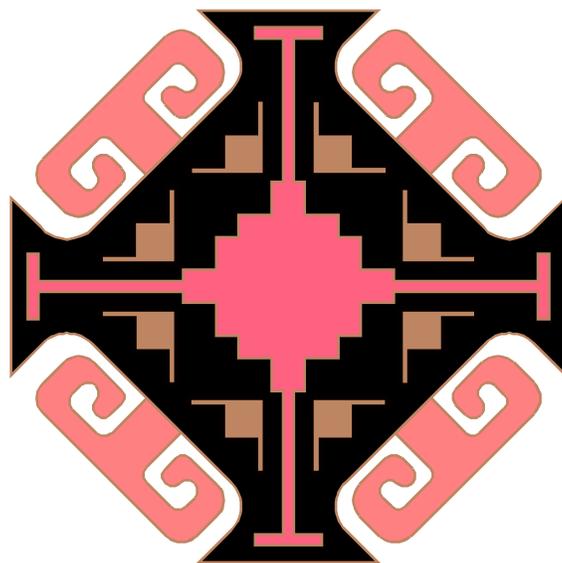


Protecting Public Health and Water  
Resources  
in  
Indian Country



A Strategy for  
EPA/Tribal Partnership  
October, 1998

PROTECTING PUBLIC HEALTH AND WATER RESOURCES IN INDIAN COUNTRY

A STRATEGY FOR EPA/TRIBAL PARTNERSHIP

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**PROTECTING PUBLIC HEALTH AND WATER RESOURCES  
IN INDIAN COUNTRY**

## *A Strategy for EPA/Tribal Partnership*

**PURPOSE:** The overall goal for this Water Program Strategy is to create partnerships with tribes to protect human health and aquatic ecosystems in Indian country through the development and implementation of clean water and safe drinking water programs.

### **Background**

In 1984, EPA completed its Indian Policy and Implementation Guidance describing EPA's government-to-government relationship and overall commitments to environmental protection for tribes. The 1984 Policy "recognizes Tribal governments as the primary parties for setting standards, making environmental policy decisions, and managing [environmental] programs...consistent with Agency standards and regulations." The Policy also states:

"Until Tribal Governments are willing and able to assume full responsibility for delegable programs, the Agency will retain responsibility for managing programs for reservations (unless the State has an express grant of jurisdiction from Congress sufficient to support delegation to the State Government)."

In 1994, Administrator Browner announced *Actions for Strengthening EPA's Tribal Operations*, which reaffirmed the 1984 Indian Policy and included a commitment that each Assistant and Regional Administrator establish a strategy for working with tribes to help them meet their environmental goals.

More recently, EPA's Strategic Plan, released in 1997, describes programmatic and quantitative measures for improving water quality nationwide. The objectives and sub-objectives associated with *Goal 2: Clean and Safe Water*, of the EPA Strategic Plan (see Appendix IA), apply to both states and tribes. The EPA Strategic Plan has several Indian Program objectives and recommended means to achieve them. (See Appendix IB.)

This Water Program Indian Strategy (Strategy) sets water program-specific objectives to meet the goal of clean and safe water in Indian country<sup>1</sup>. Through this Water Program Indian Strategy, the EPA Water Program, in partnership with tribes<sup>2</sup>, will identify the actions necessary to meet the nationwide objectives and sub-objectives under Goal 2 of the EPA Strategic Plan as they related to tribes.

### **Approach**

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<sup>1</sup> Indian country includes all lands within Indian reservations, all dependent Indian communities, and Indian allotments.

<sup>2</sup>For purposes of this Strategy, tribe also refers to tribal consortium, as appropriate, where tribal governments authorize consortia to act on their behalf.

EPA has been delegated authority by Congress to ensure that environmental programs designed to protect human health and the environment are carried out across the United States. The overall goal of developing and implementing environmental programs to protect human health and aquatic ecosystems in Indian country can be accomplished directly through federal implementation and/or through building tribal capacity. The ultimate intent is to build comprehensive tribal environmental programs through delegation or authorization of tribal water programs under federal law. This Strategy will assist in developing a common understanding among environmental managers at the federal, state, and tribal level of the nature of water quality programs and will outline ongoing and planned activities to address water quality program needs in Indian country. EPA's Water Program has several guiding principles to support the Strategy's implementation, including:

- providing the appropriate tools to tribes and EPA to implement water programs in Indian country;
- devoting continued senior water program management support and involvement; and
- identifying resource levels required to accomplish the commitments in this Strategy, redirecting resources where possible, identifying additional resource needs, and seeking to obtain necessary resources through the EPA budget process.<sup>3</sup>

The Strategy recognizes that resources available to both EPA and the tribes will influence the success in achieving the Strategy's goals. Although additional resources are important, in tight budget times the effective use and redirection of existing resources is also warranted.

