
GAP Technical Assistance Handbook
**A Roadmap to Support Tribal Environmental Capacity Building
and Solid and Hazardous Waste Implementation**

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American Indian Environmental Office

Roadmap to Support Tribal Environmental Program Capacity and Solid and Hazardous Waste Implementation

TABLE OF CONTENTS

INTRODUCTION	3
PART 2: TRIBAL CAPACITY BUILDING.....	4
BUILDING CORE ENVIRONMENTAL PROGRAMS.....	4
Administrative Capacity Building Activities	4
Financial Management Capacity Building Activities	4
Information Management Capacity Building Activities	5
Key sources of program guidance include:	6
Public Participation, Community Involvement, Education, & Communication Capacity Building Activities...	6
Legal, Compliance Monitoring, and Enforcement Capacity Building Activities.....	6
Technical and Analytical Capacity Building Activities	9
Baseline Needs Assessment Activities.....	9
BUILDING TRIBAL AMBIENT AND INDOOR AIR QUALITY PROGRAMS	11
Key sources of program guidance include:	13
BUILDING TRIBAL WATER QUALITY PROGRAMS.....	14
Key sources program guidance include:	16
BUILDING TRIBAL DRINKING WATER PROGRAMS.....	17
Key sources of program guidance include:	18
BUILDING SOLID WASTE, HAZARDOUS WASTE, AND UNDERGROUND STORAGE TANK PROGRAMS	19
Key sources program guidance include:	21
BUILDING TRIBAL CONTAMINATED SITE REMEDIATION AND EMERGENCY RESPONSE PROGRAMS	22
Key sources of program guidance include:	24
BUILDING TRIBAL CHEMICAL SAFETY AND POLLUTION PREVENTION PROGRAM CAPACITIES.....	25
Key sources of program guidance include:	28
PART 2: SOLID AND HAZARDOUS WASTE IMPLEMENTATION	29
ALLOWABLE AND UNALLOWABLE SOLID WASTE AND RECOVERED RESOURCE PROGRAM IMPLEMENTATION, COLLECTION, TRANSPORTATION, BACKHAUL AND DISPOSAL COSTS	29
Tribal Waste Management Program Administration	29
Cleanup and Closure Activities	29
Tribal Compliance and Enforcement Programs.....	30
Solid Waste Management, Resource Recovery, and Resource Conservation	31
Service Delivery	32
Unallowable Solid Waste Activities Under GAP	33

Introduction

The Indian Environmental General Assistance Program (GAP) was created to assist Tribes with building the capacity to develop and manage their own environmental programs. Generally, GAP funds can be used to plan, develop, establish, and maintain capacity to implement programs under statutes administered by EPA and/or meaningfully participate in environmental programs, and to implement solid and hazardous waste programs, including collection, transportation, disposal, and backhaul services.

This Handbook provides a roadmap of activities that may be useful to Tribes and intertribal consortia in developing environmental programs. This Handbook is not a required list of activities, does not include all possible activities, and does not establish expectations that all Tribes should achieve program delegation, authorization or approval of EPA administered programs. Environmental priorities, long-term program development goals, and the process to build an environmental program is unique to each Tribe.

Additionally, EPA acknowledges that building capacity is not always a linear process. Given the vast and well-documented disparities that Tribes may experience, Tribal environmental staff often contend with significant challenges above and beyond the status quo for designated environmental authorities. Tribal environmental staff are often both overburdened and under resourced, starting and working from behind. EPA recognizes that there may be setbacks and unforeseen issues toward which Tribes need to focus their efforts and that planned objectives may vary as a result.

This Handbook can be used to support the development of GAP work plans and identify priorities and long-term development goals in EPA-Tribal Environmental Plans (ETEPs). **The activities in this Handbook are not GAP capacity indicators, or milestones, but may help Tribe's to achieve capacity indicators identified in ETEPs.**

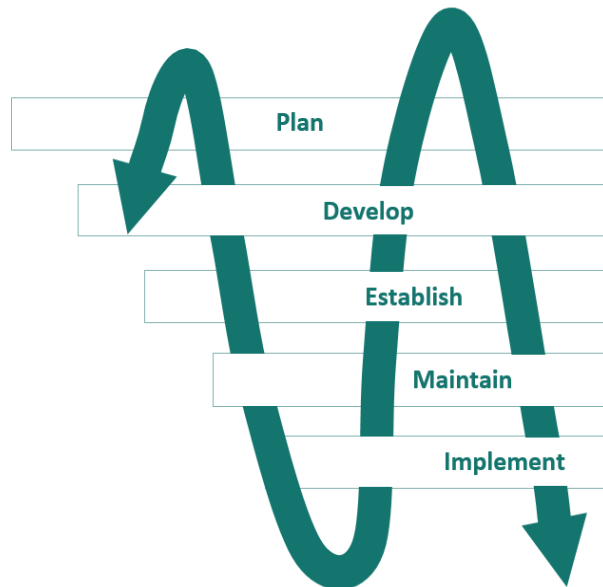


Figure 1: Building environmental capacity with GAP funding is not always a linear process.

Part 2: Tribal Capacity Building **Building Core Environmental Programs**

Core environmental program capacity building activities can apply to multiply programs. In this Handbook, core capacity building activities are grouped in seven different categories: (1) Administrative, (2) Financial Management, (3) Information Management, (4) Public Participation, Community Involvement, Education, and Communication, (5) Legal, Compliance Monitoring, and Enforcement, (6) Technical and Analytical, and (7) Baseline Needs Assessment.

