.edu/superfundpa876/>

Navajo Nation EPA Superfund Program

<http://www.cia-g.com/~navajosf/>

BROWNFIELDS LINKS

Region 6 EPA Brownfields Homepage

<http://www.epa.gov/earth1r6/6sf/bfpages/sfbfhome.htm>

National Livability Resource Center

<http://www.livablecommunities.gov/toolsandresources/>

Technical Assistance for Brownfields (TAB)

<http://www.toscprogram.org/>

American Fact Finder-Demographics

<http://www.factfinder.census.gov/servlet/BasicFactsServlet.html>

U.S. State and Local Gateway-Demographics

<http://www.statelocal.gov/>

GENERAL ASSISTANCE PROGRAM

Indian Environmental General Assistance Program, Guidelines on the Award and Management of General Assistance Agreements for Indian Tribes:

<http://www.epa.gov/indian/gap2000.pdf>

The Indian Environmental General Assistance Program Act of 1992

<http://www.epa.gov/indian/4368b.pdf>

Indian Tribes: General Assistance grants for Environmental Protection Program

<http://www.epa.gov/indian/40cfr35.pdf>

Performance Partnerships Grants (PPGs) for Tribes Proposed Rule- as it appeared in the Federal Register on July 23, 1999

<http://www.epa.gov/indian/epa.pdf>

Final Rule- as it appeared in the Federal Register on January 16, 2001

<http://www.epa.gov/indian/g219.pdf>

"Treatment-as-a-State" Regulation Summary

<http://www.epa.gov/indian/treatst.htm>

ENVIRONMENTAL JUSTICE

Environmental Justice-Office of Solid Waste and Emergency Response
<http://www.epa.gov/swerosps/ej>

Environmental Justice-Office of Enforcement and Compliance Assurance
<http://es.epa.gov/oeca/main/ej/index.html>

Environmental Justice-Region 6
<http://www.epa.gov/earth1r6/6ra/ej/ejhome.htm>

Environmental Justice-Native Americans and the Environment
<http://www.indians.org/library/subenv1.html>

HAZARDOUS WASTE ISSUES-TRIBAL

Chemical Emergency Preparedness and Prevention Office (CEPPO)
<http://www.epa.gov/ceppo/sta-loc.htm>

Hazardous Waste in Indian Country
<http://www.epa.gov/tribalmsw>

Hazardous Waste Issues-General EPA Office of Solid Waste Homepage
<http://www.epa.gov/osw>

Oklahoma Department of Environmental Quality-Land Protection Division
<http://www.deq.state.ok.us/waste/index.html>

EPA Region 6 Multimedia Planning and Permitting Division
<http://www.epa.gov/region6/6pd/6pd.htm>

MUNICIPAL SOLID WASTE ISSUES-TRIBAL

Municipal Solid Waste in Indian Country
<http://www.epa.gov/tribalmsw>

Tribal Association on Solid Waste and Emergency Response (TASWER)
<http://www.taswer.org/>

Municipal Solid Waste in Indian Country-Region 6
<http://www.epa.gov/region6/6pd/pd-u-sw/swindian.htm>

MUNICIPAL SOLID WASTE ISSUES-GENERAL

EPA Office of Solid Waste Homepage
<http://www.epa.gov/osw>

Oklahoma Department of Environmental Quality-Land Protection Division
<http://www.deq.state.ok.us/waste/index.html>

Oklahoma Cooperative Extension Service-Oklahoma State University
<http://rd.okstate.edu/waste>

Solid Waste Association of North America
<http://www.swana.org>

OTHER TRIBAL ENVIRONMENTAL PROGRAMS

Office of Enforcement and Compliance Assurance (OECA) Tribal Program
<http://www.epa.gov/compliance/notfound/index.html>

Office of Ground Water and Drinking Water (OGWDW) Tribal Programs
<http://www.epa.gov/safewater/tribal.html>

Tribal Drinking Water Infrastructure Grants
<http://www.epa.gov/safewater/tribes.html>