### **A Framework to Improve Human Health and Achieve Healthier Aquatic Ecosystems in Indian Country**

A wide variety of water environmental programs currently exist in Indian country. Although many tribes do not yet have a significant environmental presence, others have more developed environmental programs designed to meet specific tribal needs. The EPA Water Program will seek to ensure the needs of all interested tribes are addressed by: (1) assisting tribes in developing water programs and gaining authority to run them, (2) helping tribes to further develop and implement their existing environmental programs, and/or (3) fulfilling its responsibilities for direct implementation of water environmental programs in Indian country, consistent with EPA Indian policy.

This Strategy outlines the critical components and planned EPA implementation activities to promote and develop Indian water programs. Implementation includes assessing the extent to which projected activities are successfully achieved as well as the extent to which

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<sup>3</sup> Grant funds available to tribes for water programs have increased from \$16 million in FY 1992 to \$68 million in the FY 1999 President's Budget. In the same time period, General Assistance Grants have increased from \$0 to \$43 million.

they contribute to meeting the Strategy's overall goals and objectives. EPA recognizes the diversity of Indian water programs. This Strategy is intended to accommodate this diversity while providing a framework that can be used, across the spectrum of existing water programs, by EPA or tribes to promote healthier aquatic ecosystems and to improve human health protection as it relates to water resources.

To accomplish each component of the water program framework, "*Performance Measures*" with targets have been established on a national basis to measure progress towards meeting the goals, objectives, and sub-objectives of the EPA Strategic Plan. These are national targets, and the Strategy recognizes that variability will exist among the EPA Regions. The specific performance measures outlined in this document are designed for building water programs in Indian country. Baseline information (as of the date of this Strategy) on each performance measure is provided wherever available. "Water Program Activities," also outlined in this Strategy, are those activities designed to meet their respective performance measure targets.

It is important to note that the EPA Water Program is committed to work toward full achievement of all strategic goals in Indian country. Some of the targets in the performance measures in this Strategy may appear to be "low;" however, they are only incremental targets leading to full goal achievement over time. The Strategy uses the year 2005 as the first target year as this date is generally consistent with EPA's Government Performance and Results Act (GRPA) targets.

The EPA Water Program recognizes that resource constraints may require tribes to establish near- and longer-term priorities, and to focus initially on a few key program elements. In these instances, the EPA Water Program encourages tribes to establish a water program presence, as defined later in this Strategy, and, using a watershed approach as an organizing construct wherever practicable, consider three elements. These elements are assessment of water quality, implementation of water quality and drinking water standards, and infrastructure improvement -- *i.e.*, construction, operation, and maintenance of wastewater and drinking water systems. This does not mean that other elements can or should be ignored or that these elements should be carried out sequentially. The EPA Water Program believes that these elements are building blocks that provide the foundation for protecting human health and aquatic ecosystems in Indian country.

Consistent with the federal government's trust responsibility to federally recognized tribes, the EPA Water Program recognizes its role to work in accordance with EPA policy and guidance towards fully implementing water programs in Indian country, and will continue to work with tribes in other settings to protect water resources outside of Indian country where tribes have rights --*e.g.*, treaty-protected resources. This Strategy, however, is limited to those activities undertaken by tribes and/or EPA to protect the human health and water resources in Indian country.<sup>4</sup>

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<sup>4</sup> Although this Strategy uses the term Indian country, EPA recognizes that the scope of activities may differ among water programs due to statutory requirements. For example, water program grants authorized under Section 106 of the Clean Water Act may be awarded

## **Relationship to Other National Tribal Activities**

In addition to the specific tribal program activities listed in this Strategy, many other relevant *national* activities are being implemented by the EPA Water Program either to assist in all state, tribal, and local water program capacity-building generally or to assist in general tribal capacity development. This document, however, is limited in scope to those issues and activities that are specific to EPA's Water Program. This approach was elected to provide for greater focus on this particular set of issues and activities, and to avoid duplication with strategies or plans prepared for other EPA media programs or EPA's central tribal program (that is, the resources and activities administered by the American Indian Environmental Office (AIEO)). Consequently, several major EPA-wide tribal activities in which the water program is involved are intentionally omitted. Among these are:

- the Indian Environmental General Assistance Program (GAP) grants;
- the development of Tribal Environmental Agreements (TEAs);
- the development of a tribal section of the revised EPA grant regulations (40 CFR Part 35, Subpart B); and
- the preparation of a Baseline Assessment of Environmental Conditions in Indian country.

However, a number of these EPA-wide activities managed by AIEO, such as the development of an environmental presence or the development of baseline assessments, provide the foundation for building a strong water program. Thus, this Strategy includes as performance measures the water program component of these broader, national areas.

## **Relationship to the Clean Water Action Plan**

The Clean Water Action Plan, released by EPA and the U.S. Department of Agriculture in February 1998, provides a blueprint to address the remaining problems that are impairing uses of our waters, including polluted runoff and habitat losses. The Clean Water Action Plan relies upon a watershed approach to identify waters not meeting water quality or other natural resource goals and to develop strategies to return these waters to a healthy condition. The Clean Water Action Plan also sets directions for nationwide efforts to maintain the integrity of watersheds now meeting water quality objectives.

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only to Tribes on reservations whereas EPA water permitting activities may include other areas of Indian country (e.g., Indian allotments and dependent Indian communities). The scope of each activity will be determined by the appropriate statutory authority.

