



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Final Release of *The Environmental Protection Agency-Wide Plan to Provide Solid Waste Management Capacity Assistance to Tribes*

FROM: Mathy Stanislaus
Assistant Administrator 

TO: Regional Administrators
Assistant Administrators

The U.S. Environmental Protection Agency (the EPA) is pleased to release *The Environmental Protection Agency-Wide Plan to Provide Solid Waste Management Capacity Assistance to Tribes* (the Plan).¹ The Plan is an internal Agency-wide strategy to provide effective tribal solid waste management capacity assistance. The Plan implements the recommendations made by the U.S. EPA, Office of Inspector General (OIG) in their March 21, 2011, Evaluation Report, *EPA Needs an Agency-Wide Plan to Provide Tribal Solid Waste Management Capacity Assistance*.² The OIG Report and recommendations generally focused on internal EPA program management issues. The Plan and a table listing the OIG's recommendations are attached. The table indicates where in the Plan each recommendation is addressed, along with the timeframe for completion. (See Section 5.0 of the Plan for a more detailed set of milestones and dates for implementation.)

The Plan addresses the OIG recommendations and reflects the EPA's main tribal solid waste priority, which is the promotion of sustainable tribal waste management programs through the development and implementation of integrated waste management plans. The Office of Solid Waste and Emergency Response and the Office of International and Tribal Affairs have collaborated on the *Guidance on the Award and Management of General Assistance Agreements for Tribes and Intertribal Consortia* (GAP Guidance)³ and the Plan to ensure that there is consistency between the two documents. The GAP Guidance contains a description of the solid and hazardous waste program capacity development and implementation actions which can be funded under GAP.

The Plan addresses how the EPA will be prioritizing its resources on waste-related activities which lead to the most significant environmental benefits. In FY 2015, the EPA will discontinue the tribal open

¹ The final Plan is available at: <http://www.epa.gov/epawaste/wyl/tribal/capacityassist.htm>

² The OIG Evaluation Report can be found at: <http://www.epa.gov/oig/reports/2011/20110321-11-P-0171.pdf>

³ The GAP Guidance can be found at: <http://www.epa.gov/tp/GAP-guidance-final.pdf>

dump closure and clean up measure to focus on sustainable tribal waste management programs. However, the Plan reaffirms EPA's support for the continued efforts to characterize and assess open dumps, in cooperation with the Indian Health Service. I would like to emphasize that EPA will focus on identifying and assessing open dumps posing the highest threat to human health and the environment, and that health threat assessment information and data will be needed to support decision-making on cleanup of open dumps.

In addition, the development and refinement of performance measures is an ongoing process that will extend beyond the issuance of the Plan and the EPA FY 2014-2018 Strategic Plan. The EPA has created a workgroup, consisting of both headquarters and regional staff, convened workgroup meetings and will obtain input from headquarters and regional management, as well as tribes on potential new performance measures intended to reflect the breadth of tribes' activities that advance sustainable tribal solid waste management programs. The EPA plans to develop a process for evaluating options for potential new performance measures through the national workgroup by December 2013. This process will include tribal consultation and coordination. The national workgroup intends to develop and implement new performance measure(s) by October 2014.

We appreciate the input and collaboration from across the Agency, as well as with our tribal government partners, during the Plan development process. The EPA consulted and coordinated with numerous tribes on *The Environmental Protection Agency-Wide Plan to Provide Solid Waste Management Capacity Assistance to Tribes* (the Plan) between July 23, 2012, and November 8, 2012. In addition to participating in tribal conferences and meetings, we received 168 written comments from 27 commenters, 19 tribal governments, 4 inter-tribal organizations, the Region 8, 9 and 10 Regional Tribal Operations Committees (RTOCs) and the state of Alaska. As a result of these comments, the EPA made revisions to the Plan to enhance the Agency's ability to provide effective solid waste management capacity assistance to tribes. The Plan is subject to updating and modification as priorities and resources change.

We look forward to working collaboratively across the Agency and with tribes and tribal organizations to implement this new Agency-Wide Plan. Thank you, in advance, for your active participation in this important effort, as together, we continue to protect human health and the environment.

Attachments

cc: Barry Breen
Deputy Regional Administrators
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THE EPA RESPONSE TO THE OIG TRIBAL SOLID WASTE REPORT*
RECOMMENDATIONS

Recommendation Number	OIG Recommendation	Intended Corrective Action(s)	Section of the Plan	Estimated Completion Date
1	Develop and implement an Agency-Wide Plan for providing effective tribal solid waste management capacity assistance that is within the scope of EPA's authority and responsibility.	Update MATS to denote September 2013 as the date, reflecting input from the consultation process, to develop and implement an Agency-Wide Plan that addresses the recommendations in the 2011 OIG report.	N/A	Completed
2	Require that the Agency-specific plan include:			
2a	Descriptions of the roles and responsibilities for the EPA program offices and EPA regions conducting solid waste management capacity assistance activities in Indian country in the Agency-Wide Plan.	The Plan includes a detailed description of the roles and responsibilities for each headquarters program office, as well as the regional counterparts to each program office.	2.1 and Appendix 1	Completed
2b	Identification of the Agency resources required for providing solid waste management assistance activities.	The Plan includes resource information for each headquarters program office and their regional counterparts, which include both staffing and funding information.	2.4	Completed
2c	Performance measures, including both output and outcome measures, to track whether EPA assistance is consistent and effective in developing solid waste management capacity and reducing risks from open dumps in Indian country.	Develop a process for evaluating options for new performance measures through a national workgroup.	3.3	December 2013
		The national workgroup will implement new performance measure(s). EPA intends to focus on outcome-oriented measures and internal controls when selecting new proposed measures.	3.3	October 2014

2d	Internal controls to ensure consistent data collection and consistent provision of waste management capacity assistance to tribal clients nationwide.	The Plan includes internal controls for specific activities to ensure data collection and tribal capacity assistance is consistent across the nation.	3.1 and 4.1	Completed
2e	A process to ensure coordination between EPA program offices and regions.	The Plan includes information on internal EPA communication and coordination across the various EPA offices (Headquarters and the regions).	2.2	Completed
2f	A timeline specifying when the activities and outcomes outlined in the plan are expected to be accomplished.	The Plan includes a detailed timeline for all of the activities described in the Plan.	5.0	Completed

* *EPA Needs an Agency-Wide Plan to Provide Tribal Solid Waste Management Capacity Assistance*,
Report No. 11-P-0171

***The Environmental Protection Agency-
Wide Plan to Provide Solid Waste
Management Capacity Assistance to Tribes***



November 15, 2013

Disclaimer

This document identifies internal Agency policies and recommended procedures for EPA employees in coordinating Agency activities related to waste management issues on tribal lands. This document is not a rule or regulation and it may not apply to a particular situation based upon the circumstances. This document does not change or substitute for any law, regulation, or any other legally binding requirement and is not legally enforceable. As indicated by the use of non-mandatory language such as “guidance,” “recommend,” “may,” “should,” and “can,” it identifies policies and provides recommendations and does not create any judicially enforceable rights or obligations substantive or procedural in any person.

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1.0 Introduction

1.1 Background

The Environmental Protection Agency's (the EPA or "the Agency") mission is to protect human health and the environment. The Agency carries out this mission on tribal lands, in part by working with federally-recognized Indian tribes (tribes) utilizing the EPA Policy for the Administration of Environmental Programs on Indian Reservations (EPA Indian Policy),¹ and the EPA Policy on Consultation and Coordination with Indian Tribes (Consultation Policy).²

The Resource Conservation and Recovery Act (RCRA) is the primary federal law for managing solid and hazardous waste. The federal hazardous waste regulations under RCRA Subtitle C apply to all facilities generating and managing hazardous waste. Under RCRA Subtitle D, EPA has established nationally applicable criteria for non-hazardous waste disposal facilities.³ Also pursuant to RCRA, EPA promotes [sustainable materials management](#) (SMM), including pollution prevention and environmentally-sound recycling. SMM focuses on the full life cycle of materials, including how they can be reinvested and reincorporated into manufacturing, thus reducing the use of virgin materials. EPA provides assistance to tribes as they develop waste management programs under their own authority.

Each of the federally recognized tribes in the United States is unique. Waste management issues and programs are similarly diverse among tribes. Therefore, a one-size-fits-all approach to addressing environmental problems on tribal lands would not be effective. Some tribes are developing and implementing basic waste collection systems and working to clean up, close, or upgrade open dumps,⁴ while others are developing comprehensive waste management programs that include composting, recycling, household hazardous waste collection, appropriate regulations, and effective enforcement programs.

Overall, the problems and challenges facing tribal waste management programs are significant. The Indian Health Service (IHS) reported that 4,444 active and inactive open dumps⁵ remain to be closed, cleaned up, or upgraded, as of June 2013. To date, 160 out of 566 federally recognized tribes have

¹ Information on the EPA Indian Policy can be found at: <http://www.epa.gov/indian/basicinfo/presidential-docs.html>

² Information on the Consultation Policy can be found at: <http://www.epa.gov/indian/consultation/>

³ EPA established national criteria defining "sanitary landfill" and "open dump" under RCRA. These criteria are codified in the Code of Federal Regulations at 40 C.F.R. parts 257 and 258.

⁴ Indian Lands Open Dump Cleanup Act of 1994 defines "open dump" as follows: "[A]ny facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under section 4004 of the Solid Waste Disposal Act (42 U.S.C. 6944) and which is not a facility for disposal of hazardous waste." 25 U.S.C. 3902(7). The Solid Waste Disposal Act (SWDA) (commonly referred to as RCRA, for the Resource Conservation and Recovery Act amendments to the SWDA), has a similar definition of the term in 42 U.S.C. 6903(14). EPA established national criteria under 42 U.S.C. 6944, defining what is a "sanitary landfill" and an "open dump" under RCRA. These criteria are codified in the Code of Federal Regulations at 40 C.F.R. Parts 257 and 258. <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=e741dae05b312c36cde4364dca9c4657&rgn=div5&view=text&node=40:26.0.1.4.38&idno=40>. Determining whether a particular facility or site is an "open dump" under these statutes is based on a case-by-case assessment, considering the data and information available to either IHS or EPA personnel. EPA does not intend references to "open dump(s)" in this document to imply or constitute any legal determination under these statutes for a particular facility or site.

⁵ Consistent with the Indian Lands Open Dump Cleanup Act of 1994, EPA works cooperatively with the IHS to develop the inventory and evaluate open dumps. 25 U.S.C. §3904. The inventory is maintained in the IHS web Sanitation Tracking & Reporting System (w/STARS) database. The w/STARS database is used to track sanitation facilities projects on tribal lands. See Section 4.1.1 for a discussion of the EPA efforts to continuously improve the integrity of the inventory.

developed an integrated waste management plan (IWMP), and many are still developing a comprehensive approach to organizing their waste collection and management programs. The broad scope of the work that remains to be completed is an indication that the development and implementation of an agency-wide plan is necessary. *The Environmental Protection Agency-Wide Plan to Provide Solid Waste Management Capacity Assistance to Tribes* (the Plan) addresses EPA's programs, projects, and specific activities relating to tribal waste management operations.

In addition to the EPA authorities, which are discussed later in the Plan, there are other federal agencies with roles in assisting tribes develop solid waste management capacity. The Indian Health Service (IHS) provides health services to members of federally recognized tribes and its goal is to raise their health status to the highest possible level. IHS has statutory responsibility to identify, assess and provide financial and technical assistance to tribes related to open dumps. In 1994, Congress passed the [Indian Lands Open Dump Cleanup Act of 1994 \(The Act\)](#).⁶ The Act states its purpose as follows:

- Identify the location of open dumps on Indian lands and Alaska Native lands;
- Assess the relative health and environmental hazards posed by such dumps; and
- Provide financial and technical assistance to Indian tribal governments and Alaska Native entities, either directly or by contract, to close such dumps in compliance with applicable Federal standards and regulations, or standards promulgated by an Indian tribal government or Alaska Native entity, if such standards are more stringent than the Federal standards.

The Bureau of Indian Affairs (BIA) provides services directly or through contracts, grants, or compacts to 566 federally-recognized tribes with a service population of about 1.9 million American Indian and Alaska Natives. While the role of BIA has changed significantly in the last three decades in response to a greater emphasis on Indian self-governance and self-determination, tribes still look to BIA for a broad spectrum of services.