Tribal Reporting under Section 305(b) of the Clean Water Act
<http://www.epa.gov/owowwtr1/monitoring/volunteer/tribe.html>

Office of Wastewater Management (OWM) Indian Programs
<http://www.epa.gov/owm/mab/indian/index.htm>

Protecting Public Health and Water Resources in Indian Country
<http://www.epa.gov/region5/water/stpb/>

Pueblo Office of Environmental Protection
<http://www.aipc-poep.com/index.html>

Taos Pueblo Environmental Office
<http://www.laplaza.org/tpes/>

Jemez Department of Resource Protection
<http://www.nmia.com/~quasho/>

National Tribal Environmental Council
<http://www.ntec.org/>

Tribal Association on Solid Waste & Emergency Response
<http://www.taswer.org/>

Alaska Inter-Tribal Environmental Council
<http://www.aitc.org/>

Institute for Tribal Environmental Professionals

<http://www.cet.nau.edu/itep/>

National Congress of American Indians

<http://www.ncai.org/>

National Environmental Coalition Of Native Americans

<http://www.alphacdc.com/necona/>

Native American Fish and Wildlife Society

<http://www.nafws.org/>

Native Americans and the Environment

<http://www.cnie.org/NAE/>

United South and Eastern Tribes, Inc.

<http://www.usetinc.org/>

American Indian Science & Engineering Society

<http://www.aises.org/>

Native American Indian Resources

<http://www.kstrom.net/isk/mainmenu.html>

GLOBAL POSITIONING SYSTEM LINKS

Trimble Navigation

<http://www.trimble.com>

Starlink DGPS

<http://www.starlinkdgps.com>

Institute of Navigation

<http://bluefish.nosc.mil/ion/ion/html>

Western Data Systems

<http://www.westerndatasystems.com>

GPS Overview

http://www.colorado.edu/geography/gcraft/notes/gps/gps_f.html

Topographic Mapping

<http://www.topographic.com>

Frontier Precision Mapping

<http://www.frontierprecision.com>

GPS World Magazine

<http://www.gpsworld.com>

University of Arkansas GPS
<http://www.cast.uark.edu>

GeoResearch
<http://www.georesearch.com>

National Geodetic Survey
<http://www.ngs.noaa.gov>

GEOGRAPHIC INFORMATION SYSTEM LINKS

ESRI
<http://www.esri.com>

GIS Data Depot
<http://www.gisdatadepot.com>

Oklahoma GIS Council
<http://www.okmaps.onenet.net>

Free Oklahoma GIS Data!
<ftp://okmaps.onenet.net>

BIA GDSC
<http://www.gdsc.bia.gov>

OU GIS
<http://www.geo.ou.edu>

USGS
<http://mapping.usgs.gov>

Microsoft Terraserver
<http://terraserver.microsoft.com>

Maptech
<http://www.maptech.com>

AIR TRAINING

Institute Tribal Environmental Professionals
<http://www.cse.nau.edu/~itep/>

Air Pollution Training Institute
<http://www.epa.gov/ttn/direct.html>

Westar Training
<http://www.westar.org/welcome.html>

STAPPA Training
<http://www.4cleanair.org/>

California Air Resources Board Training
<http://www.arb.ca.gov/homepage.htm>

Environmental & OHSI Training
<http://www.eohsi.rutgers.edu/cet/index.html>

Air & Waste Management Association (AWMA)
<http://www.awma.org/>

EPA Regional Tribal Programs

Region 1 Government and Tribes
<http://www.epa.gov/tribalmsw/>

Region 2 Indian Program
<http://www.epa.gov/region02/indtext.htm>

Region 4 Indian Coordination Office
<http://www.epa.gov/region4/ead/indian/>

Region 5 Regional Tribal Information
<http://www.epa.gov/reg5oopa/tribes/index.htm>

Region 6 Regional Native American Office
<http://www.epa.gov/region6/6xa/tribal.htm>