ADMINISTRATIVE CAPACITY BUILDING ACTIVITIES

Administrative activities are types of activities related to assessing, modifying, or developing policies and guidance that a recipient will use to manage environmental programs. Administrative activities also include activities related to recruiting, hiring, and retaining qualified staff to develop and manage these policies.

Examples of Administrative Capacity Building Activities
Develop or modify an organizational system for the environmental program that defines staff roles and responsibilities, describes the relationship of the environmental program to Tribal leadership and other departments, and includes supporting personnel management policies/procedures.
Recruit and hire staff with appropriate skills, knowledge, and experience to manage the environmental program.
Write a training plan for staff that reflects the capacity-building priorities for the environmental program.
Establish a program evaluation system for use in determining whether program objectives are met, fiscal resources are appropriately managed, and assistance award requirements satisfied.
Establish Intergovernmental agreements (Tribal, federal, state, local) necessary to implement the environmental program.
Write procedures similar to the Administrative Procedure Act to ensure meaningful involvement and fair treatment in public participation.
Develop or modify an organizational filing/records retention system and policies (paper and electronic).
Write policies and procedures to coordinate Tribal environmental programs with other Tribal government initiatives (e.g., transportation, housing, infrastructure, economic development, and natural resource management).

FINANCIAL MANAGEMENT CAPACITY BUILDING ACTIVITIES

Financial management activities are types of activities related to assessing, modifying, or developing financial, procurement, equipment tracking, property management, and grants management procedures to ensure that the Tribal systems comply with federal requirements. Procedures should clearly delineate roles and responsibilities, describe recordkeeping activities, and define auditing and other evaluation methods that will be used to ensure fiscal accountability.

Examples of Financial Management Capacity Building Activities
Develop a statement by the appropriate Tribal financial department demonstrating that the Tribe’s accounting system, internal controls, and financial reporting procedures adhere to the requirements found in 40 C.F.R. § 35 Environmental Program Grants for Tribes, 2 C.F.R. Part 200 , and 2 C.F.R. Part 1500 .
Develop a statement by the appropriate Tribal financial department demonstrating that the Tribe has a procurement procedure that meets the minimum requirements for purchasing systems as outlined in 2 C.F.R. Part 200 and 2 C.F.R. Part 1500 .
Write procedures for tracking (including final disposition) equipment and supplies acquired by the environmental program in compliance with, 2 C.F.R. Part 200 and 2 C.F.R. Part 1500 .
Write procedures that describes how the environmental program will coordinate with other Tribal departments to satisfy grant terms and conditions and reporting requirements (for example, application development/review/approval, creation and submission of required reports, maintenance of official file, closeout of award).
Provide current indirect cost rate agreement.
Activities that help the Tribe build capacity to process financial payment requests, submit required annual Federal Financial Reports, and perform annual financial audits as required.

INFORMATION MANAGEMENT CAPACITY BUILDING ACTIVITIES

Information management activities are types of activities related to assessing, modifying, or developing systems to maintain administrative records and files, useful reference material for the environmental program, and information on environmental and human health conditions that may impact human health or the environment. Information management systems should: clearly identify roles and responsibilities; prescribe a required format for materials and information tracked in the system(s); identify the physical (hard copy) location of materials and information entered into the system; identify any confidentiality issues pertaining to specific materials and information; and note whether materials and information must be legally maintained for a specific time period. Information management is also essential for measuring and tracking program performance over time, including data management on environmental indicators. Data collection, management, and reporting are key features of a core environmental protection program.

Examples of Information Management Capacity Building Activities
Write procedure for establishing an official file for each assistance award that contains all documentation from application through final closeout and that requires record retention in compliance with 2 C.F.R. Part 200 and 2 C.F.R. Part 1500 .
Develop a written inventory of administrative and technical procedures, policies, regulations, or other guidelines developed to implement the environmental program.
Establish a system to store and organize data and information collected or generated by the environmental program for future use in characterizing environmental and human health conditions, responding to information requests, developing environmental projects/initiatives, or other project management data systems.
Exchange and/or share data through the National Environmental Information Exchange Network.
Write policies and procedures for protecting sensitive Tribal environmental and human health data (e.g., traditional ecological knowledge/indigenous knowledge and cultural resources).
Acquire, process, store/archive, analyze, and display environmental information on a map (Geographic Information System).

Key sources of program guidance include:

- Environmental Information Exchange Network & Grant Program: <https://www.epa.gov/exchangenetwork>
- EPA Quality Management System: Quality Management Tools - QA Project Plans: <https://www.epa.gov/quality/template-developing-generic-quality-assurance-project-plan-or-plan-elements-model>
- Implementation of Quality Assurance Requirements for Organizations Receiving EPA Financial Assistance: <https://www.epa.gov/grants/implementation-quality-assurance-requirements-organizations-receiving-epa-financial>

PUBLIC PARTICIPATION, COMMUNITY INVOLVEMENT, EDUCATION, AND COMMUNICATION CAPACITY BUILDING ACTIVITIES

Public Participation, Community Involvement, Education, and Communication activities are types of activities related to assessing, modifying, or developing systems to ensure that the Tribal environmental program can notify the general public of important events or information, publicize activities related to its projects and programs, engage community members to understand their environmental and public health concerns, educate the public on human health and environmental protection issues important to the Tribe, and be responsive to concerns raised. These systems should identify the various routes or methods of disseminating information, and the time frame and particular audience that each method would reach.