In addition, Department of Defense (DoD), Housing and Urban Development (HUD), and the Department of Agriculture Rural Development (USDA-RD) all have authorities and programs that address solid waste management on tribal lands.

The activities of these other federal agencies are not covered by the Plan. The Plan is intended to document EPA's efforts to be collaborative and strategic within the Agency in how we use our resources and authorities to build tribal waste management capacity.

1.2 Purpose

The purpose of the Plan is to establish an Agency-wide approach to implement effective tribal solid waste management capacity assistance that is within the scope of the EPA's authority and responsibility. The Plan generally focuses on internal EPA program management issues and describes the roles, responsibilities and coordination efforts of the EPA program offices and regions that provide tribal solid waste management assistance. The Plan also discusses performance measures and internal controls to ensure that there is effective waste management capacity assistance.

⁶ The Indian Lands Open Dump Cleanup Act of 1994 is available at:
http://www.gsa.gov/graphics/pbs/INDIAN_LANDS_OPEN_DUMP_CLEANUP_ACT_OF_1994.pdf

1.3 Current Tribal Waste Program Priorities and Associated Activities

As noted above, the issues facing tribal waste management programs are diverse. Proper waste management remains a challenge for many tribes for a number of reasons, including limited resources, geographic location, and environmental factors. The EPA provides support to tribes to develop and implement solid and hazardous waste management programs, both financially and through technical assistance. While the EPA devotes headquarters and regional staff to focus on RCRA tribal solid waste activities, financial assistance to tribes to deal with waste-related issues has been severely reduced. To maximize the effective use of staff and financial resources, it is critical that the EPA prioritize its resources on the waste-related activities that lead to the most significant environmental benefits.

The EPA's main tribal solid waste priority, intended to address the most pressing waste-related environmental issues on tribal lands, is the promotion of sustainable tribal waste management programs through the development and implementation of IWMPs.⁷

The EPA intends to focus staff time and direct its tribal solid waste financial assistance towards this priority. The EPA previously articulated the importance of developing a strategy for handling waste through activities that are highlighted in key documents such as the OSWER Tribal Strategy and the *[Guidance on the Award and Management of General Assistance Agreements for Tribes and Intertribal Consortia](#)*, May 15, 2013 (GAP Guidance).⁸ These activities include promoting the development of IWMPs. An IWMP outlines a tribe's overall long-term approach for managing waste and serves as a roadmap for developing an effective waste management program. IWMPs also provide tribes with a way to identify waste management funding needs, investigate potential funding sources, and allocate resources accordingly. IWMPs can assist tribes in addressing existing open dumps and prevent new open dumps. GAP funding should first be used to establish tribal waste management program capacities like the ones described in Appendix I, Section E.3 of the GAP Guidance; tribes may then transition to program implementation. Appendix I, Section E.4 of the GAP Guidance specifically describes the program implementation activities eligible for GAP funding in the following categories: (a) program administration; (b) compliance and enforcement; (c) solid waste management, resource recovery, and resource conservation support; and (d) cleanup and closure. The complete description of solid and hazardous waste program capacity development and implementation actions which can be funded under GAP are available in the [GAP Guidance, Appendix I, Section E](#).

The EPA is focusing on a variety of activities intended to promote sustainable tribal waste management programs through the development and implementation of IWMPs. These activities are covered in more detail in subsequent sections of the Plan:

⁷ The OSWER Tribal Strategy, the annual National Program Managers' Guidance (NPM) and the EPA Strategic Plan will be modified to reflect this refinement of the original two tribal solid waste programmatic priorities (development of integrated waste management plans and supporting closing, cleaning up, or upgrading open dumps on tribal lands). Specifically, EPA intends that the upcoming FY 2014-2018 Strategic Plan will no longer contain the open dump performance measure as described in Section 3.2. Similarly, this measure will not be addressed in NPM Guidances after the FY 2014 version. The OSWER Tribal Strategy can be found at: <http://www.epa.gov/oswer/tribal/strategy.htm>. The FY 2014 OSWER NPM Guidance can be found at: <http://www2.epa.gov/planandbudget/fy-2014-npm-guidances>. The FY 2011 – 2015 EPA Strategic Plan can be found at: <http://www.epa.gov/planandbudget/strategicplan.html>.

⁸ Currently, GAP is the primary source of EPA financial assistance for tribal solid waste capacity building and implementation activities. The GAP Program Guidance is found at: <http://www.epa.gov/indian/GAP-guidance-final.pdf>.

- Providing support to tribes' waste management activities by funding the development and implementation of IWMPs. This funding would occur primarily through GAP;
- Providing training, outreach (e.g., webinars, website), and technical assistance to support tribes in the development and implementation of IWMPs;
- Coordinating a national peer matching program that connects participating tribes with successful IWMPs with tribes that need assistance; and
- Coordinating internal EPA activities to ensure a strategic focus on the promotion of sustainable tribal waste management programs through IWMPs.

1.4 Response to EPA Office of Inspector General Evaluation Report

The Plan implements the recommendations made by the March 21, 2011, U.S. EPA, Office of Inspector General (OIG) Evaluation Report [*EPA Needs an Agency-Wide Plan to Provide Tribal Solid Waste Management Capacity Assistance*](#).⁹ This OIG Report and recommendations generally focused on internal EPA program management issues.

The OIG Report recommendations are:

1. Develop and implement an Agency-Wide Plan for providing effective tribal solid waste management capacity assistance that is within the scope of EPA's authority and responsibility.
2. Require that the Agency-specific plan include:
 - a. Descriptions of the roles and responsibilities for the EPA program offices and EPA regions conducting solid waste management capacity assistance activities in Indian country.¹⁰
 - b. Identification of the Agency resources required for providing solid waste management assistance activities.
 - c. Performance measures, including both output and outcome measures, to track whether EPA assistance is consistent and effective in developing solid waste management capacity and reducing risks from open dumps in Indian country.
 - d. Internal controls¹¹ to ensure consistent data collection and consistent provision of waste management capacity assistance to tribal clients nationwide.

⁹ The OIG Evaluation Report is available at: <http://www.epa.gov/oig/reports/2011/20110321-11-P-0171.pdf>

¹⁰ Indian country is defined at 18 U.S.C. § 1151 to mean: "(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same."

¹¹ Internal controls comprise the plans, methods, and procedures that are used to meet missions, goals, and objectives and, in doing so, support performance-based management. See "Standards for Internal Control in the Federal Government," Government Accountability Office, November 1999, <http://www.gao.gov/special.pubs/ai00021p.pdf>.

- e. A process to ensure coordination between EPA program offices and regions.
- f. A timeline specifying when the activities and outcomes outlined in the plan are expected to be accomplished.

EPA agrees with the OIG's recommendations and believes that the implementation of the Plan will enhance EPA's ability to implement effective solid waste management capacity assistance to tribes. The Plan is a dynamic document that is subject to further refinement as priorities and resources change.

2.0 Program Coordination to Support Tribal Waste Management

2.1 EPA Roles and Responsibilities

Several EPA offices provide assistance to tribes under the Agency's mission to protect human health and the environment, as tribes administer their own environmental programs. These offices support the EPA's tribal waste management (TWM) program priority to promote sustainable tribal waste management programs through the development and implementation of IWMPs. [Appendix 1: EPA's Roles and Responsibilities](#) provide additional details on the offices described below.

The following is a brief description of the roles and responsibilities of the EPA offices that provide waste management capacity assistance to tribes.

The Office of Solid Waste and Emergency Response (OSWER)

The main role of OSWER, through its six program offices (Office of Superfund Remediation and Technology Innovation; Office of Resource Conservation and Recovery; Federal Facilities Restoration & Reuse Office; Office of Emergency Management; Office of Brownfields & Land Revitalization; and Office of Underground Storage Tanks), is to:

- Provide national policy, guidance and direction on the safe management of wastes;
- Prevent and respond to chemical and oil spills, accidents, and emergencies;
- Enhance homeland security; and
- Administer the Brownfields program which supports state and local governments, communities and other stakeholders in redeveloping and reusing potentially contaminated sites.

OSWER has a tribal coordinator, who works with the six program offices within OSWER, to ensure that consistent policies and tribal interests are included in policy-making decisions and activities. The OSWER tribal coordinator meets with the six program offices, and provides leadership and direction for the overall OSWER tribal program. Note that within OSWER, only the Office of Resource Conservation and Recovery and the Office of Brownfields and Land Revitalization have programs relevant to the Plan.

Office of Resource Conservation and Recovery (ORCR)

The Office of Resource Conservation and Recovery (ORCR), located within OSWER, administers the EPA's waste management programs under the authority of RCRA. RCRA promotes energy and resource conservation through recycling, recovery, reduction, clean up, and elimination of waste. ORCR provides national program direction and partners with the regions and other federal agencies to assist tribes with the management of their waste by providing technical assistance and grant funding. Technical assistance includes developing informational and educational materials and supporting training programs. ORCR also provides national policy direction for the EPA's tribal waste management programs. These activities directly support ORCR's program priority of promoting sustainable tribal waste management programs through the development and implementation of IWMPs.

Office of Brownfields and Land Revitalization (OBLR) Tribal Program

The Office of Brownfields and Land Revitalization (OBLR) provides funding and technical assistance for the cleanup, redevelopment and revitalization of Brownfields under the Small Business Liability Relief and Brownfields Revitalization Act (Brownfields Law). A Brownfield site is a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, and/or contaminant. The Brownfields Law authorizes grant funding and technical assistance for assessment and cleanup of Brownfields and for the establishment and enhancement of state and tribal response programs. State and Tribal Response Program funding (Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 128(a)) can be used to create new or to enhance existing environmental response programs. Tribes can use this funding for a variety of activities, including the development of certain aspects of a tribe's integrated waste management program, integrated waste management plan, solid waste ordinances, and the inclusion of active and closed open dumps into a contaminated site inventory. Activities must, however, be a shared objective of the tribal grantee and the EPA under the cooperative agreement and support the development of a response program that meets the four elements laid out in CERCLA 128(a)(2).

Office of International and Tribal Affairs (OITA) - American Indian Environmental Office (AIEO) and Regional Tribal Assistance Programs

AIEO is the lead office for coordinating the EPA's overall tribal program and works to ensure program consistency with the EPA Indian Policy, the Consultation Policy, and the Administrator's tribal initiatives. AIEO is also the National Program Manager for the Indian Environmental General Assistance Program (GAP).

GAP was created by Congress to provide technical and financial assistance to build tribal capacity in order to develop and administer environmental programs and to address environmental issues on Indian lands. GAP was designed to be multi-media in scope, allowing tribes to develop capacities across the various federal environmental statutes and focus their efforts where the environmental need is greatest. It also supports waste management program implementation activities.

AIEO's responsibilities with respect to managing the GAP program include: establishing national GAP policy and guidelines, including those applicable to tribal solid waste activities; and coordinating GAP budget development and management among the administrative, program, and regional offices. AIEO

serves as the decision official for allocation of national GAP funds, disbursement of GAP funds to the regions, and serves as the decision official for specific grantee requests as enumerated in the GAP Guidance (e.g., for construction activities; government services; and cleanup and closure activities). Regional tribal programs determine the specific GAP grant allocations to eligible applicants and oversee the individual grants.

Office of Enforcement and Compliance Assurance (OECA)

OECA is the National Program Manager for the Agency's enforcement and compliance assurance program. In this capacity, OECA provides national policy, guidance and direction on compliance assistance, compliance monitoring and enforcement activities, including when such activities are undertaken in Indian country. OECA targets the most serious water, air, waste, and chemical hazards and works to advance environmental justice by protecting overburdened communities, including those in Indian country.

OECA provides direction and support to the EPA regional offices to use enforcement actions, if appropriate, to address environmental problems arising from the mismanagement of hazardous or solid waste in Indian country. Direction is provided through Indian country specific guidance, media specific guidance, and the National Program Management Guidance. OECA has specific guidance designed to ensure that tribal leaders are made aware of noncompliance and that the EPA engages in appropriate consultation, coordination, and cooperation to address and resolve violations in a timely manner.¹² Support is provided when enforcement in Indian country is undertaken through among other things, coordination, as necessary, with American Indian Environmental Office (AIEO) and Office of General Counsel (OGC). Where enforcement is undertaken, the goal is not only to clean up the existing open dump, but to prevent and deter the creation of future open dumps.