The Clean Water Action Plan complements this Strategy in a number of ways. This Strategy builds capacity for participation in initiatives such as the Clean Water Action Plan. Both the Clean Water Action Plan and this Strategy are based upon a process of setting priorities, allocating staffing and funding to address the most significant environmental risks, and tailoring the way that water quality programs are implemented to the specific priorities established. Because Indian country often comprises part of a watershed, working with neighboring entities on a watershed basis provides a way to address water quality problems in Indian country that may originate from activities outside of Indian country.

Even though this Strategy and the Clean Water Action Plan can and should be implemented together in Indian country, there should be flexibility in the way in which this is accomplished. For example, the Clean Water Action Plan calls for development of Unified Watershed Assessments that will be used to identify priority watersheds. As of October 20, 1998, thirteen tribes had submitted Unified Watershed Assessments to EPA. However, because federal water quality programs have only recently begun to emphasize needs in Indian country, the time frames in the Clean Water Action Plan, such as for the Unified Watershed Assessments, may be extended. (For example, the time frame for tribes to submit their Unified Watershed Assessments was extended to March 1, 1999.) Additionally, EPA will coordinate with other federal agencies to be responsive to the manner in which tribes decide to advance water programs, and will ensure that implementation of the Clean Water Action Plan proceeds in a compatible manner. In working with other federal agencies, states, local agencies and others on the watershed approach, EPA will also support involving downstream tribes and their water quality and habitat concerns in developing watershed priorities and strategies. A federal Interagency Tribal Coordination Committee has developed an approach to engage tribes in the Clean Water Action Plan and improve communication on tribal issues among other Committees implementing the Clean Water Action Plan.

## **Tribal Water Program Framework**

### **I. Water Program Presence in Indian Country**

The first component of achieving the overall goal of protecting human health and aquatic ecosystems is establishing an environmental presence for water programs in all of Indian country. The EPA Water Program will work with the tribes to identify the individual or group in each tribe who is responsible for environmental issues. If no environmental presence exists for a particular tribe, EPA will provide technical assistance and funding (including GAP grants) to foster the development of a water environmental program within the interested tribe.

A primary goal of the EPA Water Program is to support the development of tribal water environmental programs. A tribe, however, may be uninterested or unable (due to resource constraints) to accept the full responsibility of administering EPA Water Programs, and the EPA Regional Office will continue to have authority and responsibility for programmatic issues. In many cases a combination of the two will be needed, where an EPA presence is required in the interim while a tribal water program is being developed or where a tribe is only assuming certain responsibilities of an overall program (if this option exists for the

program). In some cases, tribes may want to enter into (or already have entered into) agreements with state and local governments, other agencies or tribal consortia to assist in implementation of environmental programs in Indian country. In these cases the EPA Water Program encourages tribes to formalize such agreements with the state or local entity in a manner consistent with EPA's Indian Policy and the federal government's trust responsibility regarding the protection of tribal sovereignty.

The EPA Water Program, consistent with federal law and EPA's Indian Policy, will also continue to play an important role in assisting interested tribes in those areas where federal tribal programs cannot be authorized in lieu of federal authorities and in supporting a wide variety of general capacity-building and technical assistance activities not tied to specific statutory mandates.

**Performance Measures:**

***By 2005, 95% of tribes will have a "water program environmental presence" (i.e., one or more persons, as appropriate, with environmental capability to advise tribal governments on developing and implementing water programs).***

In FY 1997, based on GAP grants, approximately 68% of federally-recognized tribes had an environmental presence.

**Water Program Activities:**

- Working through tribal governments, EPA Regional Water Divisions will survey tribes to determine interest and capabilities of establishing and maintaining a tribal water program(s) and identify key contacts.
- As the EPA Water Program increases the numbers of tribes with a water program environmental presence, the EPA Office of Water/Immediate Office (OW/IO) in coordination with other Office of Water programs and the EPA Regions will improve understanding of the baseline information.
- The OW/IO, in coordination with EPA Office of Water program offices, tribes, and EPA Regions, will develop and implement a communications and outreach plan to provide tribes with information on EPA water programs. Outreach materials will be used to communicate the importance of tribal water programs to tribal health and the environment; the availability of existing and emerging water policies, guidance, regulations, training, technical and financial assistance; and other issues.
- EPA Regions will provide interested tribes with training and technical assistance for developing a water program presence and establishing water quality programs.
- OW/IO will work with other EPA Office of Water program offices and other parts of EPA as they explore ways to promote the continuing development of tribal members with environmental expertise.

- The EPA Office of Water, through the EPA Regions, will provide base funding to tribes through GAP and Clean Water Act section 106 grants, including guidance on requesting the funds.

## **II. Monitoring and Reporting**

To provide a basis to respond effectively to environmental problems in Indian country, the EPA Water Program and the tribes will evaluate existing environmental information to assess the current environmental status in Indian country. The EPA Water Program and tribes will collect data from EPA or tribal water quality monitoring data and the Index of Watershed Indicators and other sources. Working through the Tribal Environmental Agreement (TEA) process or other approaches, EPA and the tribes will develop a baseline environmental assessment of Indian country. Where data gaps exist, EPA will work with the tribe to identify and prioritize further data collection needs as resources for data collection become available to the tribe or EPA.