Examples of Public Participation, Community Involvement, Education, and Communication Capacity Building Activities
Establish a program to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of Tribal programs, policies, and activities on minority populations and low-income populations within the Tribe’s area of program responsibility.
Develop outreach methods that will be used to reach and solicit input from potentially affected communities and groups.
Develop Environmental Education/Outreach plans and (or) curricula.
Develop a process and format for public notices, press releases, and other types of communications.
Document methods that will be used to identify public concerns and respond to issues raised.
Compile contact lists for other governmental entities and types of information that will be shared.
Develop methods to conduct general public education, awareness, community engagement, and information exchange on issues related to human health and the environment.
Develop methods for collaborating and sharing information with other Tribal, federal, state, and local governments, or with other organizations.
Develop Tribal consultation policies and procedures.
Establish Tribal community-based advisory groups to assist with planning and implementation of the Tribal environmental program.

LEGAL, COMPLIANCE MONITORING, AND ENFORCEMENT CAPACITY BUILDING ACTIVITIES

Legal activities are types of activities related to assessing, modifying, or enacting the Tribal laws, codes, and regulations, Interagency Agreements, Memoranda of Understanding, and associated policies and guidance that are necessary to prevent environmental deterioration, abate pollution conditions, and

manage or enforce specific regulatory programs. Tribes should determine what legal authorities it may use to regulate facilities and activities that may impact air, land, or water resources within its jurisdiction, including any compliance assurance and enforcement actions that may be appropriate. The Tribe should determine and take steps if necessary to ensure that it has the legal authority and ability to establish and implement standards, permitting processes, certification requirements, and civil enforcement procedures.

Tribes may use GAP funds to develop a compliance monitoring program to determine compliance status and inform Tribal decisions on when enforcement is necessary. A Tribe's compliance monitoring program should include capacities for information gathering, data analysis, facility inspections, review of reports from regulated entities, and addressing citizen complaints. To ensure effectiveness and consistency, Tribes should train and provide appropriate credentials to authorized compliance monitoring personnel, develop, and adopt standardized compliance monitoring and inspection procedures and practices, and manage the resulting information in computerized data management systems.

Tribes may use GAP funds to establish programs that require regulated entities to undertake self-monitoring, recordkeeping, and reporting as a means for Tribes to monitor compliance. By requiring regulated entities to measure and report their performance, Tribes are able to shift some of the burden for compliance monitoring to the regulated community. Through sanctions for false reporting or non-reporting, defined in regulations or permit requirements, a Tribe can increase the accuracy of reports from regulated entities.

Tribes may use GAP funds to establish programs for the enforcement of environmental requirements. Enforcement is a fundamental element of any compliance assurance program. In designing enforcement programs under GAP, Tribes should consider adopting and implementing a full suite of relevant enforcement mechanisms, including informal approaches (e.g., warnings and notices of violation); formal Tribal administrative or judicial actions to compel compliance, assess penalties and/or impose other sanctions (e.g., shut down the facility); and criminal enforcement (e.g., fines and/or imprisonment) consistent with the Tribe's authority. In responding to violations, Tribes should act in a timely manner to correct noncompliance, deter future noncompliance and where possible redress environmental harm caused by noncompliance. Tribes may also use GAP funds to develop and maintain the capacity to work cooperatively with federal enforcement officials to address environmental violations that give rise to civil or criminal investigations.

Tribes may use GAP funds to establish programs that facilitate citizen access to compliance information, subject to confidentiality and preservation of privileged information. Providing the public with information on the compliance status of regulated entities gives surrounding communities information on possible risks they may be facing as a result of noncompliance and arms citizens with information they can use to put pressure on noncompliant facilities to come into compliance and on regulatory agencies to address noncompliance. Without prematurely revealing information on enforcement cases or compromising confidentiality and privileged information, Tribes should strive to provide public access to information on the entities regulated by environmental requirements, their compliance status, and any history of formal and informal enforcement actions taken to address noncompliance. Tribes should establish procedures for citizens to request and receive specific information via all available media within a reasonable timeframe, subject to applicable laws and policies on confidentiality, the preservation of privileged information, and other limitations on sharing information.

Examples of Legal Capacity Building Activities
Develop a statement by Tribal legal counsel demonstrating that the Tribe has authority to pass and enforce laws/ordinances to protect human health and the environment.
Develop a statement by Tribal legal counsel demonstrating that Tribal government authority provides the Tribe with power to enjoin activities determined to be harmful to the health or welfare of persons or the environment.
Develop a dedicated section of the Tribe’s laws/codes/ordinances for environmental program activities that establish standards, permitting processes, certification requirements, compliance assurance, and enforcement procedures.
Develop a program to provide compliance assistance to regulated entities to promote an understanding of applicable environmental requirements and assist them in attaining and maintaining compliance.
Develop documentation supporting the Tribe’s claim of interests to usual and accustomed areas and to cultural resources potentially affected by environmental protection activities.
Establish Interagency Agreements or Memoranda of Understanding with other Tribal, federal, state, or local governments regarding environmental protection.
Examples of Compliance Monitoring Capacity Building Activities
Develop procedures and systems for maintaining an inventory of regulated entities or activities.
Develop procedures to train and provide credentials to authorized compliance monitoring personnel.
Establish a program to require regulated entities to keep records, review records, and provide applicable records to the Tribe.
Develop incentives and voluntary reporting of noncompliance that encourages compliance and environmental stewardship.
Develop procedures for receipt, evaluation, retention, and investigation for possible enforcement of all notices and reports required of regulated entities.
Develop procedures and resources to assure adequate coverage of regulated entities through compliance monitoring activities. Compliance monitoring activities, including inspections, should be conducted to: (a) determine compliance with applicable program requirements, including but not limited to permit conditions; (b) document noncompliance; (c) verify the accuracy of information required to be reported or maintained by the regulated entity; and (d) verify the adequacy of sampling, monitoring, and other methods used to develop the information submitted.
Establish a program to enter a site potentially subject to regulation – or in which records relevant to applicable program requirements are kept – in order to copy records, inspect, monitor emissions, or take samples, or otherwise investigate compliance.
Develop procedures to ensure that compliance monitoring activity is conducted in a manner (e.g., using “chain of custody” procedures for samples taken from a regulated entity) that will produce evidence admissible in enforcement proceedings or court.
Develop procedures for encouraging public reporting of violations, including a mechanism for the public to submit such reports, and for ensuring proper consideration of citizen tips and complaints.
Examples of Enforcement Capacity Building Activities
Establish a program to immediately and effectively enjoin any activity that may present an imminent and substantial endangerment to public health or the environment.