OECA encompasses eight offices, including two that specifically monitor RCRA issues in Indian country: (1) the Office of Compliance; and (2) the Office of Civil Enforcement. These offices, along with OECA's Indian program manager, work to ensure that issues are identified and addressed in a coordinated manner within OECA, and with OSWER, AIEO, and the EPA regions.

Office of Chemical Safety and Pollution Prevention (OCSP)

The Pollution Prevention Program (P2), located within the Office of Pollution Prevention and Toxics (OPPT), is one of EPA's primary tools for encouraging environmental stewardship by federal, tribal, and state governments, industry, communities, and individuals. The P2 program is designed to eliminate or reduce waste at the point of generation by encouraging cleaner production processes and technologies; promoting the development and use of safer, "greener" materials and products; and supporting the implementation of improved practices, such as the use of conservation techniques, and the reuse of materials in lieu of their placement into the waste stream. As a result of the P2 program, the EPA and its partners have achieved significant reductions in the use of hazardous materials, energy, water and savings in production, operation and waste management costs. Thus, the P2 program assists tribes with building their program capacity in these areas.

¹² See, "Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy and Questions" (<http://www.epa.gov/compliance/resources/policies/state/84indianpolicy.pdf>) and "Answers on the Tribal Enforcement Policy" (<http://www.epa.gov/compliance/resources/policies/civil/rcra/qa-tribalenfprocess-041707.pdf>).

Regional Offices

The regions are responsible for implementing the RCRA tribal program and the regional components that support each of the above four HQ program offices. Currently, federally-recognized tribes are located in nine out of the ten EPA regions. These nine regions have tribal assistance programs and media-specific programs to ensure that the Agency carries out its work with federally-recognized tribes in their respective regions. Each regional tribal waste management program assists tribes in building waste management capacity. EPA Regions also ensure appropriate direct implementation of RCRA Subtitle C. EPA regional tribal waste management programs provide direct support to the tribes within their respective region and directly implement the Agency's authorities and national policies and priorities. Regional tribal assistance programs are responsible for administering GAP assistance agreements with tribes and intertribal consortia and coordinating with regional tribal waste management programs. This includes providing direct support to the tribes, within their respective region, in implementing the Agency's authorities and national policies and priorities. For tribal solid waste, these programs will focus on promoting sustainable tribal waste management programs through the development and implementation of IWMPs (note, implementation of IWMPs includes addressing open dumps – whether it be assessing their threat, developing plans for cleanup and closure or other appropriate activities). Finally, the regions maintain primary responsibility for identifying and addressing violations of RCRA and other federal environmental laws on tribal lands. Regional inspections and enforcement activity are undertaken consistent with national and region-specific policies and guidance, including engaging in appropriate consultation, coordination, and cooperation to address and resolve violations in a timely manner.

2.2 Internal EPA Communication and Coordination

As noted in the previous section, several offices within the EPA have a role in addressing tribal solid waste management activities. The EPA believes that program coordination between headquarters (HQ) and regional offices is critical to ensure that the Agency's efforts to provide tribal waste management capacity assistance are as efficient as possible and are focused on the program's priority.¹³ ORCR is the lead EPA office responsible for ensuring that appropriate coordination among the offices and regions occurs on tribal waste management issues, and those issues of national significance are elevated in a timely manner to the appropriate senior management team for resolution. The EPA's goal is to eliminate duplication among offices, while looking for synergies where different organizations can either fill in programmatic gaps or reach additional communities or audiences. The EPA will also strive for consistency between offices and regions, while recognizing that situations will vary among tribes depending on their location, environment, and culture.

The EPA currently uses several mechanisms to coordinate and maintain consistency at both the staff and management levels. These mechanisms are described below and will also be used to communicate the priorities described in the Plan. The EPA will continue to use the communication mechanisms and will make adjustments in the future, as needed. [Appendix 1: EPA's Roles and Responsibilities](#) provide additional details on the various communication mechanisms within HQ and the regions.

- *ORCR Regional Liaisons* - ORCR assigned a staff liaison (and alternate) for each region to keep informed of regional issues, including those regarding specific tribes. The liaison keeps regional

¹³ List of the EPA regional and headquarter tribal waste management staff contacts can be found at: <http://www.epa.gov/epawaste/wyl/tribal/about.htm>. The list of OSWER, OECA, AIEO, OCSPP and other regional and national tribal staff contacts can be found at: <http://www.epa.gov/tribalportal/contactinfo/index.htm>.

staff informed of any issues, policies or guidance that may impact the region through monthly calls. The liaison informs other ORCR staff of specific regional issues of interest and raise issues to management, as necessary, for resolution. In addition, ORCR and the Sub-Lead Region¹⁴ for tribal waste issues will collaborate on RCRA program issues on tribal lands.

- *Monthly Tribal Solid Waste Coordinators' Conference Call* – The monthly conference call is the primary forum to discuss national issues pertaining to tribal waste management programs. These calls provide an opportunity for increased communication between HQ and regional offices. OBLR, OCSPP, OECA, and AIEO are invited to attend the call, and are encouraged to address topics of mutual interest. To maximize efficiency, ORCR uses this call to facilitate communication with the Sub-Lead Region. The Sub-Lead Region coordinator will give a brief update on the status of each focus area during the monthly call. The OSWER tribal coordinator will also provide updates on the call. ORCR will have a standing agenda item for the Sub-Lead Region and the OSWER tribal coordinator for updates. ORCR will solicit regional volunteers every month to give a presentation on the work being done in the region, for future conference calls.
- *Quarterly Sub-Lead Region Focus Area Conference Call/Updates* - The RCRA Sub-Lead Region holds conference calls to keep regional staff informed about the Sub-Lead Region work. The updates provide information about the Sub-Lead Region priority areas, as well as other current projects. The Sub-Lead Region also gives an update every month on the Monthly Tribal Solid Waste Coordinators' Conference Call and disseminates information to EPA tribal waste management staff, quarterly through email(s).
- *Monthly OSWER Tribal Program Coordinators' Conference Call* - The monthly conference call provides a forum to discuss individual HQ program office efforts, as well as for coordinating activities within OSWER and other EPA program offices. This call also allows the OSWER tribal coordinator to highlight important efforts of other EPA offices that may affect the OSWER program offices.
- *Monthly RCRA Permit and Base Program Managers Conference Call*- The monthly conference call provides first line managers within ORCR and the regional offices a forum to discuss significant issues within the RCRA program. ORCR and regional management expect to continue to communicate pressing tribal waste management issues on these conference calls. ORCR expects to disseminate information to EPA tribal waste management and staff, quarterly through email(s).
- *Semi-annual National RCRA Division Directors Meetings and Monthly Conference Calls* - The semi-annual meetings and monthly conference calls provide ORCR, OECA, and regional management a forum to discuss and address tribal waste management issues, as needed.

¹⁴ The sub-lead region structure ensures that all Regions participate directly with EPA Headquarters on significant Agency policy decisions. The sub-lead region for tribal solid waste issues will initiate communication with the regional tribal solid waste coordinators on developing national consensus regarding programmatic objectives, performance measures, and funding and resource decisions. The sub-lead region will facilitate communication among staff & managers in regional offices, with HQ regarding significant decisions, identify and elevate programmatic and administrative concerns of the regions, and propose effective implementation strategies for national tribal solid waste program policies.

- *OBLR State and Tribal Conference Calls* - OBLR chairs this conference call and HQ staff and regional program office staff who administer the Brownfields Section 128(a) state and tribal grants participate.

During these conference calls and meetings, both national and regional issues are addressed.

Specifically:

National Issues

- HQ and the regions raise, communicate and coordinate on tribal waste issues that are national in scope, such as guidance documents, rulemakings, policies, and initiatives via email(s) and/or discussions on the Monthly Tribal Solid Waste Coordinators' Conference Call, depending on when the issue needs to be addressed.
- National tribal waste issues that require management attention are addressed on the relevant monthly conference call (i.e., Monthly RCRA Permit and Base Program Managers Conference Calls or RCRA Division Directors Monthly Conference Calls), through email(s) from the appropriate level of management, or through direct communication.
- Tribal waste issues of national significance impacting multiple offices are expected to be addressed by the EPA Executive Management Council's Indian Program Policy Council (IPPC) – the EPA senior leadership team charged with addressing the EPA's major policy and program implementation issues related to tribes and addressing Indian policy issues of national significance.
- AIEO will ensure national consistency in how GAP funds are managed to support tribal solid waste management capacity by documenting tribal solid waste program development goals in EPA-Tribal Environmental Plans and directing GAP funding to establish tribal capacity consistent with those goals. AIEO will coordinate internal communications with regional tribal assistance program managers, GAP assistance agreement Project Officers, ORCR management, and OECA management through emails, the relevant monthly conference call, or through direct communication.

Regional Issues

- Regions raise any region-specific issues for discussion and resolution to their ORCR liaison. The ORCR staff elevates issues to ORCR management, as necessary. Regions discuss issues of interest to the other regions on the Monthly Tribal Solid Waste Coordinators' Conference Call. If necessary, regional staff raises issues requiring management attention to their management, and on the appropriate management conference call (i.e., Monthly RCRA Permit and Base Program Managers Conference Calls or RCRA Division Directors Monthly Conference Calls).

2.3 Coordination with other Federal Agencies

Tribes often work simultaneously with the EPA and other federal agencies, leveraging expertise and resources to address solid waste management issues. The EPA believes that partnering and improving coordination between federal agencies improves the overall effectiveness of the federal government's tribal waste management capacity building efforts. The EPA is committed to improving its coordination with other federal agencies, and in particular the Indian Health Service, as we implement the Plan.

EPA is an active member of the Infrastructure Task Force (ITF).¹⁵ The ITF was established by a Memorandum of Understanding (MOU) in 2006 and a 2013 update added tribal solid waste management issues as an element which will be addressed by the ITF. The Department of Agriculture (USDA), Department of Health and Human Services (HHS), Department of Housing and Urban Development (HUD), Department of the Interior (DOI), and EPA are all signatories to the MOU. The goal of the ITF is to promote better coordination and communication within the federal government's efforts to deliver infrastructure services and financial assistance on tribal lands. EPA has initiated conversations with our federal partners to better address tribal solid waste issues collectively.

2.4 EPA Resources

2.4.1 EPA Staff and Technical Assistance

The EPA provides support to tribes to develop and implement solid and hazardous waste management programs, both financially and through the provision of technical assistance. The EPA's staff resources dedicated to tribal solid waste issues are limited and have decreased over time. As such, this information is not easily tracked given that many employees may spend a small fraction of their time on tribal solid waste activities. Currently, the EPA estimates that in total, as of June 2013, the equivalent of less than 12 full time RCRA EPA employees (full-time equivalent (FTE)) work on tribal solid waste activities. This is an increase, however, over the 7.5 FTE that was estimated in fiscal year (FY) 2000. This increase in FTE is a reflection of the importance the Agency places on continuing to support tribes in addressing tribal waste management issues, particularly considering this occurred over a period of overall reductions to the RCRA program. [Section 4.0 EPA Capacity Building to Support Main Program Priority](#) and [Appendix 1: EPA's Roles and Responsibilities](#) describe the work EPA's tribal staff is engaging in to promote and enhance the EPA's tribal waste management program and priorities through technical assistance.

2.4.2 Financial Assistance

This section describes the current sources of EPA funding available to support tribal solid waste management activities. Resources directed toward solid waste capacity building have decreased over the past ten years; the historical funding source that currently has no resources associated with it is listed in [Appendix 1: EPA's Roles and Responsibilities](#), in the ORCR Funding Section. Most tribal waste management capacity building is now funded under GAP, which supports capacity building for all of EPA's environmental programs; this resource is discussed in more detail below.

Office of International and Tribal Affairs (OITA) - American Indian Environmental Office

- **The Indian Environmental General Assistance Program** [[CFDA¹⁶ No. 66.926](#)] provides financial assistance to build tribal capacity to administer environmental protection programs that are consistent with the federal laws the EPA is charged with implementing and technical assistance in the development of multimedia programs to address environmental issues, as well as supports planning, developing, and establishing the capacity to implement environmental programs, including solid and hazardous waste implementation activities. While solid and hazardous waste program

¹⁵ More detailed information related to the Infrastructure Task Force is available at: <http://www.epa.gov/tp/trprograms/infra-water.htm>

¹⁶ CFDA stands for the [catalog of federal domestic assistance](#).

implementation includes solid waste cleanup activities, the focus for GAP funding in the area of solid waste management, is to support tribal government efforts to develop and implement a sustainable program.