### **Performance Measures:**

*(Note: EPA's baseline assessments workgroup for Indian country is currently developing a cross-media framework, which may result in a modification of these performance measures.)*

***By 2005, 40% of tribes will have water quality monitoring and assessment programs, as appropriate, and will be entering water quality data into EPA's national data systems.***

Currently, approximately 128 tribes are eligible for Clean Water Act section 106 grants (about 90 received grants in 1998). These tribes have some water quality monitoring and/or assessment underway. Thus, this goal is to increase that total by an additional 100 tribes.

***By 2005, 15% of tribes will be reporting information under Clean Water Act section 305(b) reports.***

Currently, eight tribes reported to EPA with little or no assistance (none of these currently have water quality standards in place). We assume that under the water quality standards goal, 15% of tribes will have water quality standards by 2005. We are estimating that approximately 95% percent of those tribes that develop water quality standards will report on their water quality information. Activities to expand tribal capacity to conduct baseline assessments and the universe of data reported will be carried out in conjunction with ongoing Agency baseline assessment activities.

### **Water Program Activities:**

- Provide contract resources to support baseline environmental assessment of Indian country.

- EPA Regions, in coordination with tribes, will identify existing data sources and evaluate the adequacy and quality (QA/QC) of the data.
- EPA Regions, in coordination with tribes, will identify priority needs for further data and provide technical assistance and training to tribes in establishing water quality monitoring and assessment programs.
- The EPA Office of Wetlands, Oceans and Watersheds (OWOW), in coordination with EPA Regions and tribes, will sponsor water quality monitoring and assessment training sessions at locations selected to encourage participation by tribes in the Clean Water Act section 305(b) reporting process.
- The EPA Office of Water will format data systems so that information is presented in a manner useful to tribes.

### **III. Tribal-Specific Water Program Priorities**

Following the survey of tribes' "Water Program Presence," and baseline environmental assessment, the EPA Water Program and the tribe will establish tribal-specific water program priorities, identifying those aspects of the water program to be implemented by the tribe and those to be directly implemented by EPA. The EPA Water Program recognizes that each tribe has the right to set its environmental priorities. The purpose of the EPA activities listed under this section is to assist those tribes that desire EPA assistance in setting their water priorities. The priority-setting process is a critical component. Without it, neither EPA nor the tribe will have a sufficient basis to identify key implementation activities.

The EPA/tribal partnership has a long and varied list of programs to be implemented in Indian country, including: water quality standards, nonpoint sources, point source permits, wetlands, public water systems, and underground injection control. To establish tribal-specific water priorities in line with national program priorities, the baseline assessment should be examined in context with the goals, objectives and sub-objectives of EPA's Strategic Plan and relevant tribal environmental, health, and cultural priorities.

Both tribal and EPA capabilities to implement environmental programs in Indian country must be evaluated to develop a realistic plan. After reviewing national and tribal environmental and health priorities, and having taken into consideration available and projected resources, the EPA Water Program can work with the tribe through the Tribal Environmental Agreements (TEAs), or other process, to establish priorities for specific tribal water programs. Through the TEA, or some other agreement, the EPA Water Program and the tribe will commit to carry out the individual programs that constitute a complete water quality and drinking water program.

#### **Performance Measures:**

***By 2005, 15% of tribes will have in place Tribal Environmental Agreements (or another type of agreement) developed by EPA and the tribe that include the following basic information:***

- ***tribal environmental assessments of water quality and drinking water in Indian country;***
- ***tribal environmental priorities for water resources; and***
- ***commitments by EPA and the tribe to their respective water program environmental responsibilities.***

**Water Program Activities:**

- The EPA Offices of Wastewater Management (OWM) and Groundwater and Drinking Water (OGWDW), in coordination with the EPA Regions, will provide interested tribes with technical assistance for establishing comprehensive water quality and drinking water programs, appropriate to their identified goals and needs.
- The EPA Office of Wetlands, Oceans, and Watersheds (OWOW) will convene a workgroup to build tribal capacity to identify impaired waters and develop Total Daily Maximum Loads (TMDLs) in Indian country. The goals of the activity are: (1) to encourage and assist tribes in assuming TMDL program responsibilities, and (2) to help protect tribal interests by encouraging cooperation among tribal, federal, state, and local governments. The workgroup will develop interim guidance to EPA Regions on key issues regarding consultation and outreach to tribes.
- OGWDW, in coordination with Regional Public Water System Supervision (PWSS) and Underground Injection Control (UIC) tribal coordinators, will work with tribes that are interested in assessing the health risks and funding needs in the realm of drinking water and underground injection wells. EPA will work with tribes developing TEAs, and assist in the assessment/establishment of PWSS and UIC program priority.