Region 8 Tribal Assistance
<http://www.epa.gov/region08/tribes/>

Region 8 State and Tribal Water Quality Standard Programs
<http://www.epa.gov/region08/water/wqs/wqsstate.html>

Region 9 Indian Programs
http://www.epa.gov/region09/cross_pr/indian/

Region 10 Tribal Office
<http://www.epa.gov/region10/>

Environmental Reference Books

CRC Press <http://www.crcpress.com>

Government Institutes <http://www.govinst.com>

U.S. EPA National Service Center for Environmental Publications

<http://www.epa.gov/ncepihom/>

Godish, Thad. *Air Quality (Third Edition)*. Boca Raton: Lewis Publishers, 1997.

Lodge, James P., Jr. (Ed.). *Methods of Air Sampling and Analysis (Third Edition)*. Boca Raton: Lewis Publishers, 1988.

McGregor, Gregor I. *Environmental Law and Enforcement*. Boca Raton: Lewis Publishers, 1994.

Mycock, John C., John D. McKenna, and Louis Theodore. *Handbook of Air Pollution Control Engineering and Technology*. Boca Raton: Lewis Publishers, 1995.

Wright, Gregory D. *Fundamentals of Air Sampling*. Boca Raton: Lewis Publishers, 1994.

Boubel, Richard W., Donald L. Fox, D. Bruce Turner, and Arthur C. Stern. *Fundamentals of Air Pollution (Third Edition)*. San Diego: Academic Press, 1994.

Patrick, David R., (ed.). *Toxic Air Pollution Handbook*. New York City: Van Nostrand Reinhold, 1994.

Brownell, William F. (ed.). *Clean Air Handbook (Third Edition)*. Rockville, MD: Government Institutes,

Tribal Grants

Most of these grants are available to all Federally recognized Indian Tribes in Region 10. There are a few grants that have different eligibility requirements, for example Clean Water Act Section 106 grants require Tribes to have TAS. Please note the asterisks (*) at the end of the grant program title. The asterisks refer to general eligibility requirements. Grants *without* asterisks refer to requirements of *Treatment-As-State (TAS)*. Please check with the grant program contact for specific eligibility requirements and further grant information. Additionally, check with the grant program contact to see about funding availability.

Water Issues				
<i>EPA R10 Office</i>	<i>Statutory Authority/CFDA#</i>	<i>Grant Program Title</i>	<i>Contact</i>	<i>Type of Issue</i>
OW-DWU	Clean Water Act CFDA#66.458	Clean Water Indian Set-Aside Grant Program*	Geoff Keeler 206-553-0165, Email: keeler.geoff@epa.gov	Wastewater Treatment: Construction of wastewater treatment facilities
TO	Clean Water Act CFDA#66.419	Clean Water Act Section 106 Tribal Pollution Control Grant Program	Alan Moomaw 360-753-8071, Email: moomaw.alan@epa.gov	Water Quality Activities: Ex: water quality planning and assessments, development of water quality standards.
OW	Clean Water Act CFDA#66.463	Clean Water Act Section 104(b)(3) Water Quality Cooperative Agreements/Grants	Alan Moomaw 360-753-8071, Email: moomaw.alan@epa.gov	Water Quality Cooperative Agreements: Support for watershed projects addressing point source pollution, such as storm water, combined sewer overflows, combined animal feeding operations (CAFOs), total maximum daily loads (TMDL's)
ECO-NRMU	Clean Water Act CFDA#66.460	Clean Water Act, Section 319 Non-point Source Pollution	Christine (Teena) Reichgott 206-553-1601, Email: reichgott.christine@epa.gov	Non-point Source: Implementation of nonpoint source pollution management plans. Ex: Low-impact development, stream restoration.
State Assistance Program	Congress funding	Alaska Native Village and Rural Communities Sanitation Grant Program (does not require TAS)	Village Safe Water 907- 465-5137	Water Sanitation: Construction of new or improved drinking water systems and wastewater sanitation systems; training and technical assistance in the operation and maintenance of treatment systems. Funds are available from the Alaska Department of Environmental Conservation (ADEC) through the Village Safe Water (VSW) Program