GAP funds may be used to support activities that are part of a sustainable waste management program designed to increase waste source reduction and that encourages recycling, composting, and sustainable materials management. All of these activities directly support the EPA’s TWM program priority, when they are an integral part of a tribe’s IWMP. Information about the use of GAP funding for tribal solid and hazardous waste program development and implementation is contained in the GAP Guidance.

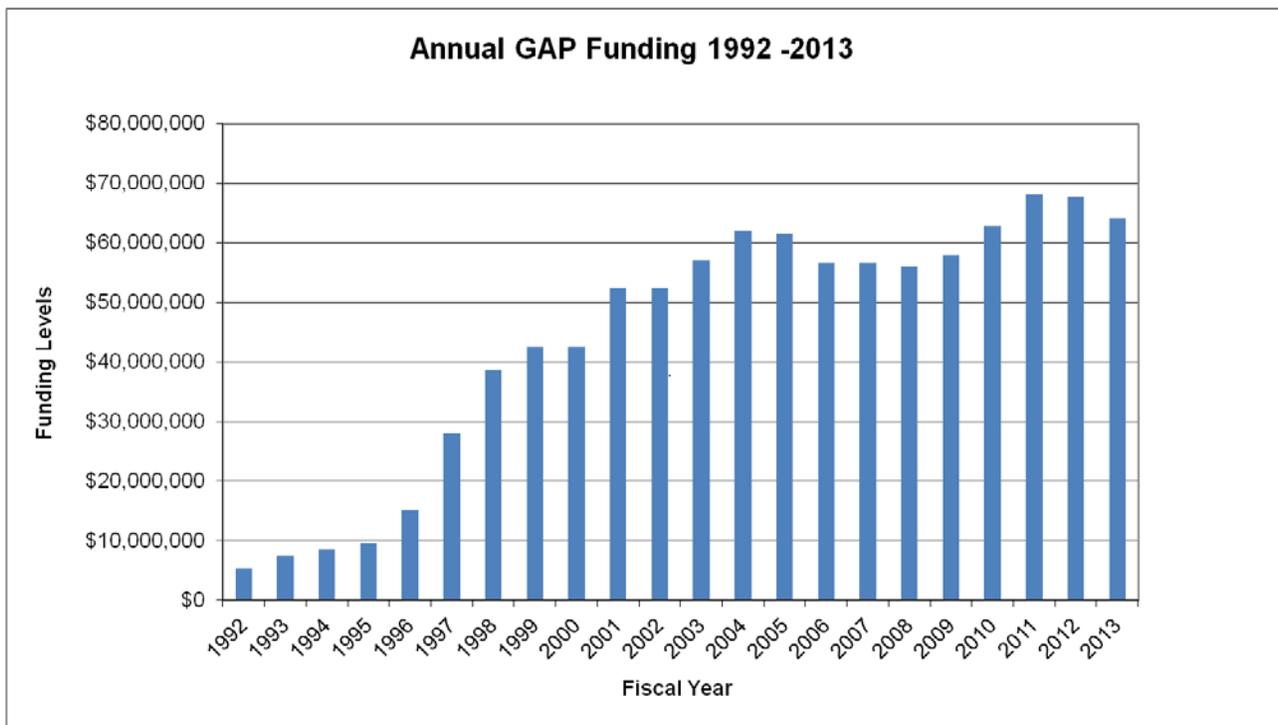


Figure 1. GAP program funding from 1992-2013. (Note: Approximately 15% of GAP funds each year are awarded to support solid and hazardous waste activities.)

The Office of Solid Waste and Emergency Response (OSWER)

- **The Hazardous Waste Management Grant Program for Tribes [CFDA No. 66.812]¹⁷** provides assistance for the development and implementation of hazardous waste management programs; for building capacity to improve and maintain regulatory compliance; and for developing solutions to address hazardous waste management issues on tribal lands. The following list of activities are suggestive and do not limit the range of activities that are considered eligible for funding: develop and implement codes, regulations, ordinances, policies, and/or guidance to regulate hazardous waste management; identify and assess hazardous waste generation; develop and implement tribal integrated hazardous waste management plans (including source reduction/recycling); develop and

¹⁷ The Hazardous Waste Management Grant Program for Tribes is funded through the State and Tribal Assistance Grants which is a Congressional Appropriation.

implement used oil collection events and/or programs; develop and implement household hazardous waste collection events and/or programs; and develop and implement universal waste collection events and/or programs. Some of the activities described above prevent hazardous materials from entering the waste stream.

The following entities are eligible to receive financial assistance: (a) an Indian tribal government; and (b) an intertribal consortium or consortia. An Indian tribal government is any tribe, band, nation, or other organized group or community, including any Alaska Native village 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 to Indians because of their status as Indians. A consortium is 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. For certain competitive funding opportunities under this CFDA description, the Agency may limit eligibility to compete to a number or subset of eligible applicants consistent with the Agency's Assistance Agreement Competition Policy.

- Funding Allocation to Regions¹⁸**: ORCR allocates funds to the nine EPA regions with federally-recognized tribes. The funds help the TWM program in each region fund various projects, including providing [Senior Environmental Employees](#) (SEEs) as circuit Riders.¹⁹ This funding also aids the national TWM program in achieving its [Government Performance and Results Act](#) (GPRA) measures.²⁰ The funding is distributed based on a formula which considers the tribal land base, number of tribes, and the tribal population in each region. In addition, OECA allocated approximately \$714,000 between FY 2008 and FY 2011 to the nine EPA regions with tribes to support solid waste compliance assurance activities.

Below is the total amount of funds EPA distributed to the regions from FY 2008-FY 2013.

Funds Distributed to Regions for the Tribal Waste Management Program:

Fiscal Year	Funds Allocated
2008	\$642,513
2009	\$378,200
2010	\$401,396
2011	\$157,000
2012	\$249,000
2013	\$405,500
Total Allocation	\$2,233,609

¹⁸ Funds distributed by OECA to the nine EPA Regions with tribes between FY 2008- FY 2011 are also included.

¹⁹ Circuit Rider - Involves designating one or more people to provide technical assistance directly to tribal governments in EPA regions. The circuit rider is responsible for assisting tribal communities with a range of planning functions, such as developing IWMPs, revising codes, developing regulations, analyzing policies, and reviewing project proposals. In many regions, circuit riders are the primary source of technical assistance to tribes. This assistance may include work which supports the ORCR Tribal Program GPRA goals, supplement EPA training efforts and conduct outreach and education.

²⁰ Government Performance and Results Act (GPRA) - The 1993 Government Performance and Results Act holds federal agencies accountable for using resources wisely and achieving program results. GPRA requires agencies to develop plans for what they intend to accomplish, measure how well they are doing, make appropriate decisions based on the information they have gathered, and communicate information about their performance to Congress and to the public. For additional information pertaining to GPRA, visit the following website: <http://www.whitehouse.gov/omb/mgmt-gpra/index-gpra>.

- **The Brownfields Assessment and Cleanup Cooperative Agreements** [[CFDA No. 66.818](#)] provides funding for the assessment or cleanup of Brownfields sites through Assessment, Revolving Loan Fund, and Cleanup Grants (ARC Grants) to: (1) inventory, characterize, assess, and conduct planning and community involvement related to Brownfields sites; (2) capitalize a revolving loan fund and provide loans and sub-grants to carry out cleanup activities at Brownfields sites; and (3) carry out cleanup activities at Brownfields sites that are owned by the grant recipient.

Eligible entities for the ARC Grants include:

- Non profits (only cleanup grants);
- Local governments;
- Redevelopment agency;
- Regional council;
- State;
- Federally recognized tribes - not including those in Alaska; and
- Alaskan Native Regional Corporation, Alaska Native Village Corporation and the Metlakatla Indian Community. (Alaskan Native Regional Corporation and Alaska Native Village Corporation as those terms are defined in the Alaska Native Claims Settlement Act.

- **The Environmental Workforce Development and Job Training Grant (EWDJT)** [[CFDA No. 66.815](#)] provides funding to recruit, train, and place, unemployed and under-employed, predominantly low-income and minority, residents historically affected by hazardous and solid waste sites and facilities with the skills needed to secure full-time, sustainable employment in the environmental field and in the assessment and cleanup taking place in their communities through Environmental Workforce Development and Job Training Grants (EWDJT). Federally-recognized tribes are eligible to apply for these competitive grants. Tribes may use ARC Grants to address sites contaminated by petroleum, hazardous substances, pollutants and/or contaminants. Solid waste sites, such as open dumps, may be eligible for Brownfields funding if the site meets the definition of a Brownfields property. The EWDJT Grants provide training for affected residents of Brownfields communities to take advantage of jobs created by the assessment and cleanup of Brownfields properties in their community.

Eligible entities for the EWDJT include:

- Non profits;
- Local governments;
- Redevelopment agency;
- Regional council;
- State;
- Federally recognized tribes - not including those in Alaska; and
- Alaskan Native Regional Corporation, Alaska Native Village Corporation and the Metlakatla Indian Community. (Alaskan Native Regional Corporation and Alaska Native Village Corporation as those terms are defined in the Alaska Native Claims Settlement Act.)

- **The State and Tribal Response Program Grant** [[CFDA No. 66.817](#)] provides funding to eligible entities (states, territories, federally recognized tribes, including those in Alaska) to establish and enhance state and tribal response programs. Generally, these response programs maintain an inventory of sites with actual or perceived contamination and address the assessment, cleanup, and

redevelopment of eligible Brownfields sites. Response programs also keep a public record of sites addressed and those planned to be addressed.

The Office of Chemical Safety and Pollution Prevention (OCSPP)

- **The Pollution Prevention (P2) Grant Program [CFDA 66.708]** supports P2 approaches and methodologies that focus on, for example: institutionalizing P2 as an environmental management prescription, helping businesses establish prevention goals, providing technical assistance or training to businesses, supporting outreach and research endeavors, and supporting data collection and analysis to curb environmental inefficiencies in tandem with increasing awareness of P2. Organizations²¹ receiving grant funds through the P2 grant program are required to match federal funds by at least 50 percent. However, if a tribe or intertribal consortium is selected for a P2 grant award and their workplan will be included in a performance partnership grant (PPG), then the required tribal match will be reduced to 5% as it applies to the total allowable P2 project cost. This reduction in match will be applied to the first two years of the PPG.
- **The Source Reduction Assistance (SRA) Grant Program [CFDA 66.717]** awards are issued annually by the regions. The purpose of issuing SRA awards is to support environmental projects that reduce or eliminate pollution at the source. EPA requires the applicant to provide a minimum 5% match, as part of the total allowable project cost, in order to receive an award.²²

Note that the funding for the EPA grant programs mentioned above can vary from year to year depending on a number of factors, including the total amount of funding available for each grant program, as well as tribal environmental priorities.

To address waste management issues on tribal lands EPA regions use and leverage resources from other HQ offices, as well as from other agencies and organizations. For example, the regions may facilitate the combining of funds from several sources to fully fund a specific tribal project or activity.

3.0 EPA Performance Measures

Currently, OSWER has two GPRA performance measures. These performance measures provide a focus for the Agency's activities to assist tribes in the development of waste management programs and foster tribal capacity for building sustainable waste management programs. The two measures, which are part of the FY 2011-2015 EPA Strategic Plan, are:

²¹ In accordance with the Pollution Prevention Act of 1990, eligible applicants for the P2 grant program includes the fifty states, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, and any territory or possession of the United States, any state agency or instrumentality of a state including state colleges and universities, federally-recognized tribes and intertribal consortia.

²² Assistance under this program is available to the fifty States, the District of Columbia, the United States Virgin Islands, the Commonwealth of Puerto Rico, any territory or possession of the United States, local governments, city or township governments, independent school district governments, state controlled institutions of higher education, federally-recognized tribal governments, non-profits other than institutions of higher education, private institutions of higher education, and community-based grassroots organizations.