Establish a program to restrain unauthorized activity, compel compliance with applicable requirements, and impose injunctive relief to remedy noncompliance.
Establish a program to compel regulated entities to submit reports and provide documents to the Tribe for the purpose of assessing compliance with applicable requirements.
Establish a program to compel regulated entities to conduct monitoring or sampling and provide results to the Tribe for the purpose of assessing compliance with applicable requirements.
Establish a program to assess or sue to recover civil penalties appropriate to the violation.
Establish a program to assess penalties for violations of applicable requirements, such as fines or imprisonment for environmental crimes.

TECHNICAL AND ANALYTICAL CAPACITY BUILDING ACTIVITIES

GAP resources may be used to provide a foundation of technical and analytical skills, knowledge, and resources that will be valuable to Tribes as they make decisions to pursue specific environmental program projects and programs. GAP may support activities that establish the recipient’s capacity to manage projects involving data collection, including the establishment of a quality system. Examples include activities that help build capacity to conduct direct measurements or generate data, model environmental conditions, compile data from literature or electronic media, and the ability to manage data supporting the design, construction, and operation of environmental technology.

Examples of Technical and Analytical Activities
Write quality assurance and management plans.
Establish Intergovernmental agreements with other jurisdictions related to environmental protection.
Seek funding from other sources (subject to limitations identified in 2022 GAP Guidance Section 2.1)
Develop environmental monitoring/sampling programs.

BASELINE NEEDS ASSESSMENT ACTIVITIES

Developing a baseline needs assessment is a primary step to determine the environmental resources needing protection and the environmental and human health issues facing a particular Tribal community. Such an assessment can help a Tribe to identify and prioritize an approach for undertaking protection and restoration efforts. The baseline needs assessment is not meant to be an extensive data collection effort, but rather an initial step to prioritize general environmental issues.

Examples of Baseline Needs Assessment Activities
Develop a modify a current baseline needs assessment or comparable planning document, such as a Tribal Integrated Resource Management Plan, Tribal environmental inventory, or natural resource assessment that reflects: (1) environmental resources needing protection; (2) known information about existing/potential threats to human health and the environment within the Tribe’s area; (3) an evaluation of the potential impact of these threats to Tribal members and resources (4) strategic plan with long term program development and implementation goals identified; and (5) prioritization of activities by the environmental program to address identified threats.
Update the Tribe’s baseline needs assessment in response to factors such as new sources of pollution, changing environmental conditions, new development in the community, acquisition of lands, and changes to the environmental program.

There are many approaches for conducting effective baseline needs assessments, including those that are informed by traditional ecological knowledge/indigenous knowledge. A general example approach for conducting a baseline needs assessment is shown in Figure 2.