OW-DWU	Safe Drinking Water Act CFDA#66.468	Drinking Water Infrastructure Grants Tribal Set-Aside Program*	Geoff Keeler 206-553-1089, Email: keeler.geoff@epa.gov	Drinking Water: Capital improvements to public water systems that serve Indian Tribes.
ECO	Clean Water Act (104b3)	Wetland Program Development Grants	Steven Roy 206-553-6221, roy.steven@epa.gov	Wetland Protection: Priorities FY03: Developing a comprehensive monitoring and assessment program; improving the effectiveness of compensatory mitigation; and refining the protection of vulnerable wetlands and aquatic resources.

Air Issues

EPA R10 Office	Statutory Authority/CFDA#	Grant Program Title	Contact	Type of Issue
OAQ	Clean Air Act Section 103 CFDA#66.034	Surveys, Studies, Investigations, Demonstrations and Special Purpose Activities Relating to the Clean Air Act*	Mary Manous 206-553-1059, Email: manous.mary@epa.gov Diana Boquist 206-553-1568, Email: boquist.diana@epa.gov	Ambient Air Pollution: Assess the nature and extent of ambient air pollution problems by Tribes, non-profits, universities, and consortia. Projects of limited duration; not for funding program implementation; no TAS or match required .
OAQ	Clean Air Act Section 105 CFDA#66.001	Air Pollution Control Program Support*	Mary Manous 206-553-1059, Email: manous.mary@epa.gov Diana Boquist 206-553-1568, Email: boquist.diana@epa.gov	Air Pollution Programs: Administer on-going air pollution programs that address air pollution concerns where there is a demonstrated need and capability. 40% match required unless Tribe is eligible for TAS.
OAQ	TSCA section 306 SARA Title III CFDA#66.032	State Indoor Radon Program* (40 CFR Part 31)	Rick Poeton 206-553-8633, Email: poeton.rick@epa.gov	Indoor Radon: During the first year of the grant the Tribe surveys homes and Tribally owned buildings for elevated levels of radon. If elevated levels are found then during the second year of the grant all or some of those problems are fixed through a demonstration project.

Multi-media Issues

EPA R10 Office	Statutory Authority/CFDA#	Grant Program Title	Contact	Type of Issue
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OEA	Pollution Prevention Act of 1990 CFDA# 66.708	Pollution Prevention Incentive Grants*	Carolyn Gangmark 206-553-4072, Email: gangmark.carolyn@epa.gov	Prevention ex: going to your community and asking them not to purchase problem material (i.e.; plastic bags) in the first place.
ECO-Pesticides	FIFRA, Section 23(a)(1) CFDA#66.700	Pesticide Enforcement Program Development and Implementation*	Theresa Pimentel 206-553-0257, Email: pimentel.theresa@epa.gov	Pesticide Program Development and Pesticide Enforcement: Including: - Endangered Species - Pesticides in groundwater - Worker Protection & Safety
CEC	National Environmental Education Act of 1990, Section 6 CFDA # 66.951	Environmental Education Grant ****	Sally Hanft 206-553-1207, Email: hanft.sally@epa.gov	Environmental Education: To provide support for projects which design, demonstrate, or disseminate environmental education practices, methods, or techniques, including assessing environmental and ecological conditions or specific environmental issues or problems.
OCREEJ	CFDA#66.604	Environmental Justice Grants*	Victoria Plata 206-553-8580, Email: plata.victoria@epa.gov	Environmental Justice Issues
ECO	CFDA#66.606	Regional Geographic Initiative (RGI) Funds*	Dan Phalen 206-553-8578, Email: phalen.dan@epa.gov	RGI Projects: RGI funding supports projects in geographic areas in Alaska, Idaho, Oregon, and Washington that have been identified as a high priority by the Region, States, Tribes, localities, or citizen groups due to high or potentially high human health or ecosystem risk, or due to significant potential for risk reduction or avoidance
Tribal Office	Indian Environmental General Assistance Program (General Assistance Program (GAP) for Tribes) CFDA#66.926	Indian Environmental General Assistance Grants*	Alaska 907-271-6558 Idaho, Oregon & Washington 206-553-4011	Environmental Program Capacity Building: To provide funding for Tribes to plan, develop and establish environmental protection programs.