- By 2015, increase by 78 the number of tribes covered by an integrated waste management plan compared to FY 2009.
- By 2015, close, clean up or upgrade 281 open dumps in Indian country and on other tribal lands compared to FY 2009.²³

The EPA initiated the two current tribal performance measures in FY 2007. Since their inception, the EPA has met or exceeded the annual targets for both measures. As of September 30, 2012, the EPA has recorded a total of 147 IWMPs and 721 open dumps closed, cleaned up or upgraded under these performance measures.

The EPA will propose to discontinue the close, clean or upgrade open dump measure in the FY 2014-2018 Strategic Plan to focus on the EPA's main tribal solid waste priority, which is the promotion of sustainable tribal waste management programs through the development and implementation of IWMPs. The EPA recognizes the important correlation between the development of IWMPs and proper waste disposal. The development and implementation of IWMPs provides the framework for a tribal solid waste management program to effectively identify and plan for addressing solid waste priorities (e.g., assessment, cleanup and closure of open dumps), and institutionalizes practices and policies designed to prevent open dumps in the future. By focusing on the development of IWMPs, the EPA is supporting the development of long-term, sustainable tribal solid waste management programs. While open dump closure, clean up, or upgrading work planned for FY 2014 is expected to occur, consistent with the current National Program Managers Guidance, the EPA plans to phase out the closure, cleanup, or upgrade measure by FY 2015.

3.1 Integrated Waste Management Plan (IWMP) Performance Measure

As noted earlier, IWMPs are important because they serve as a roadmap for developing an effective waste management program. The EPA provides guidance and has developed tools to help tribal governments develop and implement IWMPs. However, the Agency does not have the authority to approve tribal IWMPs. The responsibility for developing and implementing IWMPs lies with each tribe. Nevertheless, many tribes currently provide their IWMP to their regional office for review and the regions are encouraged to provide comments.

On July 30, 2007, the Office of Solid Waste (now ORCR), issued a Memorandum, *Five Elements of a Tribal Integrated Waste Management Plan*,²⁴ to all regional RCRA Directors. The memorandum provide EPA staff with direction on what elements should generally be included (unless information is provided that such element(s) are not appropriate or necessary) in an IWMP to be counted in the EPA's Annual Commitments System (ACS). The EPA uses the ACS to measure Agency performance under GPRA. Tribes may also find the factors discussed in the memorandum useful as they develop their IWMPs.

²³ As indicated in the EPA Strategic Plan, the universe and number of open dumps listed in the IHS database is dynamic because of the ongoing assessment of open dumps.

²⁴ The "Five Elements of a Tribal Integrated Waste Management Plan" is available at: [http://yosemite.epa.gov/osw/rcra.nsf/0c994248c239947e85256d090071175f/E7661F353791AD71852573780050876E/\\$file/14776.pdf](http://yosemite.epa.gov/osw/rcra.nsf/0c994248c239947e85256d090071175f/E7661F353791AD71852573780050876E/$file/14776.pdf)

Regions should maintain procedures for reviewing and evaluating IWMPs to determine their inclusion under the IWMP performance measure as described below. The following procedures are recommended when the regions review an IWMP:

- Regions should use the [*Five Elements of a Tribal Integrated Waste Management Plan*](#) memorandum to identify the relevant issues for the IWMP to address and as an evaluation tool when assessing whether an IWMP should be counted under EPA's performance measure. (Note: the EPA recognizes that the level of specificity in a tribe's IWMP will vary, depending on the tribe's needs; the EPA believes flexibility is appropriate in the development of an IWMP.) As stated in the memorandum, the five recommended elements are:
 1. Description of the community service area;
 2. Description of the tribe's solid waste program structure and administration;
 3. Description of the tribe's current and proposed waste management practices;
 4. Description of the funding, sustainability and the long-term goals of the tribe's solid waste management program; and
 5. Documentation of approval of the IWMP by appropriate tribal governing body.
- Every quarter, ORCR will request, from the regions, the name of any tribe with an approved IWMP which has been counted as an accomplishment under the GPRM measure for that fiscal year. ORCR will maintain the list of all tribes with an IWMP under the performance measure.

There are several other activities regarding tribal IWMPs that regions may conduct:

- Encourage tribes to consider attending a training session and use a planning template and/or other resources to make the IWMP development process easier. The EPA, IHS, and other organizations have provided training and technical assistance to tribes when developing an IWMP.
- Encourage tribes to use the draft *Sustainability Evaluation Tool*²⁵ to evaluate the sustainability of their existing program, and address the sustainability factors in their IWMP.
- Ensure that all the EPA regional program offices (the Brownfields Program, etc.) and tribes are aware of the *Five Elements of a Tribal Integrated Waste Management Plan* memorandum and the draft *Sustainability Evaluation Tool*, and encourage tribes to use these documents if a tribe is seeking funding through GAP, Brownfields or other EPA funding.

As of September 30, 2012, over 25 percent of the federally-recognized tribes (147/566) have completed an IWMP which has been counted as an accomplishment under the EPA's performance measure. See

²⁵ To learn more about the draft *Sustainability Evaluation Tool* please visit: <http://epa.gov/region5/waste/solidwaste/tribaldocs/sustainable-tribal-integrated-wmp-200810.pdf> and <http://epa.gov/region5/waste/solidwaste/tribaldocs/sustainable-tribal-integrated-wmp-200810-evaluation.pdf>.

Figure 2 below for a tabulation of the number of IWMPs counted in the EPA’s ACS for each of the last six fiscal years.

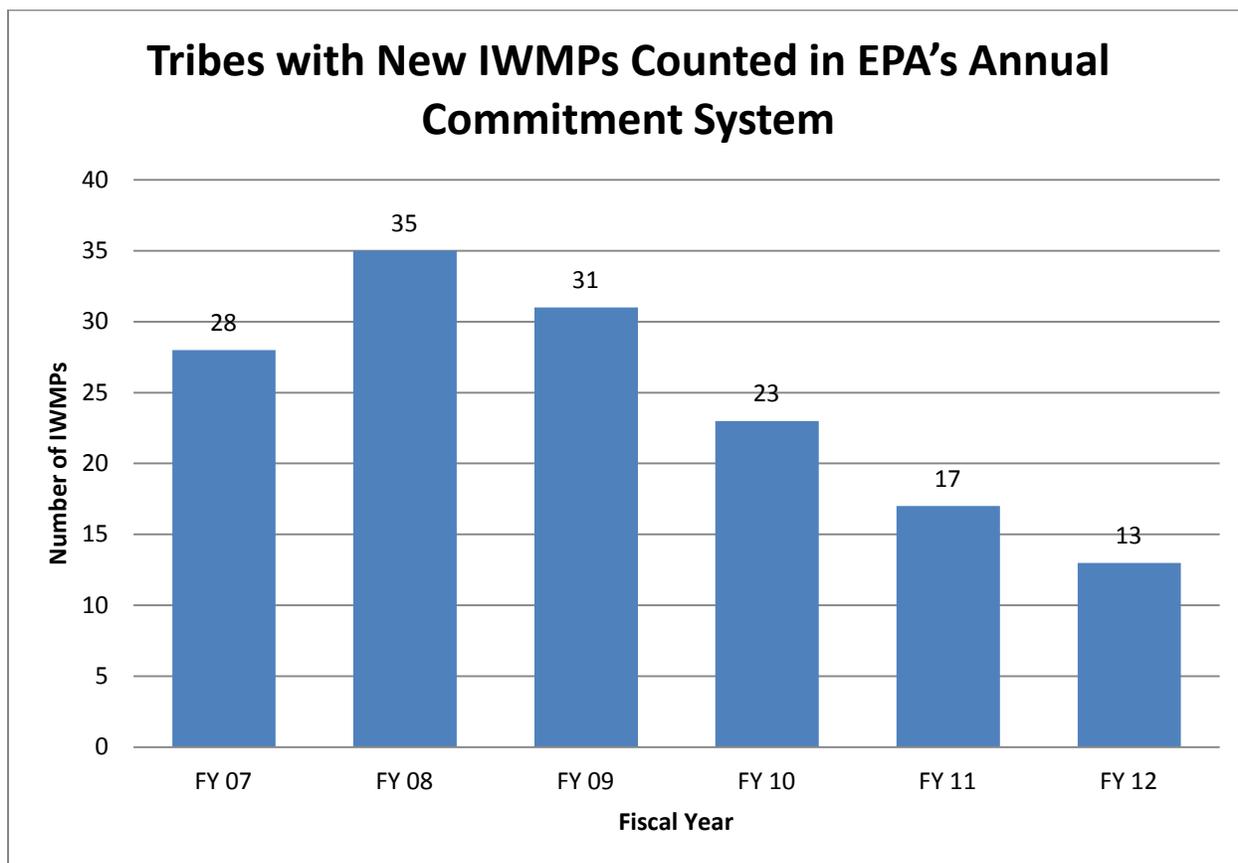


Figure 2. Number of tribal IWMPs, per fiscal year, counted in the ACS.

3.2 Open Dumps Performance Measure

The EPA’s second GPRA measure is, by 2015, close, clean up or upgrade 281 open dumps in Indian country and on other tribal lands compared to FY 2009. Between FY 2007 and FY 2012, the EPA closed, cleaned up or upgraded 721 open dumps. See Figure 3, below, which provides the number of open dumps closed, cleaned up or upgraded between FY 2007- FY 2012.

However, as stated previously, the EPA will propose to discontinue the close, clean up or upgrade open dump measure in the FY 2014-2018 Strategic Plan, to focus on EPA’s main tribal solid waste priority, which is the promotion of sustainable tribal waste management programs through the development and implementation of IWMPs. The EPA expects to phase out the open dump measure by FY 2015. In FY 2014, the EPA will complete planned work under this discontinued measure, consistent with the FY 2014 National Program Managers Guidance.

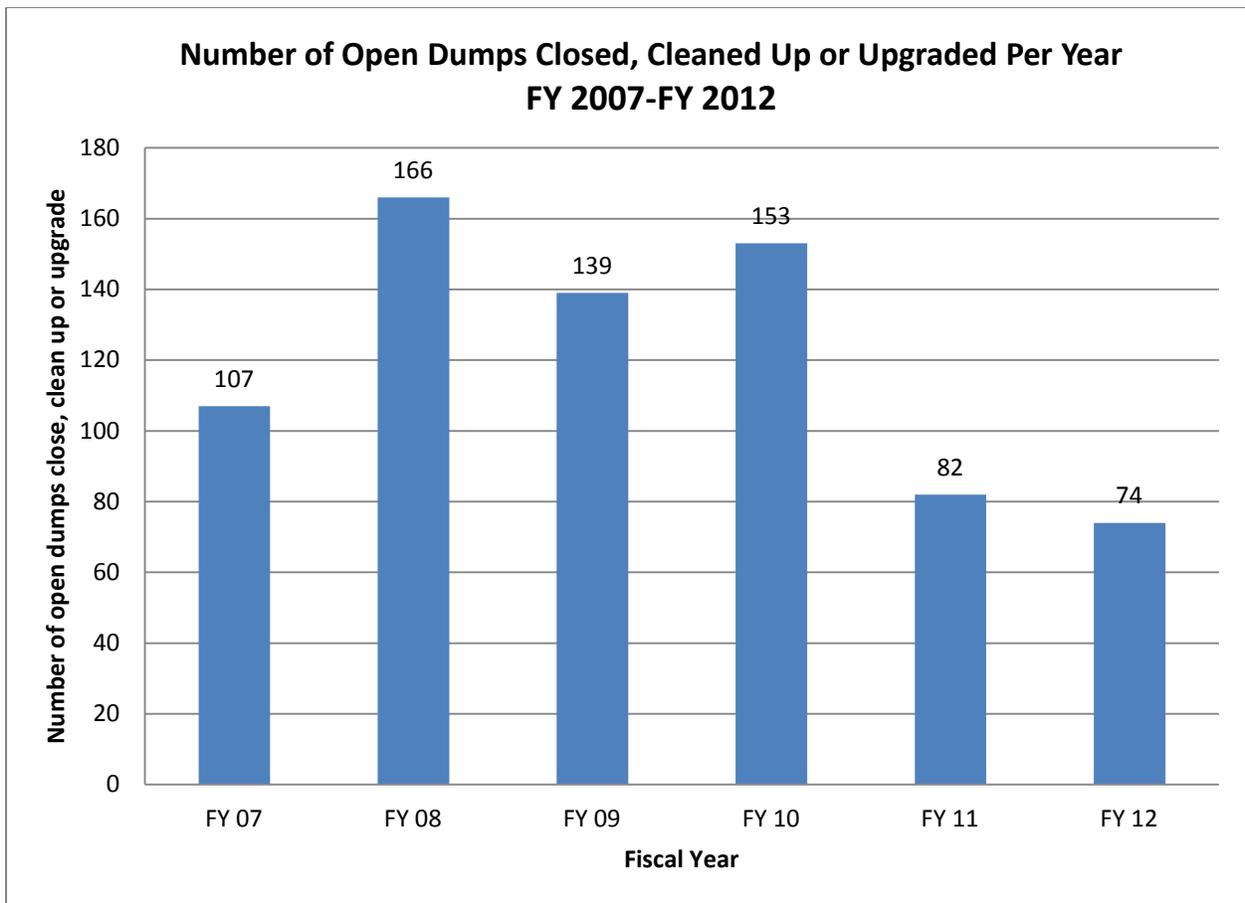


Figure 3. Number of open dumps closed, cleaned up or upgraded from FY 2007-FY 2012.