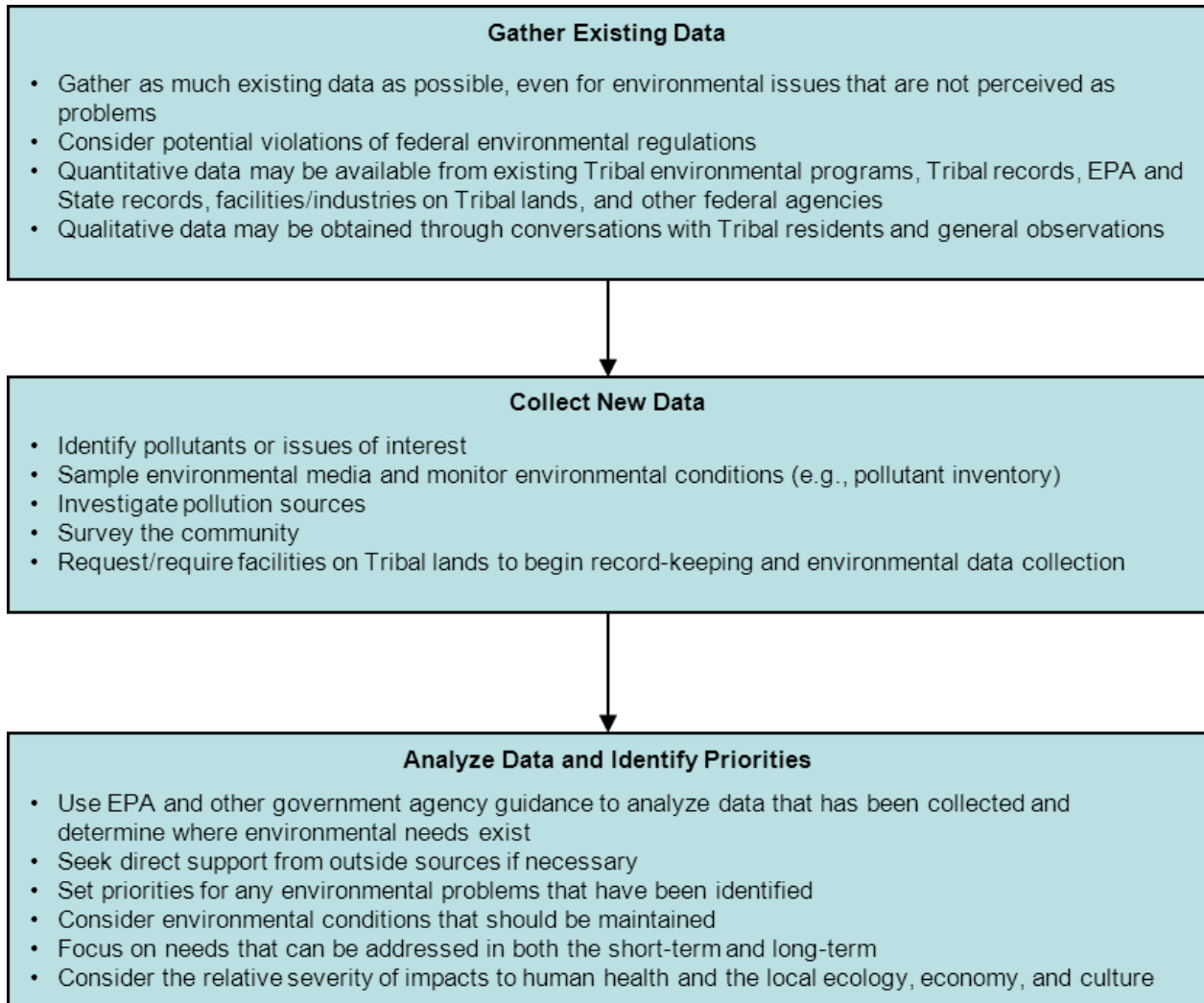


Figure 2: Conducting a Baseline Needs Assessment

Building Tribal Ambient and Indoor Air Quality Programs

Air quality is regulated primarily under the CAA. The CAA was first enacted in 1963 and underwent significant revisions in 1970 and 1990. The CAA focuses on three key areas: (1) reducing outdoor, or ambient, concentrations of air pollutants that cause smog, haze, acid rain, and other problems; (2) reducing emissions of toxic air pollutants that are known to, or are suspected to, cause cancer or other serious health effects; and (3) phasing out production and use of chemicals that destroy stratospheric ozone. For more information on the CAA, visit: <http://www.epa.gov/air/caa/>.

EPA takes on varying roles to ensure the CAA is implemented, including EPA authorization and oversight of state and Tribal CAA programs and/or direct implementation by EPA, where applicable. Under the CAA, EPA implementation activities include: (1) designation of non-attainment areas for national ambient air quality standards; (2) development and promulgation of federal implementation plans (FIPs); (3) issuing pre-construction permits and operating permits for sources of air pollution; (4) compliance assurance (including inspections) and enforcement; (5) processing asbestos notifications for demolitions/renovations or regulated structures; and (6) ensuring risk management plans are submitted by regulated entities. The CAA Tribal Authority Rule (TAR) offers Tribes the option to seek TAS eligibility to develop air quality management programs, write rules to reduce air pollution, and implement and enforce rules under the CAA that are appropriate for their communities.

The Emissions Inventory System (EIS) contains compliance and permit data for stationary sources of air pollution (such as electric power plants, steel mills, factories, and universities) regulated by EPA, Tribes, states, and local air pollution agencies. The information in EIS is used to prepare Federal Implementation Plans or Tribal Implementation Plans (TIPs) and to track the compliance status of point sources under the CAA. EIS can be accessed at <http://www.epa.gov/ttn/chief/eiinformation.html>. Tribal staff may be aware of other facilities that may be subject to regulation under the CAA.

In addition to participating in the federal CAA scheme for managing air quality, Tribes may use GAP funds to develop their own air quality management programs consistent with their own priorities and authorities. As a result, Tribal program management TAS designations are only one example of how a Tribe may decide to manage air quality.

Examples of Air Quality Capacity Building Activities
Develop a staffing plan (position description and recruitment/retention/promotion plan) for who will serve as Tribal air quality/indoor air quality program coordinator(s).
Participate in appropriate training and acquire baseline knowledge and skills related to the CAA (become familiar with the major goals, programs, and requirements of the CAA; the national structure for implementing the CAA; and the EPA regional personnel and organization).
Participate in appropriate indoor air quality training and acquire skills related to indoor air quality (e.g., Healthy Homes training).
Establish a program to meaningfully participate in air quality management programs administered by other Tribal, federal, state, or local governments (including reviewing and commenting on air quality standards and facility permit actions).
Apply for funding under the CAA or other related EPA media specific program (subject to limitations identified in 2022 GAP Guidance Section 2.1)
Complete and submit an emissions inventory to the National Emissions Inventory Database.
Develop an air monitoring strategy and associated quality assurance project plan.