Waste Issues

<i>EPA R10 Office</i>	<i>Statutory Authority/CF DA#</i>	<i>Grant Program Title</i>	<i>Contact</i>	<i>Type of Issue</i>
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ECL	CFDA# 66.802	Site Assessment Cooperative Agreement*	Denise Baker 206-553-4303, Email: baker.denise@epa.gov	Site Assessment Cooperative Agreement: EPA can provide a Site Assessment Cooperative Agreement at a site where EPA is conducting a site assessment. The purpose of these cooperative agreements is to provide for technical participation of the Tribe, or Tribes, in the cleanup process. EPA has awarded grants only to NPL caliber sites that are undergoing "expanded" site investigations.
ECL	CFDA# 66.802	Support Agency Cooperative Agreements*	Denise Baker 206-553-4303, Email: baker.denise@epa.gov	Support Agency Cooperative Agreement: EPA can provide a Support Agency Cooperative Agreement to a Tribe, or Tribes, to allow their technical participation at NPL sites where EPA is conducting an investigation or cleanup. These are awarded on a non-competitive basis.
ECO/ ECL	Section 117(e) of CERCLA 1980, as amended	Technical Assistance Grants (TAG)*****	Debra Sherbina 206-553-0247; Email: sherbina.debra@epa.gov	Community Involvement in Superfund Site: Community groups may be eligible for a Technical Assistance Grant in situations where there is a Superfund site is listed or proposed for listing on the National Priorities List. Tribal governments are not eligible for these types of grants, but a community group that includes Tribal members may be eligible. EPA can award TAGs of up to \$50,000 per site. TAGs allow an interested community group to hire a technical advisor to help them interpret and comment on site-related information and decisions, providing the community further opportunities to participate in technical issues regarding a site. For instance, a community group could use the funds to hire an independent expert to help them interpret technical data, understand site hazards, and become more knowledgeable about the different technologies that are being used to clean up sites like the one they are concerned about.

ECL	Section 123 of SARA	Local Government Reimbursement (LGR)*	<p>Beth Sheldrake 206-553-0220, E-mail: sheldrake.beth@epa.gov and</p> <p>Mary Goolie 907-271-3414, E-mail: goolie.mary@epa.gov</p>	<p>Temporary Emergency Measures: Federal funds available to Tribes and local governments for costs related to temporary emergency measures conducted in response to releases or threatened releases of hazardous substances.</p> <p>EPA is authorized under SARA to reimburse federally-recognized Indian Tribes and local governments for expenses incurred in carrying out temporary emergency measures in response to hazardous substance threats.</p> <p>CERCLA specifically limits reimbursement to \$25,000 per single response. This \$25,000 cap plus the limited availability of funds for the program may not allow EPA to reimburse Tribal or local governments for all response costs that may qualify.</p>
ECL	The Emergency Planning and Community Right-to- Know Act, SARA Title III, Section 305(a)	Grants for specific projects in Chemical Emergency Planning and Accident Prevention*	<p>Beth Sheldrake 206- 553-0220, Email: sheldrake.beth@epa.gov and</p> <p>Mary Goolie 907-271-3414, E-mail: goolie.mary@epa.gov</p> <p>AK - Mary Goolie ID, OR, WA - Beth Sheldrake</p>	<p>Chemical Emergency Planning and Accident Prevention: EPA can provide grants to assist Tribes in doing work necessary to comply with EPCRA. To reinforce SERCs, TERCs, and LEPCs in their leadership, the U.S. Environmental Protection Agency (EPA) awards annual grants for specific projects in chemical emergency planning and accident prevention. These grants are directed through the Agency's Chemical Emergency Preparedness and Prevention Office (CEPPO). Our ability to provide these grants is subject to funding availability.</p>
ECL	CFDA# 66.818	Brownfields Assessment Grants**	<p>Timothy Brincefield 206-553-2100, Email: brincefield.timothy@epa.gov</p> <p>Roopa Karia 206-553-6316, E-mail: karia.roopa@epa.gov</p>	<p>Brownfield Sites: Inventory, characterize, and conduct environmental assessment of brownfield sites. Funds may also be used to support redevelopment planning and community involvement in the brownfield area. Grants on a community-wide or site-by-site basis of up to \$200,000 for hazardous substance sites and/or up to \$200,000 for petroleum sites: may request waivers up to \$350,000 for site specific assessment.</p>