**IV. Implementation of Water Programs in Indian Country**

The prioritization exercise in Section III of this Strategy will assist tribes and EPA in identifying which are the program elements (e.g., water quality standards, National Pollutant Discharge Elimination System (NPDES) permitting, underground injection control, etc.) that will be implemented by EPA or a tribe. Though it is EPA's ultimate desire that tribes develop and implement their own EPA-approved tribal environmental programs, many tribes have very limited resources and needs that may not be met by EPA or other federal grants. Of the over 560 federally-recognized tribes in the United States, EPA estimates a large number will need EPA direct implementation of water programs to meet the goals of the Clean Water Act, Safe Drinking Water Act, and EPA's Strategic Plan.

Currently, EPA retains authority for directly implementing most existing water programs in Indian country. However, direct implementation (DI) resources are limited relative to the need that exists. Therefore, the EPA Water Program in conjunction with the tribes will set priorities for DI based on risk to human health and the environment. These DI priorities will be established in tribal-specific TEAs (or other similar agreements) which will provide a prioritized list of water program activities based on where resources can be best used and/or are most needed. Until a formal agreement is in place, the EPA Water Program in conjunction with the tribe will determine priority needs and ensure the most efficient use of resources to ensure that the tribe's most significant environmental problems are addressed timely.

For purposes of identifying necessary EPA and tribal implementation activities in this strategy, individual tribal water program needs (*e.g.*, wetlands, water quality standards, UIC, etc.) can be divided into three categories:

1. Tribes that do not plan to assume a program;
2. Tribes that will work in partnership with EPA to implement programs in Indian country; and
3. Tribes that have, or intend to develop, the capability to conduct their own water programs.

The EPA Water Program's implementation activities for tribes in categories 1 and 2 will be similar. For tribes in category 1, EPA will plan with the tribe for direct implementation over the long term (or indefinitely), while for tribes in category 2, EPA and the tribe will plan for a long-term partnership for implementation. In each case, priorities for each individual water program and tribe will be set on a case-by-case basis.

EPA Regions will work with each tribe to identify the priorities within each individual program. These priorities would include addressing questions such as: NPDES Permit issuance: should priority be given to municipal or industrial discharges? To discharges classified as major or minor? Is a pretreatment program a priority or are indirect discharges not a significant issue? Should we focus on technology-based effluent limitations or look at water quality-based limits as well? If we are to use water quality-based permits in the absence of approved tribal water quality standards, what standards will be used?

For tribes that fall into category 3, EPA will work with the tribe to assist in obtaining authorization for assuming environmental programs (TAS) and EPA program approval (where requirements are met) as expeditiously as possible. To achieve this goal, EPA will provide technical assistance to tribes based on their existing levels of capability. In some instances, EPA and the tribe may agree to a partnership relationship, as mentioned under category 2, as a means to develop the tribe's capability. While awaiting water program approval, high-risk human health and environmental priorities identified by EPA and the tribe will be addressed as necessary and in accordance with EPA's responsibility for direct implementation.

## **Performance Measures and Activities for Implementation of Water Programs in Indian Country**

The performance measures in this Strategy set forth goals for the individual water programs listed. Under each performance measure are general activities, that, when implemented in collaboration between the EPA Water Program and the tribes will assist in achieving the performance measure. More specific activities will be determined annually as part of the development of Regional Management Agreements and annual Office of Water commitments.

### **Water Quality Standards**

*By 2005, 15% of tribes will have final water quality standards approved by EPA for waters under their jurisdiction.*

Currently 14 tribes have final water quality standards. This total includes water quality standards promulgated by EPA for the Confederated Tribes of the Colville Reservation in Washington. This is a total of less than three percent.

### **Water Program Activities:**

- EPA's Office of Science and Technology (OST), in coordination with tribes and EPA Regions, will provide assistance to interested tribes in attaining authorization to assume the water quality standards program (TAS) status, including the preparation of water program-specific guidance documents.
- OST, in coordination with tribes and EPA Regions, will provide technical assistance to interested tribes in establishing approved water quality standards, including distribution of videos on the water quality standards program, conducting sessions of EPA's Water Quality Standards Academy, and conducting multi-Regional meetings on water quality criteria and standards and water quality-based permitting.
- OST, in coordination with tribes and EPA Regions, will develop additional guidance to assist tribes in developing water standards.
- OST, with input from tribes and EPA Regions, will develop guidance on setting ambient water quality criteria for the protection of high consumers of fish.

**(Note: For the purposes of water quality assessments, permitting, and Total Maximum Daily Loads (TMDLs), additional activities must be identified to ensure some type of "default" water quality standards are available where necessary. Options include: developing a model for tribal water quality standards, a new water quality standards regulation for Indian country and others.**

### **Total Maximum Daily Loads**

***By 2005, 20 percent of tribes that have EPA-approved water quality standards and that have demonstrated an interest in establishing a Total Maximum Daily Load (TMDL) program under Section 303(d) of the Clean Water Act either will have such a program in place or, in coordination with EPA, will be in the process of developing such a program.***

As of 1998, of the 14 tribes that have EPA-approved water quality standards, none has a TMDL program.