Roadmap to Support Tribal Environmental Program Capacity
and Solid and Hazardous Waste Implementation

Establish a program to collect and upload quality assured ambient air monitoring data into the Air Quality System (AQS) database.
Write a report analyzing air quality and radiation hazard issues impacting the Tribe and evaluate air pollution control options (identifies air pollution sources and known levels of emissions, defines potential human health and environmental impacts of current air quality, and provides recommendations for action).
Write an indoor air quality assessment and report.
Establish a radon program that tests residential and other occupied structures for radon, identifies those above the EPA action level, and conducts outreach and education in the community.
Write a report recommending actions to improve indoor air quality and reduce levels for radon, mold, moisture, and environmental pollutants.
Incorporate indoor air quality improvements or features as part of building renovation programs (e.g., weatherization and rehabilitation) and new construction.
Develop a climate change vulnerability/risk assessment.
Develop a climate change preparedness/adaptation program (e.g., zoning rules and regulations; tax incentives; building codes/design standards; utility rates/fee setting; public safety rules and regulations; outreach and education; emergency management powers).
Develop a Diesel Emissions Reduction Program (identified diesel engine use; evaluated short- and long-term priorities for reduction of emissions; selected implementation options such as installing diesel retrofit devices with verified technologies on school buses, maintaining/repairing/rebuilding engines, replacing older vehicles/equipment with more efficient engines or engines that run on cleaner fuel, improve operational strategies).
Establish energy efficiency policies and program(s) (e.g., building design standards/codes, ENERGY STAR initiatives for government operations and Tribal housing).
Establish an air toxics program (including activities to develop capacity to monitor for acid and mercury deposition; sample subsistence food sources to measure the accumulation of toxics; partner with other jurisdictions on assessment projects; communicate potential threats to community members; implement actions to reduce sources of air toxics pollution).
Establish community outreach/education programs, including air quality advisory system (e.g., indoor air quality, radon, diesel emissions reduction, burn barrels, wood smoke, anti-idling, greenhouse gas and ozone-depleting substance reduction, climate change, and radiation hazards).
Establish intergovernmental partnerships with federal, state, local, and Tribal governments to address air quality issues, including climate change, and radiation hazards (e.g., memoranda of understanding, interagency agreements).
Establish a program to comply with Federal Air Rules for Indian Reservations (FARR) requirements, where applicable.
Develop and enact air quality standards.
Develop a Tribal Implementation Plan (TIP) under CAA Section 301 to identify sources of air pollution and to determine what reductions are necessary to meet air quality standards.
Develop and submit a request to redesignate a reservation as a CAA Class I area.
Develop and submit recommendations on designations for new National Ambient Air Quality Standards.
Establish a program to assist EPA with implementing the federal CAA program (e.g., assisting the Agency to develop/update an inventory of regulated entities, compliance assistance activities for regulated entities, obtaining federal inspection credentials to inspect regulated entities, and assisting EPA to draft permits for regulated entities).

Roadmap to Support Tribal Environmental Program Capacity
and Solid and Hazardous Waste Implementation

Develop and submit an application under the Tribal Authority Rule (TAR) requesting approval of specific CAA programs.
Establish a program to implement a Title V operating permit program for major sources of air pollution.
Develop a program to implement new source review permitting program for minor sources of air pollution.
Develop and enact ambient air quality and/or radiation hazard laws, codes, and/or regulations with effective compliance assurance and enforcement provisions that are at least as stringent as the federal statutes.
Develop and enact green building codes, guidelines and/or protocols that promote healthier indoor air quality and apply these practices to new and retrofitted buildings.
Establish a program to conduct indoor air quality outreach, education, and/or training for Tribal government personnel and/or community members.
Develop and enact indoor air quality laws, codes, and/or regulations with effective compliance assurance and enforcement provisions.
Establish a program to provide compliance assurance (including inspections) and enforcement (e.g., work with regulated community system operators to determine if appropriate training and certification has been obtained, and, if not, assist with acquiring such training and/or certification).

Key sources of program guidance include:

- The Tribal Air Grants Framework: <https://www.epa.gov/tribal-air/tribal-air-grants-framework>
- Tribal Air Program Resources: <http://www.epa.gov/air/tribal/airprogs.html>
- Radiation Protection: <https://www.epa.gov/radiation>
- Office of Air and Radiation National Program and Grant Guidance: <http://epa.gov/planandbudget/>
- Climate Adaptation: <https://www.epa.gov/climate-adaptation>

Building Tribal Water Quality Programs

The Clean Water Act (CWA) is the primary federal law protecting the quality of surface water. The law was originally passed in 1972 and was amended in 1977 and 1987. The CWA establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating water quality standards for surface waters. In ensuring water quality to “restore and maintain the chemical, physical and biological integrity of the Nation’s waters,” the CWA includes provisions for addressing water pollution from point sources, diffuse sources of surface water runoff (nonpoint), protection of national estuaries and coastal waters, and dredge and fill actions (e.g., of wetlands) into waters of the United States. For more information on the CWA, visit <https://www.epa.gov/laws-regulations/summary-clean-water-act>.

EPA takes on varying roles to ensure the CWA is implemented, including EPA authorization and oversight of state and Tribal CWA programs and/or direct implementation by EPA, where applicable. The primary program implementation activities include: (1) determining protection levels for waters of the United States by establishing Water Quality Standards; (2) assessing water quality to identify impaired waters (water quality monitoring); (3) defining and allocating control responsibilities to meet water quality standards; (4) issuing CWA Section 402 surface water discharge permits; (5) providing assistance to address nonpoint source pollution; (6) providing compliance assurance (including inspections) and enforcement; (7) issuing water quality certifications; and (8) reviewing CWA Section 404 dredge and fill permit applications. In addition, under the CWA, EPA: (9) responds to releases of petroleum products to navigable waters; (10) ensures that regulated entities have spill prevention, control, and countermeasures (SPCC) plans, and (11) provides financial and technical assistance for the construction of wastewater facilities.