3.3 New Proposed Performance Measures

The EPA is committed to evaluating new performance measures as part of the response to the OIG’s Report. As part of this process, the EPA will consider several factors when assessing the feasibility of additional performance measures or replacing the existing performance measures with new performance measures, including:

- The availability and quality of performance measure data, and the feasibility of measuring results;
- Whether the measure supports the EPA’s TWM program priority;
- Whether the measure informs management of TWM program priority;
- Whether there is an action that can be noted as completed;
- Whether new measures require additional Agency resources, and whether these resources exist;
- Preference for outcome measures over output measures;

- Input collected from tribes regarding measures, especially when the EPA is not specifically funding the tribes to obtain and report; and
- The cost of obtaining data and conducting performance evaluations, for both tribes and the EPA.

The development and refinement of performance measures is an ongoing process that will extend beyond the issuance of the Plan and the EPA Strategic Plan. The EPA has created a workgroup consisting of both HQ and regional staff, convened workgroup meetings, and will obtain input from HQ and regional management, as well as tribes, on potential new performance measures. The EPA plans to develop a process for evaluating options for potential new performance measures through the national workgroup by December 2013. This process will include tribal consultation and coordination. The national workgroup intends to develop and implement new performance measure(s) by October 2014.

4.0 EPA Capacity Building to Support Main Program Priority

The EPA provides tools, technical assistance, training and outreach to tribes as they develop their IWMP and implement their TWM program by utilizing a variety of mechanisms (e.g., answering phone calls/emails, updating the EPA's website, providing training through webinars, and supporting peer matching). EPA staff are available to provide both technical and policy assistance regarding all aspects of the TWM programs. A current list of HQ and regional tribal waste management contacts and a website link to the EPA National Tribal Program Contacts²⁶ will be updated regularly on the ORCR tribal program website.²⁷

4.1 Open Dump Identification and Assessment

The 1994 Indian Lands Open Dump Cleanup Act Section 4(a) Study and Inventory states: Not later than 12 months after the date of enactment of this Act, the Director shall conduct a study and inventory of open dumps on Indian lands and Alaska Native lands. The inventory shall list the geographic location of all open dumps, an evaluation of the contents of each dump, and an assessment of the relative severity of the threat to public health and the environment posed by each dump. Such assessment shall be carried out cooperatively with the Administrator of the Environmental Protection Agency. The Director shall obtain the concurrence of the Administrator in the determination of relative severity made by any such assessment.

As part of the EPA's goal of promoting sustainable tribal waste management programs, the EPA will focus on identifying and assessing open dumps posing the highest threat to human health and the environment. The 1994 Indian Lands Open Dump Cleanup Act states that EPA shall concur on the assessments of the relative severity of the threats to public health and environment posed by each open dump. Health threat assessment information will support decision-making on cleanup of open dumps within the context of IWMPs, and sustainable waste management programs.

²⁶ The list to the EPA National Tribal Program Contacts is available at: <http://www.epa.gov/indian/contactinfo/index.htm>

²⁷ The ORCR tribal waste management website is available at: <http://www.epa.gov/tribalmw>

The EPA intends to continue to document open dump information it identifies and input it into the IHS's web Sanitation Tracking and Reporting System (w/STARS) database.²⁸ EPA continues to expect that the w/STARS database will serve as the repository for open dump information, particularly as it informs the development and implementation of IWMPs and sustainable waste management programs.

4.1.1 Open Dump Data Internal Controls

The w/STARS data are subject to the [internal controls](#)²⁹ established by IHS and EPA. The EPA is working with IHS to improve the integrity of the information that is entered into w/STARS. This includes verifying and completing, or correcting inaccurate historical assessment data and entering it into w/STARS. In addition, when assessing a new open dump site, the site assessor (i.e., the EPA, IHS, or tribal staff) should fill out all data fields into the w/STARS database. This includes the site name, location, surface volume, waste contents, proximity to homes, drinking water, surface water, access, rainfall, and overall condition. If a certain field is not applicable, that should be noted, instead of being left blank. When a tribe conducts an open dump assessment, it is recommended that staff from the EPA or IHS verify the information, either with an on-site visit or via phone and note this step in the database. Attention to entering complete data will help ensure consistency in the proper identification, assessment, and threat categorization of open dumps.

Accurate assessments are essential to identifying and prioritizing open dumps that pose the highest threat to human health and the environment. The EPA intends to continue reviewing, and as appropriate, concurring on each open dump assessment. This is integral to the development and implementation of an IWMP and sustainable waste management program.

4.2 Direct Support to Tribes

Many EPA regions provide direct assistance/service to tribes, either with the EPA staff in the field, or with SEEs functioning as "circuit riders." Circuit riders conduct much of their work in the field, which greatly supplements the EPA staff efforts. Generally, regions have limited travel funds and time for staff to spend outside the regional office. In many regions, circuit riders are the primary source of technical assistance to tribes. Technical assistance extends to all aspects of the TWM program. EPA-funded work in the field should be prioritized in the following order:

- Assisting tribes in developing an IWMP;
- Supplementing EPA training efforts and conducting general outreach and education regarding solid waste management practices; and
- Identifying and assessing open dumps consistent with a tribally approved IWMP, particularly ones which may affect drinking and surface water.

²⁸ The w/STARS database is used to inventory sanitation issues in tribal areas. In March 2006, EPA started a partnership with IHS to rank the relative risk of open dump sites and prioritize them for closure. IHS customized the Operation and Maintenance Data System (OMDS), which is the portion of w/STARS that lists data on all open dumps in tribal areas, so that the EPA could use the database as the official repository to maintain all data on open dumps in tribal areas.

²⁹ The Field Guide for OMDS Data Gathering/Data Entry is available at: <http://www.epa.gov/region9/waste/tribal/pdf/Open-Dump-field-guide-version-06052008.pdf>

4.3 Tribal Waste Management Program Outreach and Technical Information

Outreach material is a critical tool the EPA uses for providing solid waste technical assistance to tribes. The EPA plans to improve the effectiveness for collecting and disseminating outreach material because it is essential to having a successful TWM program. The EPA intends to solicit feedback from tribes on the effectiveness of the existing outreach material and plans to update and develop additional outreach tools, as feasible and necessary. The initial compilation of information and outreach tools is listed in [Appendix 2: List of Informational Tools and Resources](#).

ORCR's tribal program website is an important source for information, communication, and education, as tribes are able to access information on a variety of topics. It will provide links to the other EPA waste management program website pages (e.g., P2 Program, Tribal Portal) so that all relevant information can be accessed through one website. ORCR also is working to develop a web-based repository for tools that can assist tribes with developing and implementing waste management programs. ORCR anticipates modifying the overall ORCR tribal program's website to include more detailed and up-to-date information about waste management issues by June 30, 2014. Updates to the ORCR tribal program's website are planned as needed, but at a minimum annually. By December 31, 2013, ORCR intends to have the following interim updates for its tribal waste management program website:

- [Appendix 2: List of Informational Tools and Resources](#) and links to external documents will be located within the ORCR tribal web page (www.epa.gov/tribalmw); and
- Links to other EPA waste management program pages such as the [Pollution Prevention Program](#), Green Buildings, [Tribal Portal](#), etc.

4.4 Tribal Waste Management Program Training

Webinars are an online, real-time, interactive forum where individual participants can see presentations on their computer screens, while listening to the presenter. Webinars let one "attend" training regardless of his or her location. Webinars also allow the participant to interact with the trainer, ask questions, and take notes as if they were in the same room.

HQ and the regions will promote and expand the use of online training and webinars. The EPA anticipates developing a Tribal Waste Management Webinar series and intends to regularly solicit ideas and feedback from tribes on what products/resources would be most useful. ORCR, with the support of the regions, will:

- Research training that is currently available (e.g., Trainex, Clu-In) and promote these trainings so that tribes can take advantage of these resources.
- Develop an initial training webinar for all EPA staff on existing tools.
- Offer an annual webinar for EPA staff on tools for developing tribal IWMPs and tribal waste programs. ORCR plans to develop other staff trainings as well.

- Develop a quarterly webinar series on TWM Tools. ORCR intends to solicit tribal input on existing tools to highlight and tools that need development. It is anticipated that each webinar will focus on a specific tool, and feature tribes that have used the tool when possible.

In addition to online training and webinars, OSWER has a tribal support grant (through a cooperative agreement) to better serve tribes and provide improved technical assistance. The key components of this cooperative agreement are the annual Tribal Lands Forum, the [National Tribal Steering Committee](#),³⁰ training courses developed and delivered annually, and hazardous substance research. The cooperative agreement covers all of OSWER's programs, including Brownfields, Underground Storage Tanks, Solid and Hazardous Waste, Emergency Response, and Superfund. The annual Tribal Lands Forum provides an opportunity for tribal environmental practitioners to interact with the EPA and other federal partners, as well as with each other. In addition to training sessions offered each year at the Tribal Lands Forum, the grantee develops and delivers four additional in-person training sessions per year. Two of these training sessions are offered in Alaska and two are offered in the lower forty-eight.

All of the activities conducted under the cooperative agreement are informed and guided by the National Tribal Steering Committee. The Steering Committee has broad environmental experience and represents all parts of the country. The Steering Committee's wide-ranging experience and regional backgrounds ensure that the cooperative agreement activities are meeting the needs of tribes across the country. The Steering Committee meets four times a year, including a yearly meeting in Washington DC during which they also meet with senior OSWER officials to discuss critical environmental issues affecting tribes. The cooperative agreement is a valuable tool that helps OSWER and tribes collectively address tribal land contamination issues addressed by OSWER statutory programs.

4.5 National Peer Matching Program

A peer match, as described in this Plan, is a voluntary exchange of information between tribes, where one tribe has technical assistance needs and one (or more) other tribes has technical expertise in that same subject area. These may be facilitated by the EPA. In a peer match, the tribe(s) with technical expertise mentors the requesting tribe. Peer assistance may be requested for a variety of technical needs, including but not limited to, development of an IWMP; development of solid waste enforcement codes; construction and operation of a transfer station, recycling facility, or landfill; developing best practices for pollution prevention; greening government/businesses; and increasing recycling rates. Peer matching can be a productive, cost-effective, and culturally-appropriate method of providing technical assistance to tribes on a wide range of waste-related topics. Currently, there are multiple examples of successful tribal peer matching programs facilitated by the EPA regions. The EPA aims to enable a nationwide tribal peer matching program focused on solid waste issues. Matches should aim to complete a project within a one-year timeframe and, again, are voluntary.

ORCR and the regions:

- Expect to initiate a national peer match list by March 31, 2014 and update the list as needed, annually; and
- Met our goal of initiating one peer match project by February 28, 2013.
 - The Keweenaw Bay Indian Community completed an EPA Region 5 sponsored pilot peer match in 2012.