#### **Water Program Activities:**

- As an interim step, OWOW will issue guidance on how the states, tribes, and EPA can establish a more formal cooperative process for involving tribes in state Section 303(d) list and TMDL development.
- OWOW, with input from the EPA Regions and tribes, will revise its regulations and/or guidance, as appropriate, to clarify that tribes may be treated in the same manner as states for the purpose of the TMDL program and to remedy any existing legal and procedural impediments to working directly and effectively with tribal governments on TMDL program issues.
- EPA Regions and OWOW, in coordination with tribes, will take affirmative steps to encourage and assist tribes in assuming regulatory and program management responsibilities including: targeted assistance to those tribes with approved water quality standards to develop joint EPA/tribal section 303(d) lists and TMDLs; providing information to federally-recognized tribes on the TMDL program, using such vehicles as fact sheets, newsletters, and other training/educational materials; and funding tribal attendance at TMDL training opportunities such as the EPA Watershed Academy and Regional TMDL training courses.

### **Nonpoint Source Management**

***By 2005, 50% of Indian country will have approved nonpoint source assessment and management plans.***

At present, approximately 3% of tribes have approved nonpoint source assessment and management programs and an additional 4 - 5% are beginning work on programs with Regional coordinators. In FY 1997, the Water Program published a "Tribal Nonpoint Source Planning Handbook" to assist tribes with development of nonpoint source assessment plans and management programs. The Water Program set aside \$60,000 to provide 3-4 regional tribal nonpoint source workshops in FY 1998 that focus on tribal nonpoint source issues including monitoring, technical topics, outreach, and funding, and intends to hold 3-4 workshops each year until plans are in place. EPA is also developing outreach materials directed specifically to tribes in the form of 3 fact sheets on different types of nonpoint source pollution and a funding matrix for alternative funding sources.

#### **Water Program Activities**

- OWOW and the Regions will provide guidance and practical templates for tribes interested in developing nonpoint source assessment plans and management programs.
- OWOW and the Regions will conduct a series of regional workshops to provide information on technical and programmatic assistance and funding opportunities to manage nonpoint source pollution in Indian country. These workshops will assist tribes in developing capacity to manage programs that address nonpoint source pollution.
- OWOW and the Regions, in coordination with the tribes, will develop nonpoint source outreach materials directly targeted to tribes.

### **National Pollutant Discharge Elimination System Permitting**

***By 2005, 100% of all major NPDES facilities within Indian country will be permitted using effluent guidelines limitations or secondary treatment requirements where they apply. In addition, 50% of all facilities (majors and minors) will be permitted according to Clean Water Act requirements.***

Currently, 30% of major dischargers in Indian country have technology-based permits using effluent guidelines limitations regulations.

#### **Water Program Activities:**

- OWM will continue to provide guidance to tribes on assumption of the NPDES permitting program, including permit writers training courses.
- OWM will work with AIEO to train tribal coordinators on the NPDES permitting program.

### **Wastewater Treatment**

***By 2005, reduce the number of homes in Indian country with inadequate wastewater sanitation systems by 25% through funding from the Clean Water State Revolving Fund, Tribal Set-Aside Program.***

At the end of 1997, according to the Indian Health Service's Sanitary Deficiency System, there were 71,028 Indian homes where sewage disposal to wastewater sanitation systems was inadequate. Through the activities described below, we will work to reduce the number of homes with inadequate systems.

*( Note: This 25% commitment only reflects EPA's contribution to improvements in tribal homes served. Other federal agencies such as IHS, BIA, HUD, and RUS are also investing in sanitation systems for tribes.)*

### **Water Program Activities:**

- OWM will provide guidance for making Clean Water State Revolving Fund Tribal Set-aside funds and other financial assistance available to Indian tribes and Alaska Native Villages. OWM and Regions will look for ways to increase funding for wastewater infrastructure improvements in Indian country.
- EPA Regions, in coordination with OWM, will increase outreach and technical assistance efforts to Indian tribes and Alaska Native Villages ( through partnerships with the Indian Health Service and other stakeholders) to develop their financial, management, and operational capacity to successfully manage wastewater sanitation systems.
- EPA Regions will work with tribal organizations, colleges/universities, or junior colleges to consider establishment of a tribal Training Center to address their wastewater concerns. EPA Regions are encouraged to work directly with tribal systems, or as appropriate, with State Training Centers to help tribal systems experiencing problems return to a compliance status through the 104(g) program.
- OWM and EPA Regions will improve coordination with sister federal agencies that are involved in waste water treatment.
- EPA Regions will increase their coordination with state/regional offices of federal agencies, and where appropriate, with private concerns to leverage financial, training or technical support for tribes.

### **Fish Consumption Advisory Programs**

Currently, EPA does not have baseline information on the number of tribes with fish consumption advisory programs and, therefore, we are not proposing a performance measure at this time. Nonetheless, the activities listed here are designed to assist more tribes in developing programs. A specific performance measure will be added once the baseline information is available.

### **Water Program Activities:**

- OST, in coordination with EPA Regions and tribes, will collect baseline data on the number of Tribes with fish consumption advisory programs.
- OST will sponsor a state/tribal training workshop on conducting risk assessments for issuing fish consumption advisories.
- OST will generate, based on data from consumption surveys, default fish consumption rates to be used to derive ambient water quality criteria to protect the health of high consumers such as tribes.