ECL	CFDA# 66.811	Brownfields Job Training Grants***	Roopa Karia 206-553-6316, E-mail: karia.roopa@epa.gov	Training: To develop an environmental assessment and hazardous waste cleanup job training programs in communities that have received EPA brownfield assistance. Grant awards are up to \$200,000.
ECL	CFDA# 66.817	State and Tribal Response Program*	Susan Morales 206-553-7299, E-mail: morales.susan@epa.gov	Environmental Response: To enhance or establish a formal environmental response program. Priorities include public record, inventory of brownfield sites, oversight and enforcement mechanisms, meaningful public participation.
ECL	CFDA# 66.818	Brownfields Cleanup Grants**	Timothy Brincefield 206-553-2100, Email: brincefield.timothy@epa.gov Susan Morales 206-553-7299, E-mail: morales.susan@epa.gov	Brownfields Cleanup: To perform, manage, and conduct cleanup of sites owned by an eligible entity. Funding may also be used for public involvement, verification and documentation of site cleanup and some portion of funds may be used to purchase insurance. Grants of up to \$200,000 per site and applicants may apply for up to 5 sites.
ECL	CFDA# 66.818	Brownfields Cleanup Revolving Loan Fund**	Timothy Brincefield 206-553-2100, Email: brincefield.timothy@epa.gov	Grants up to \$1,000,000 per eligible entity to capitalize and manage a revolving loan fund. Eligible activities include: Make loans to other eligible entities, non-profits, private site owners or developers; Make sub-grants to an eligible entity or non-profit to clean up a site they own (up to 40% of funds can be sub-granted).
OWCM	CFDA#66.812	National Tribal Hazardous Waste Grant Program*	Nina Kocourek 206-553-6502, Email: kocourek.nina@epa.gov	Hazardous Waste Program Capacity Building Grants: Goal is to encourage comprehensive integrated hazardous waste management practices that are protective of human health and the environment
OWCM	TSCA Section 404(g) CFDA#66.707	Lead (Pb) - Tribal Authorization*	Barbara Ross 206-553-1985, Email: ross.barbara@epa.gov	Lead poisoning prevention: Develop authorized programs to prevent lead poisoning through the training of workers who remove lead-based paint, the accreditation of training programs, the certification of contractors, and renovation education programs. The grants also fund education and outreach for prevention and collection of lead data to determine the nature and extent of the lead problem within an area.