Tribes are not required to administer CWA programs but may apply for TAS eligibility under CWA Section 518(e) to administer certain CWA programs. Tribes must apply for and receive EPA approval to be eligible for TAS for each program in which they are interested. In addition to acquiring eligibility for certain water-related funding programs, Tribes may also seek authorization to administer CWA water quality standards, water discharge permit programs, water quality certification programs, and dredge and fill permitting programs.

Tribal staff may be aware of other facilities that may be subject to regulation under the CWA.

In addition to pursuing program eligibility for delegation of EPA CWA programs, there are other opportunities for Tribal governments to partner with EPA to implement CWA provisions. As appropriate, EPA regional offices can utilize Direct Implementation Tribal Cooperative Agreements (DITCAs), memoranda of agreement, program funding, and other devices to provide for Tribal participation in the implementation of the CWA.

In addition to participating in the federal CWA scheme for managing water quality, Tribes may use GAP funds to develop their own water quality management programs consistent with their own priorities and authorities. As a result, Tribal program management TAS designations are only one example of how a Tribe may decide to manage water quality programs.

Examples of General Water Quality Capacity Building Activities
Develop a staffing plan (position description and recruitment/retention/promotion plan) for who will serve as Tribal water quality program coordinator.
Participate in training and acquire baseline knowledge and skills related to the CWA and SDWA (e.g., become familiar with the major goals, programs, and requirements of the CWA and SDWA; the national structure for implementing the CWA and SDWA; and the EPA regional personnel and organization).
Establish a program to meaningfully participate in water quality management programs administered by other Tribal, federal, state, or local governments (including reviewing and commenting on technical water documents, water quality standards, and facility permit actions).
Apply for funding under the CWA, SDWA, or other related EPA media specific program (subject to limitations identified in 2022 GAP Guidance Section 2.1)
Identify and document water resources and associated environmental and human health issues (including: inventories of regulated entities; discharge points requiring NPDES permits; facilities requiring Spill Prevention, Control, and Countermeasure (SPCC) plans; sensitive ecosystems).
Establish community outreach/education programs related to water quality and/or protecting health through safe drinking water (e.g., fish consumption advisory system, water efficiency, nonpoint source pollution best management practices, infrastructure needs for water and wastewater utilities, and wetlands restoration activities).
Establish water efficiency policies and program(s) (e.g., building design standards/codes, WaterSense initiatives for government operations, water use restrictions).
Establish intergovernmental partnerships with federal, state, local, and Tribal governments to address water quality or drinking water issues (e.g., memoranda of understanding, interagency agreements).
Examples of Water Quality Monitoring Program Capacity Building Activities
Develop a water quality assessment report that analyzes water quality issues impacting the Tribe and evaluated water pollution control options (e.g., identifies dischargers and types/amounts of discharge, defines potential human health and environmental impacts of current water quality, provides recommendations for action, identifies water program financial needs, and identifies water quality program goals, objectives, and milestones).
Develop a water quality monitoring strategy.
Develop a quality assurance project plan (QAPP) associated with the water quality monitoring strategy.
Establish data management functions for its water quality monitoring data, including a program to collect and upload all required quality assured surface monitoring data into WQX/STORET database where applicable.
Develop a water quality monitoring program.
Develop and submit a TAS package for 106 grant eligibility.
Examples of Nonpoint Source (NPS) Program Capacity Building Activities
Coordinate with other stakeholders in the watershed to develop a watershed-based plan that identifies nonpoint source pollution problems and options for best management practices.
Develop and submit an eligibility package for CWA Section 319, including a TAS package and a Nonpoint Source Assessment Report and Management Plan.
Examples of Wetlands Program Capacity Building Activities
Develop a Wetlands Program Plan.
Develop a wetlands protection program pursuing one or more of the core wetland program elements (Monitoring & Assessment, Regulation, Voluntary Restoration & Protection, and Water Quality Standards for Wetlands).

Examples of Water Quality Standards Capacity Building Activities
Develop and enact Tribal water quality standards, including designated uses for Tribal waters.
Examples of Impaired Waters Identification/Listing and Total Maximum Daily Loads (TMDLs) Program Capacity Building Activities
Establish a program to provide water quality-related data and information on geographically relevant waters to EPA.
Establish a program to review and comment on water quality reports, TMDLs, and other watershed-based planning efforts undertaken by other government agencies (federal, state, local, or Tribal).
Establish a program to assess water quality conditions, including comparing water quality monitoring information and data against applicable water quality standards.
<i>Examples of Water Quality Permitting, Compliance, and Enforcement Program Capacity Building Activities</i>
Establish a program to assist EPA with implementing the federal CWA programs (e.g., compliance assurance activities for regulated entities, obtaining federal inspection credentials to inspect regulated entities, and assisting EPA to draft permits for regulated entities).
Develop the funding structure and legal framework (e.g., laws, codes, and/or regulations with effective enforcement provisions that are at least as stringent as the CWA) to implement a permit program.
Establish a program to permit facilities discharging to Tribal waters.
Establish a program to provide compliance assurance (including inspections) and enforcement for a Tribal permit program.
Examples of Capacity Building Activities to pursue if seeking EPA-approved CWA TAS authority
Develop and submit a TAS package for EPA-approved WQS program.
Develop and submit a TAS package for EPA-approved NPDES program.
Develop and submit a TAS package for a CWA Section 401 certification program.
Develop and submit a TAS package for a CWA Section 404 dredge and fill permit program.
Establish a program (including modeling) to develop TMDLs and other water quality-based planning efforts.
Establish a program to monitor federally approved surface and/or wetlands water quality standards and perform triennial review.