³⁰ Information on the National Tribal Steering Committee can be found at: <http://www4.nau.edu/itep/waste/ntsc.asp>

5.0 Activities and Timeline

Below are the major milestones for activities described in the Plan:

Section	Task	Description	Schedule
2.2 Internal EPA Communication and Coordination	Monthly Tribal Solid Waste Coordinators' Conference Call	National forum to discuss the tribal waste management program.	On-going-Monthly
		Update on the Monthly Tribal Solid Waste Coordinators' Conference Call.	On-going-Monthly
2.2 Internal EPA Communication and Coordination	Quarterly Sub-Lead Region Focus Areas Conference Calls/Updates	Keep regional staff informed about the Sub-Lead Region projects.	On-going-Quarterly
		Disseminate information about the Sub-Lead Region projects through email(s).	On-going-Quarterly
2.2 Internal EPA Communication and Coordination	Monthly OSWER Tribal Program Coordinators' Conference Calls	ORCR and the sub-lead region for tribal issues will continue to actively participate in these conference calls.	On-going-Monthly
2.2 Internal EPA Communication and Coordination	Monthly RCRA Permit and Base Program Managers Conference Calls	ORCR and regional management will continue to raise issues on these conference calls, including issues relates to tribal matters, as needed.	On-going-Monthly
		ORCR will disseminate information to the EPA tribal waste management and staff, quarterly through email(s).	On-going-Quarterly email
2.2 Internal EPA Communication and Coordination	Semi-annual National RCRA Division Directors Meetings and Monthly Conference Calls	ORCR and regional management will continue to address tribal waste issues at these meetings and calls, as needed.	On-going-Monthly Conference Call/Semi-annual Meetings
2.2 Internal EPA Communication and Coordination	OBLR State and Tribal Conference Calls	National forum to discuss Brownfields activities.	On-going
3.1 Integrated Waste Management Plan (IWMP) Performance Measure	Integrated Waste Management Plans	ORCR will request, from the regions, the name of any tribe with an approved IWMP which has been counted as an accomplishment under the GPRA measure for that fiscal year.	On-going-Quarterly
3.3 New Proposed Performance Measures	Analysis of Performance Measures	ORCR created a workgroup which consists of HQ and regional staff.	January 2013 (completed)
		The workgroup will develop a process for evaluating options for new performance measures.	December 2013

Section	Task	Description	Schedule
		The workgroup will implement new performance measures.	October 2014
4.1.1 Open Dump Data Internal Controls	Open Dump Internal Controls	EPA regions will continue to complete and verify historical open dump data and conduct new site assessments as identified through IWMPs. The information should be entered into the w/STARS database.	On-going
4.3 Tribal Waste Management Program Outreach and Technical Information	Outreach Materials	ORCR and the regions will assess tribal needs for future outreach materials and tools.	On-going
4.3 Tribal Waste Management Program Outreach and Technical Information	Website Update	ORCR will include all of the documents found in Appendix 2: List of Informational Tools and Resources and links to external documents on the ORCR tribal waste management website.	December 31, 2013
		ORCR expects to link to other EPA waste management program pages on the ORCR tribal waste management website.	December 31, 2013
		ORCR will modify the overall ORCR tribal program website to include more detailed and up-to-date information about tribal waste management issues.	June 30, 2014
4.4 Tribal Waste Management Program Training	Webinars	ORCR will research the training which is currently available.	December 31, 2013
		ORCR and the regions will promote available trainings so tribes can take advantage of these resources.	On-going
		ORCR intends to develop an EPA staff training webinar.	March 31, 2014
		ORCR intends to host an annual webinar for new and existing EPA staff on the tools available for tribes to develop IWMPs and tribal waste programs.	On-going- Annually
		ORCR intends to develop and hold quarterly tribal webinars on EPA Tribal Waste Management Tools.	On-going -Quarterly
4.5 National Peer	Peer Match	ORCR intends to develop an initial national peer match list.	March 31, 2014

Section	Task	Description	Schedule
Matching Program		ORCR expects to update the national peer match list, as needed.	On-going- Annually
		ORCR and the regions expect to initiate one peer match project.	February 28, 2013 (completed)

6.0 Appendices

Appendix 1: EPA's Roles and Responsibilities

ORCR:

Program Direction and Coordination:

- ORCR and the relevant EPA offices expect to implement the activities and actions stated in the Plan.
- ORCR coordinates with the various EPA offices, including OBLR, OPPT, AIEO, OECA, and the Regions to provide comprehensive technical assistance to tribes. Collaboration, at the national level, is essential to regional program coordination of tribal solid waste management capacity assistance.
- ORCR provides a Tribal Programs Team Liaison (and alternate) to the regions for technical and policy support regarding all aspects of the RCRA tribal program.
- ORCR staff participates in Regional Tribal Operations Committee (RTOC) meetings, tribal summits, other tribal meetings and/or conferences, and regional site visits, as resources allow.
- ORCR holds and participates in various conference calls. The monthly Tribal Solid Waste Regional Coordinators' Conference Call provides an opportunity for increased communication between HQ and regional staff. The monthly RCRA Permit and Base Program Managers Conference Call provides an opportunity for HQ and regional management to discuss and raise issues, including tribal waste management. The Semi-annual National RCRA Division Directors Meeting and Monthly Conference Call provide HQ and regional management an opportunity to address tribal waste management issues.
- ORCR provides support in tracking the IWMP performance measure.
- Coordinate with OBLR to include training on solid waste management during tribal Brownfields conferences, trainings, and meetings.

Information and Training:

- Tribal Waste Journal (TWJ) - ORCR has developed and published eight issues of the TWJ. Each issue features articles focused on one topic. The TWJ provides the reader with more in-depth knowledge of tribal waste management issues. Issue 9 of the TWJ is currently being developed and will focus on household hazardous waste issues. Issue 9 is expected to be published in FY 2014. Funding for additional issues of TWJ is not available to ORCR in FY 2013 and future funding is uncertain.

- Integrated Waste Management Plan (IWMP) Toolkit – The IWMP Toolkit is intended to assist tribes with the development of an IWMP. The Toolkit is comprised of the following documents: [*3 Steps to Developing a Tribal Integrated Waste Management Plan \(IWMP\)*](#), [*Overview of Developing a Tribal IWMP, Step 1- Collect Background Data*](#), [*Step 2- Map out the Tribal IWMP Framework*](#), [*Step 3- Write and Implement the Tribal IWMP*](#);³¹
- Several fact sheets on tribal waste management issues, including transfer stations; and
- [National ORCR Website](#).

Funding:

- ORCR works to coordinate funding opportunities, if available, with the regions and OBLR, OPPT, AIEO, and OECA.
- For over the past decade, ORCR has conducted the annual grant competition for the Hazardous Waste Management Grant Program for Tribes. ORCR develops the solicitation and manages the overall competition. Grants are awarded through the EPA regional offices. In addition, ORCR provides assistance to the regions and tribes during the post-award process.
- The Tribal Solid Waste Management Assistance Project (TSWMAP) was an interagency effort that provided financial assistance to tribes to close and prevent open dumps, clean up solid waste and develop safe solid waste management practices. The participating agencies that coordinated and provided funding to support the TSWMAP, in addition to the EPA, were the IHS, BIA, DoD, HUD, and USDA-RD. Funding for the TSWMAP varied throughout the years and has decreased over the past six years for all participating federal agencies. Figure A.1., below, shows the total annual funding for the TSWMAP from 1999 through 2013. Due to resource restrictions, no agency funded the program in either FY 2012 or 2013. Thus, there is currently no EPA grant funding specifically for tribal (nonhazardous) solid waste management.

³¹ The IWMP Toolkit can be found at: <http://www.epa.gov/epawaste/wyl/tribal/resource.htm>

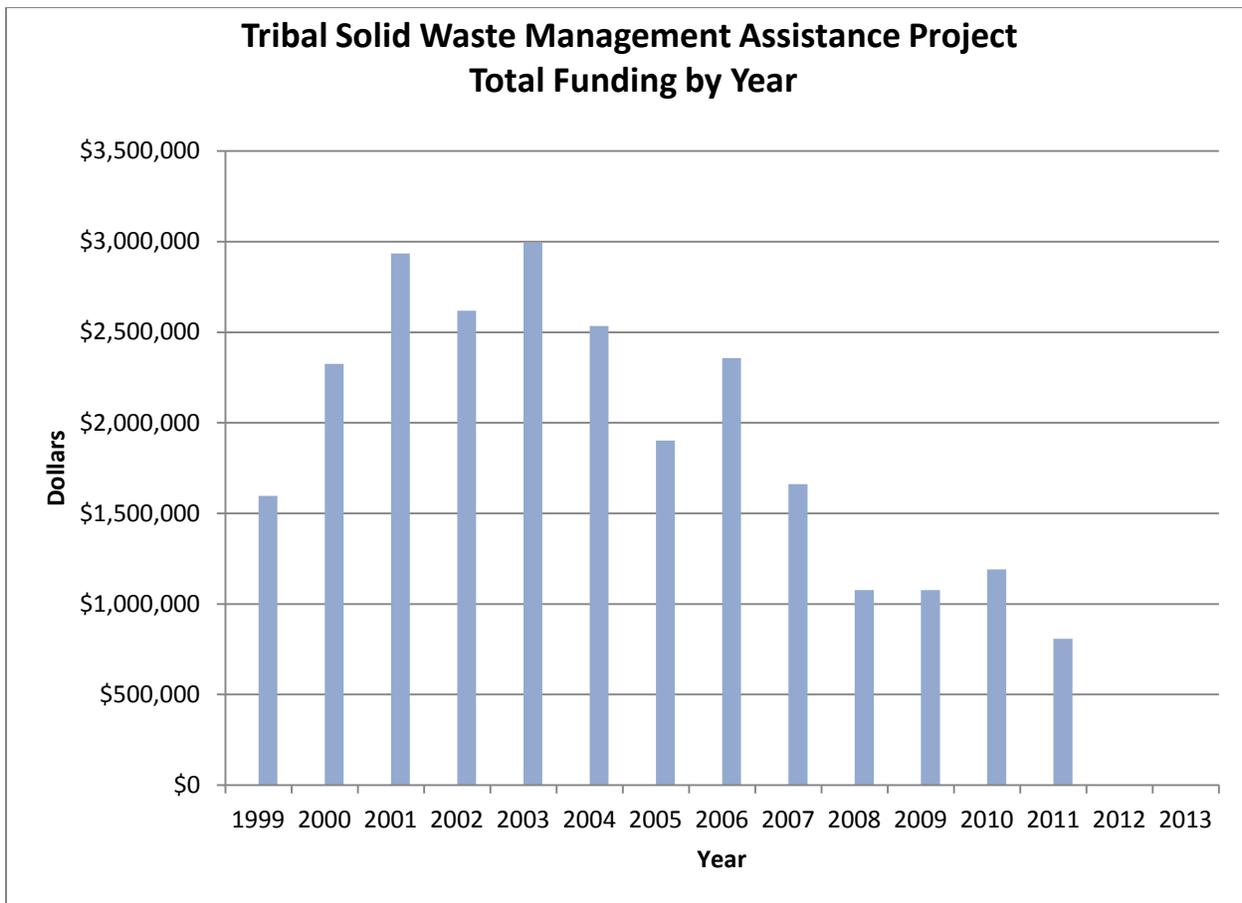


Figure A.1. The total annual funding for the TSWMAP, from all agencies, for the years, 1999-2013.

Regions:

EPA regional tribal waste programs actively participate in national OSWER, OITA, OECA and OCSPP workgroups for the purposes of developing EPA regulations, policies, guidance documents, technical papers, performance measures and tribal strategies for program management and implementation. In parallel, regional tribal waste programs collaborate within their regional offices to develop multi-media approaches to tribal waste management. Regions also forge partnerships with the IHS, BIA, HUD, USDA-RD, other federal and state agencies, and tribal organizations.

Regional RCRA tribal programs collaborate with their Regional Tribal GAP Programs and their RTOCs on waste-related issues. Regions and tribes have established RTOCs or similar mechanisms, where regional and tribal personnel meet to discuss environmental issues impacting tribes. The regional tribal waste management programs participate in the RTOCs and regions develop working relationships with tribal organizations and with other federal agencies to more efficiently implement waste management programs. Collaboration, both internally and externally, is essential to future development and implementation of tribal waste management programs.

In addition, the regional tribal waste management programs develop outreach products and policies for tribes within their region that may also be useful for tribes nationwide. Regional tribal waste management programs also support OSWER in the development of national outreach products and policies. Regional offices work directly with federally-recognized tribes to provide multiple services.

Please note that the information described below does not apply to every regional tribal waste management program.