- OST will develop guidance for conducting fish and wildlife consumption surveys. OST will encourage tribes to develop tribal-specific fish consumption rates where data exist.
- OST will develop guidance on comparative dietary risks associated with fish and other foods.
- OST will seek to provide grants to tribes for contaminant monitoring and the development of fish consumption advisories.

### **Public Water System Supervision Program**

*By 2005, the population served by tribal community water systems providing drinking water that meets all existing health-based standards will increase to 95% from a baseline of 86% in 1996. 95% compliance will be achieved for any new standards within 5 years after the effective date of each rule.*

Approximately 200 tribes nationwide have one or more public water systems (pws). This is the universe of tribes for which the Public Water System Supervision (PWSS) primacy is meaningful. Of these 200 tribes, almost 50% have only one system; over 75% have three or fewer systems; and only 15 tribes have 10, or more, systems.

In absence of approved tribal PWSS programs, EPA Regions are the primacy agent and “directly implement” the program in Indian country. Implementation means ensuring that the tribal water systems meet the requirements of the National Primary Drinking Water Regulations.

#### **Water Program Activities:**

- Provide the Drinking Water Tribal Set-Aside grants for capital improvements to public water systems that serve Indian tribes.
- In conjunction with the Office of Enforcement and Compliance Assurance (OECA), produce the National Compliance Report. This report summarizes compliance and enforcement activities on Indian reservations.
- Provide training and project funds to build capacity of tribal utilities.

### **Drinking Water System Operator Certification**

*By 2005, 80% of tribal community and non-transient non-community water systems will have a certified operator.*

Currently, no EPA baseline data exist in the Safe Drinking Water Information System (SDWIS) for Operator Certification. EPA activities in this area will be to build the baseline data while working toward certification of tribal water system operators.

**Water Program Activities:**

- OGWDW, working with the tribes and EPA Regions, will create a voluntary National Operator Certification Program for tribes and will expand the training programs and certification opportunities for tribal public water system operators.

**Source Water Protection**

*By 2005, 40% of the population served by tribal community water systems will receive their water from systems with source water assessments in place and where needed, source water protection programs in place.*

**Water Program Activities:**

- OGWDW and the EPA Regions will provide assistance to those tribes interested in establishing a source water protection program.
- OGWDW and the EPA Regions will provide funding to tribes for source water protection projects.
- OGWDW and the EPA Regions will provide Source Water Protection outreach material to tribes.

**Underground Injection Control**

*By 2005, increase protection of groundwater resources by managing all Class I, II, and III injection wells in Indian country and by managing identified, high-risk tribal Class V wells in 100% of high-priority protection areas (e.g., tribal priority areas, well head protection, sole source aquifer or source water protection areas).*

**Water Program Activities:**

- EPA Regions will use the 5% Tribal Set-Aside from the Underground Injection Control (UIC) Program funds to directly implement a UIC program for those tribes that do not have UIC Primacy.
- OGWDW will modify Form 7520 to collect data that are needed to better measure UIC programs.

- OGWDW, in cooperation with tribes and EPA Regions, will ensure identification of Class V UIC wells in tribal source water assessment programs.

### **Wetlands**

***By 2005, 20% of tribes will have developed tribal conservation plans or alternate approaches for protecting wetlands and watersheds.***

As of April 1998, 28 tribes (or a total of 5%) had wetlands conservation or protection programs.

### **Water Program Activities:**

- OWOW will work to provide Clean Water Act section 104(b)(3) grants to tribes to develop new or enhance existing wetlands protection programs. The grants guidance recommends that tribes develop comprehensive wetlands and watershed conservation plans to review and assess existing conditions and programs (regulatory and non-regulatory), and identify gaps and recommendations for comprehensive tribal management.
- OWOW, in coordination with EPA Regions and tribes, will conduct a series of regional workshops to provide information on technical assistance and funding opportunities to manage wetlands and watersheds in Indian country. These workshops will assist tribes in developing capacity to operate programs to protect natural resources.

## **V. Communications and Outreach**

A Communications Strategy is being developed by the EPA Office of Water.

## **VI. Training Plans for EPA Water Program Management and Staff**

EPA Headquarters and Regional Offices are responsible for developing and implementing appropriate employee training programs for working effectively with tribal governments.

On September 6, 1996, the Administrator issued a memorandum requesting that EPA Assistant Administrators and Regional Administrators develop training to ensure that "EPA employees have the necessary sensitivity, knowledge and understanding of Indian Affairs to facilitate communication between EPA and Tribal representatives."

Coordinated by the Office of Water (OW) Indian Coordinators, OW began its training program in the first quarter of fiscal year 1998. OW's program, based on training materials developed by the American Indian Environmental Office (AIEO) -- *Working Effectively with*

*Tribal Governments*, provides for a one-half day intensive course for OW managers (Branch Chief and above) and full-day courses for staff.

OW training is facilitated and partially taught by a Native American consultant, AIEO, and EPA's Office of General Counsel. Funds for the consultant are provided on a rotating basis among the various OW program offices under Purchase Orders administered by the Human Resources staff of OW's Immediate Office.