HQ - OPPTS	TSCA Section 10 CFDA# 66.715	Tribal Lead Grant Program*	Darlene Watford 202-566-0516, Email: watford.darlene@epa.gov	Assessment of Lead Hazards: The Tribal Lead Grant program will allow Tribes to test and analyze lead in blood, paint, dust and soil, conduct lead inspections and risk assessments, and conduct lead outreach activities.
OWCM	Solid Waste Disposal Act Sec. 8001 CFDA#66.808	Open Dumps Cleanup Project*	Grover Partee 206-553-6697, Email: partee.grover@epa.gov	Open Dumps Clean-up: Assessing dumps and the communities' future solid waste management needs; planning to address those needs; developing alternatives to existing open dumps such as transfer stations or even RCRA-compliant landfills; and closing and cleaning up open dumps.
OWCM	CFDA#66.808	Solid Waste Management Assistance Grants*	Domenic Calabro 206-553-6640, Email: calabro.domenic@epa.gov	Recycling, Waste Reduction, & Product Stewardship Projects

Grant Resources:

While this list has tried to capture all EPA R10 funding sources available to Tribes, it is entirely possible that this list is not all inclusive. Following is a brief list of links for more information on grants.

EPA Region 10 Tribal Office Homepage

<http://www.epa.gov/r10earth>, click on Tribes - then click on Tribal Grants

Online Catalog of Federal Domestic Assistance

<http://www.cfda.gov/public/granttopics.asp>

Catalog of Federal Funding Sources for Watershed Protection

Search by type of assistance, eligible organization, match required and/or environmental category.

<http://cfpub.epa.gov/fedfund>

Chronicle of Philanthropy

Newsletter about fund-raising trends.

<http://www.philanthropy.com/>

The Alaskan Funding Exchange

Alaskan Source for technical support, training and information about grants.

<http://www.funding-exchange.org/>

The Alaska Conservation Foundation

An Alaskan Foundation that makes grants within the State.

<http://www.akcf.org/>

The Grant Station

On-line database of foundations and grants makers.

<http://www.grantstation.com/>



Region 10 Tribal Specialists

In accordance with the EPA Region 10 Strategic Plan for Tribal Programs (Goal 5) the goal of the Tribal Specialists is to ensure that Region 10 resources are used as efficiently as possible, their work is targeted to address the highest priority needs, and the region's organizational structure supports enhanced Tribal activities. Tribal specialists serve as a point of contact for Tribal issues for the media office that they reside in.

EPA REGION 10 TRIBAL SPECIALISTS			
Name	Office	Mail Stop	Phone #
Myrna Jamison (Lead)	Office of Tribal Operations	TO-149	206-553-2931
Dan Phalen	Office of Ecosystems & Communities	ECO-081	206-553-8578
Denise Baker	Office of Environmental Cleanup	ECL-110	206-553-4303
Evelyn Holtzendorf	Office of Management Programs	OMP-145	206-553-6344
Fran Stefan	Office of Waste & Chemical Management	WCM	206-553-6639
OEA Deputy Director	Office of Environmental Assessment	OEA-095	206-553-1200
Marcia Lagerloef Robin Slate (located in Olympia)	Office of Water	OW-137 WOO	206-553-4141 360-753-9082
Mark MacIntyre	Office of External Affairs	EXA-142	206-553-7302
Mary Manous Diana Boquist (Alternate)	Office of Air Quality	OAQ-107	206-553-1059 206-553-1586
Michele Wright (Enforcement & Compliance) Victoria Plata (Civil Rights & Envir. Justice)	Office for Civil Rights, Enforcement & Environmental Justice	OEC-164	206-553-1747 206-553-8580
Rich McAllister	Office of Regional Counsel	ORC-158	206-553-8203

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APPENDIX



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APPENDIX CONTENTS

1984 EPA INDIAN POLICY

MOU AMONG BIA, EPA, HUD, & IHS

EXECUTIVE ORDER 12875

EXECUTIVE ORDER 12898

EXECUTIVE ORDER 13007

EXECUTIVE ORDER 13084

EXECUTIVE ORDER 13175

EPA R10 STRATEGIC PLAN FOR TRIBAL PROGRAMS

PRESIDENT CLINTON STATEMENTS

CHRISTINE TODD WHITMAN'S REAFFIRMATION OF EPA'S INDIAN POLICY

EPA R10 TRIBAL CONSULTATION POLICY

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US EPA REGION 10 TRIBAL OFFICE

Tribal Resource Guide - Working Draft January 2004