Regional Program and Policy Direction:

- Regions develop programs, strategies, policies and annual action plans specific to the needs of the federally-recognized tribes in their specific region; these cover topics of outreach/education, technical assistance, field work, funding/grants, enforcement and compliance, and multi-media approaches to waste issues.
- One region acts in an advisory role as Sub-Lead Region Coordinator for Tribal Solid Waste. The Sub-Lead Regional Coordinator's role includes the overall coordination between the regions on national initiatives and priority setting. The Sub-Lead Region will also hold quarterly Sub-Lead Region focus area conference calls to keep staff informed on projects and will also disseminate information through emails.

Regional Consultation and Coordination Activities with Federally-Recognized Tribes:

- Implement the national EPA Consultation Policy;
- Ensure that tribal government concerns are elevated to the national EPA program offices;
- At the request of tribal government officials or staff, facilitate meetings amongst states, local governments and tribes to discuss and develop solid waste management solutions and/or work towards a resolution of complex and controversial issues;
- Engage in the overall coordination and communication with tribes and tribal organizations within the region;
- Participate in tribal meetings, such as RTOCs and other regional and national tribal meetings to present specific topics, to build and enhance networks to address tribal issues, and to better understand tribal needs; and
- Meet with tribal officials and staff to explain new and emerging regulations, enforcement, technical issues, such as alternative landfill covers and compliance assistance plans.

Field Technical Assistance and Outreach Activities:

- Develop technical assistance and outreach documents, on topics, such as green buildings, how to design and implement a solid waste program, how to close a waste disposal facility, management of abandoned vehicles, etc.;
- Develop and host regional tribal solid and hazardous waste websites;
- Provide and/or participate in formal and informal training courses on a variety of topics, such as Rural Alaska Landfill Operator training;

- Develop workshops for annual Tribal/EPA Conferences and respond to telephone inquiries and requests for speakers/attendance at meetings or conferences;
- Coordinate and communicate with other EPA organizations, both within and outside of the region, HQ program offices, and other federal agencies to address solid waste issues, pollution prevention strategies, and to identify additional resources and funding for tribes.
- Communicate funding, resources, and training opportunities to tribes;
- Assist in peer matching efforts;
- Conduct in-depth, on-site field technical and compliance assistance to interested tribes;
- Review tribal site-specific flexibility requests;
- Technical support concerning issues such as waste collection and management, recycling, waste prevention; and
- Support to the tribes to develop IWMPs, including reviews for technical accuracy and reviewing draft codes and ordinances.

Funding:

- Provide financial assistance to tribes through funding vehicles (e.g., grants or cooperative agreements) for activities authorized by the grant authority(ies);
- Coordinate and leverage resources from within the EPA and with other federal, state, and local agencies to leverage funding for tribal solid waste programs;
- Coordinate work plan development and/or funding decisions for solid waste projects; and
- Develop and implement specialized regional grant solicitations, such as the Household Hazardous Waste Collection and Disposal Grant Program for Tribes.

Data Management and Collection:

- Collect data on IWMPs; and
- Report to the EPA Annual Commitment System.

OECA:

OECA uses four primary tools to identify and address RCRA noncompliance and solid waste issues in Indian country: (1) compliance assistance; (2) compliance monitoring; (3) civil enforcement; and (4) criminal enforcement.

Compliance Assistance:

The EPA's compliance assistance program involves assisting the regulated community in Indian country, tribal and non-tribal businesses, tribal governments, federal facilities, and others, comply with the RCRA requirements through online compliance assistance resource centers, and portals, fact sheets, guides and training.

Compliance Monitoring:

The EPA's compliance monitoring program involves on-site visits by qualified inspectors, and review of available environmental monitoring and compliance information required to be submitted. To increase its on-site (field) presence in Indian country, the EPA can and has authorized tribal inspectors to conduct hazardous waste inspections on behalf of the Agency. Violations may also be discovered as a result of investigations initiated after the EPA receives tips and complaints from the public. Violations discovered as a result of compliance monitoring may lead to civil or criminal enforcement.

Civil and Criminal Enforcement:

RCRA contains two primary civil enforcement provisions to address solid waste and illegal dumping in Indian country. Section 7003 of RCRA, 42 U.S.C. § 6973, provides the EPA with broad authority to address conditions that may present an imminent and substantial endangerment to health or the environment. Section 7003 allows the EPA to address situations where the handling, storage, treatment, transportation, or disposal of any solid or hazardous waste may present such an endangerment. In these situations, the EPA can initiate judicial action or issue an administrative order to any person who is contributing or has contributed to such handling, storage, treatment, transportation, or disposal. The action or order can require the person(s) or entities (i.e., generators, transporters, or owners or operators) to refrain from those activities or to take necessary action to correct the practice/activity.

Section 4005(c)(2) of RCRA, 42 U.S.C. § 6945(c)(2)(A) allows the EPA to use inspection and administrative enforcement authorities available under Sections 3007 and 3008 of RCRA in limited circumstances to address uncontrolled waste dumps. The EPA can use Section 4005(c)(2) to ensure compliance with RCRA's open dumping prohibition only at solid waste disposal facilities that receive household hazardous waste, or conditionally exempt small quantity generator waste. The EPA has issued a guidance memorandum on use of Section 4005(c)(2) in Indian country.³²

EPA's criminal enforcement program enforces the nation's laws by investigating cases, collecting evidence, conducting forensic analyses and providing legal guidance to assist in the prosecution of criminal conduct, with an emphasis on conduct that threatens human health and the environment. The EPA and tribes can enter into a memorandum of agreement regarding criminal enforcement to promote communication and cooperation between tribal and federal law enforcement.

Program Direction:

The National Program Managers Guidance (NPM Guidance) describes how the Agency implements RCRA. The EPA's RCRA Enforcement Policy and Guidance Compendium contain the compliance monitoring and enforcement policies related to the NPM Guidance and the RCRA program's

³² Memorandum from Office of Civil Enforcement, *Guidance on Using RCRA Section 4005(c)(2) to Address Uncontrolled Waste Dumps in Indian country*. March 30, 2007.

implementation. Please see:

<http://www2.epa.gov/sites/production/files/documents/fy14oceanpmguidance.pdf> and <http://www.epa.gov/region1/enforcement/waste/> for more information.

Outreach and Education Activities:

OECA engages tribes on RCRA enforcement and compliance assurance policy matters and coordinates with ORCR to ensure that such issues are raised within the EPA and with EPA-sponsored tribal partnership groups.

Coordination Activities:

- Participant: EPA's National Indian Legal Workgroup;
- Participant: RCRA Enforcement Managers Workgroup;
- Participant: National EPA RCRA Division Directors Meetings and Conference Calls; and
- Participant: National RCRA Permits and Base Program Managers Conference Calls.

OBLR:

Program Direction:

- Work with ORCR to develop procedures and internal controls to coordinate Brownfields activities that support or impact tribal integrated waste management efforts, including:
 - Reference technical assistance tools and resources that may be of use to 128(a) tribal grant recipients, such as the Memorandum, *Five Elements of a Tribal Integrated Waste Management Plan*, the Integrated Waste Management Plan (IWMP) Toolkit, and the draft *Sustainability Evaluation Tool*. The Toolkit is comprised of the following documents: *3 Steps to Developing a Tribal Integrated Waste Management Plan (IWMP)*, *Overview of Developing a Tribal IWMP*, *Step 1- Collect Background Data*, *Step 2- Map out the Tribal IWMP Framework*, *Step 3- Write and Implement the Tribal IWMP*.
 - Apply consistent internal controls for activities conducted under Brownfields grants that support open dump assessments or cleanups.

Outreach and Education Activities:

- OBLR staff will participate in ORCR webinars to discuss Brownfields tools that could support tribal integrated waste management programs, such as the Brownfields Inventory Tool.

Coordination Activities:

- OBLR will discuss proposed internal control procedures and regularly communicate other coordination efforts, as described above, in support of tribal waste management with the Regional EPA tribal Brownfields coordinators.

Appendix 2: List of Informational Tools and Resources

Regions and HQ have developed multiple informational tools and resources to assist tribes in developing waste management programs. Links to these tools and resources will be located on the ORCR tribal web page by December 30, 2013. Below is a list of tools that are currently available:

- Abandoned Mobile Home Toolkit (Region 2);
- Building a Tribal Solid Waste Program (Region 10);
- *Closing Small Tribal Landfills and Open Dumps- How to Design Environmentally Safe Covers, Including Additional Design Guidance for Arid Regions* (Region 9);
- Compliance Management Practices for Tribal Construction and Demolition Debris Landfills in Region 5 (Document and Checklist) (Region 5);
- *Developing an Abandoned Vehicle Program for Tribal Governments* (Region 9);
- Draft *Sustainability Evaluation Tool* (Region 8);
- Draft *Federal Resource Guide for Tribal Integrated Waste Management* (Region 5);
- *Household Hazardous Waste Collection: A Program Guide for Tribal Governments*, with accompanying brochure (Region 9);
- *Three Steps to Developing a Tribal Integrated Waste Management Plan Brochure- Overview of Developing a Tribal IWMP, Step 1- Collect Background Data, Step 2- Map out the Tribal IWMP Framework, Step 3- Write and Implement the Tribal IWMP* (ORCR);
- Tribal Brochure: *Where Your Waste Goes: A Waste Management Guide* (Region 9);
- Tribal Brochure: *Don't Trash Our Land: Prevent Illegal Dumping* (Region 9);
- Tribal Casino Best Management Practices Toolkit (Region 9);
- *Tribal Decision-Maker's Guide to Solid Waste Management* (ORCR);
- Tribal P2 website: <http://tribalp2.org/index.php> (Region 8);
- *Tribal Solid Waste Program Costing Tool* (Regions 8, 9, 10);
- Tribal Solid Waste Workshops: Training is provided on how tribes can leverage funding for their solid waste programs with state and federal programs resources (Region 6);
- Tribal Waste Journal: *Against All Odds: Transfer Station Triumphs* (ORCR);
- Tribal Waste Journal: *Alaska Villages Chart Their Own Course Toward Solid Waste Solutions* (ORCR);

- Tribal Waste Journal: *Composting Nourishes Land and Tradition* (ORCR);
- Tribal Waste Journal: *Construction and Demolition Materials: Concrete Reasons to Manage Them Now* (ORCR);
- Tribal Waste Journal: *Innovations in Tribal Waste Management: Open Dump Prevention* (ORCR);
- Tribal Waste Journal: *Methamphetamine: Threatening the Health and Environment of Tribal Communities* (ORCR);
- Tribal Waste Journal: *Respect Our Resources: Prevent Illegal Dumping* (ORCR); and
- Tribal Waste Journal: *What is an Integrated Waste Management Plan?* (ORCR).

Appendix 3: List of Acronyms

ACS - Annual Commitments System

AIEO - American Indian Environmental Office

ARC Grants - Assessment, Revolving Loan Fund, and Cleanup Grants

BIA - Bureau of Indian Affairs

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act

CFDA - Catalog of Federal Domestic Assistance

DOI - Department of the Interior

EPA - Environmental Protection Agency

EWDJT - Environmental Workforce Development and Job Training

FTE - Full-time equivalent

FY - Fiscal Year

GAP - General Assistance Program

GPRA - Government and Performance Results Act

HHS - Department of Health and Human Services

HQ - Headquarters

HUD - Department of Housing and Urban Development

IHS - Indian Health Service

IPPC - Indian Program Policy Council

ITF - Infrastructure Task Force

IWMP - Integrated Waste Management Plan

MOU - Memorandum of Understanding

NPM - National Program Managers

OBLR - Office of Brownfields and Land Revitalization

OCSP - Office of Chemical Safety and Pollution Prevention

OECA - Office of Enforcement and Compliance Assurance

OGC - Office of General Counsel

OIG - Office of Inspector General

OITA - Office of International and Tribal Affairs

OPPT- Office of Pollution Prevention and Toxics

ORCR - Office of Resource Conservation and Recovery

OSWER - Office of Solid Waste and Emergency Response

P2 - Pollution Prevention Program

PPG - Performance Partnership Grant

RCRA - Resource Conservation and Recovery Act

RTOC - Regional Tribal Operations Committee

SEEs - Senior Environmental Employees

SMM - Sustainable Materials Management

SRA - Source Reduction Assistance

TSWMAP - Tribal Solid Waste Management Assistance Project

TWM - Tribal Waste Management

USDA- RD - U.S. Department of Agriculture- Rural Development

w/STARS - web Sanitation Tracking and Reporting System