Following the third offering of this training, participants show a high degree of satisfaction and a desire to learn more on specific topics.

OW will continue to provide training in this manner. The OW Indian coordinators will monitor progress, ensure training is continued and modify the presentation as necessary to accommodate the OW need.

## **VII. Strategy Implementation, Assessment and Revision**

The EPA Water Program believes that the activities identified in this Strategy will help improve the protection of human health and the environment in Indian country and contribute to the attainment of EPA's goal of clean and safe water. To help ensure that these activities are implemented to successful completion and that they are the correct activities to meet the Strategy's goals and objectives, oversight of the Strategy's implementation will be incorporated into the EPA Office of Water's ongoing planning, budgeting, and management processes. EPA Regions and the Office of Water will make annual commitments against and report on progress towards the Strategy's goals as part of the water program's Management Agreement process. Progress against EPA Regional and Headquarter commitments will be reviewed mid-year and at the end of the fiscal year. Based on these reviews, the EPA Water Program will identify steps needed to achieve the Strategy's goals, seek ways to obtain potential additional resources for its implementation, refine priorities through the annual commitment process, and revise the Strategy if necessary. A standing EPA Headquarters and Regional senior management committee will be responsible for reviewing the Strategy's implementation and revising it as needed.

## **APPENDICES**

## APPENDIX I

### *EPA's Strategic Plan - Goal 2 and EPA Indian Program Objectives*

#### **A. EPA Strategic Plan: Goal 2 - Clean and Safe Water**

Goal 2 of EPA's Strategic Plan sets national priorities for clean and safe water. It states:

All Americans will have drinking water that is clean and safe to drink. Effective protection of America's rivers, lakes, wetlands, aquifers, and coastal and ocean waters will sustain fish, plants, and wildlife, as well as recreational, subsistence, and economic activities. Watersheds and their aquatic ecosystems will be restored and protected to improve human health, enhance water quality, reduce flooding, and provide habitat for wildlife.

To meet this goal, EPA has established the following objectives:

By 2005, protect human health so that 95 percent of the population served by community waste systems will receive water that meets drinking water standards, consumption of contaminated fish and shellfish will be reduced, and exposure to microbial and other forms of contamination in waters used for recreation will be reduced.

Conserve and enhance the ecological health of the nation's (State, interstate and Tribal) waters and aquatic ecosystems -- rivers and streams, lakes, wetlands, estuaries, coastal areas, oceans, and groundwater -- so that 75 percent of waters will support healthy aquatic communities by 2005.

By 2005, pollutant discharges from key point sources and nonpoint source runoff will be reduced by at least 20 percent from 1992 levels. Air deposition of key pollutants impacting water bodies will be reduced.

**Note: Sub-objectives under these objectives provide for greater definition of these objectives.**

#### **B. EPA Strategic Plan - EPA Indian Program Objectives**

In addition to the above general goal and objectives, EPA's Strategic Plan identifies specific Tribal objectives as follows:

##### Key Objectives:

Achieve adequate environmental infrastructure within Tribal homelands throughout the country.

Complete the Tribal/EPA Environmental Agreements. These agreements contain the Tribal environmental baseline assessment, Tribal environmental priorities identified by the Tribal government, and EPA's commitment to achieve these priorities.

Implement fully the 1984 EPA Indian Policy Statement.

Increase significantly the number of Tribes implementing environmental programs.

Implement environmental programs (Federal of Tribal) within Tribal homelands that meet needs established by Tribal environmental baseline assessments.

Build capacity and adequate internal mechanisms to help tribes implement environmental programs and, in the absence of Tribal implementation, establish means for EPA implementation.

Establish a mechanism, in partnership with Tribal and State governments, to resolve transboundary issues.

Key objectives will be met through:

Increased Tribal capacity-building efforts.

Greater implementation of environmental programs within Tribal homelands.

Expanded education for EPA employees regarding Tribal environmental issues

Increased technical assistance and training for Tribal environmental program managers.

Continued cross-Agency, multimedia coordination of Indian program activities by the American Indian Environmental Office.

## APPENDIX II

### Glossary

AIEO	American Indian Environmental Office
ANV	Alaska Native Village
CWA	Clean Water Act
DI	Direct Implementation
GAP	General Assistance Grants
GPRA	Government Performance and Results Act
NPDES	National Pollutant Discharge Elimination System
OW	Office of Water
OW/I	Office of Water Immediate Office
QA/QC	Data quality adequacy and quality
OECA	Office of Enforcement and Compliance Assurance
OGWDW	Office of Ground Water and Drinking Water
OST	Office of Science and Technology
OWM	Office of Wastewater Management
OWOW	Office of Wetlands, Oceans and Watersheds
PWS	Public Water Supply
PWSS	Public Water System Supervision
SDWA	Safe Drinking Water Act
SDWIS	Safe Drinking Water Information System
TAS	Treatment in the manner of a State
TEA	Tribal Environmental Agreements
TMDLs	Total Maximum Daily Loads
UIC	Underground Injection Control
UWAs	Unified Watershed Assessments