Key sources program guidance include:

- Final Guidance on Awards of Grants to Indian Tribes under Section 106 of the Clean Water Act, EPA, 2007 (EPA 832-R-06-003): <https://www.epa.gov/sites/default/files/2014-09/documents/final-tribal-guidance.pdf> (Revision of this Guidance currently undergoing Tribal consultation in 2022)
- Handbook for Developing and Managing Tribal Nonpoint Source Pollution Programs Under Section 319 of the Clean Water Act, EPA, 2010: <http://water.epa.gov/polwaste/nps/tribal/index.cfm>

Building Tribal Drinking Water Programs

The Safe Drinking Water Act (SDWA) is the legal framework under which the nation’s public drinking water supplies are regulated and applies to every public water system in the United States. It requires many actions, such as the setting of national drinking water standards or requiring ways to treat the water to remove contaminants to protect drinking water and its sources – rivers, lakes, reservoirs, springs, and ground water wells. The Underground Injection Control program, under the SDWA, is designed to prevent underground injections from endangering drinking water sources. The SDWA was originally passed in 1974, and it was amended in 1986 and 1996. For more information on the SDWA, visit <https://www.epa.gov/dwreginfo/drinking-water-regulations>.

EPA takes on varying roles to ensure the SDWA is implemented, including EPA authorization and oversight of state and Tribal primacy programs and/or direct implementation by EPA, where applicable. The primary program implementation activities include: (1) conducting sanitary surveys; (2) providing technical assistance to managers and operators of facilities subject to compliance requirements; (3) permit actions for regulated entities; (4) maintaining a database to hold compliance information of public water systems; (5) monitoring public water supplies and providing compliance assurance (including inspections); (6) compliance assurance (including inspections) at regulated Underground Injection Control (UIC) wells; and (7) conducting enforcement.

The Permit Compliance System (PCS) provides information on facilities that have been issued permits to discharge to surface water. The Safe Drinking Water Information System (SDWIS) contains information about public water systems that have been reported to EPA by state or Tribal environmental agencies. To access PCS or SDWIS information, please visit <https://enviro.epa.gov/>.

Information on the UIC Program is available at <https://www.epa.gov/uic>.

Tribal staff may be aware of other facilities that may be subject to regulation under the SDWA.

EPA is the primary federal agency responsible for administering the SDWA, and directly implements the drinking water program and underground injection control program, except where states or Tribes have primacy, which is the authority to implement SDWA within their jurisdictions. Under Section 1451 of the SDWA, Tribes may apply for TAS and seek “primacy” to administer a public water supply supervision program and/or the requirements related to underground injection control wells.

In addition to pursuing program eligibility for delegation of EPA SDWA programs, there are other opportunities for Tribal governments to partner with EPA to implement SDWA provisions. As appropriate, EPA regional offices can utilize Direct Implementation Tribal Cooperative Agreements (DITCAs), memoranda of agreement, program funding, and other devices to provide for Tribal participation in the implementation of the SDWA.

Examples of Ground Water and Source Water Protection Program Capacity Building Activities
Delineate source water protection areas.
Develop source water assessment and protection plan/wellhead protection plans for community water supplies.

Examples of Drinking Water Permitting, Compliance, and Enforcement Program Capacity Building Activities
Establish a program to assist EPA with implementing the federal Public Water System Supervision (PWSS) program (e.g., compliance assurance activities, obtaining federal inspection credentials, and assisting EPA to draft permits).
Establish a program to assist EPA with implementing the federal Underground Injection Control (UIC) program (e.g., compliance assurance activities, obtaining federal inspection credentials, and assisting EPA to draft permits).
Develop and report quality assured Underground Injection Control (UIC) inventory information to EPA (especially Class V wells).
Examples of Capacity Building Activities to pursue if seeking EPA-approved SDWA program delegation authority
Develop the funding structure and legal framework (e.g., laws, codes, and/or regulations with effective enforcement provisions that are at least as stringent as the SDWA) to implement the primary drinking water enforcement program (primacy).
Seek primacy for implementing the Public Water Supervision System (PWSS) program (SDWA Section 1451).
Develop and submit a draft authorization package to EPA for approval to enforce federal UIC requirements and manage injection wells on Tribal lands.
Seek primacy for implementing Underground Injection Control wells regulatory program.

Key sources of program guidance include:

- Overview of PWSS: <https://www.epa.gov/tribaldrinkingwater/tribal-public-water-system-supervision-program>
- Tribal Drinking Water: <https://www.epa.gov/tribaldrinkingwater>
- TAS for PWSS under the SDWA: <https://www.epa.gov/tribal/strategy-reviewing-tribal-eligibility-applications-administer-epa-regulatory-programs-1>

Building Solid Waste, Hazardous Waste, and Underground Storage Tank Programs

The Resource Conservation and Recovery Act (RCRA) is the primary federal law for managing solid waste, hazardous waste, and Underground Storage Tanks (USTs). The law was originally enacted in 1976, amending the Solid Waste Disposal Act of 1965, and has been subsequently amended. The federal hazardous waste regulations under RCRA Subtitle C apply to all facilities generating and managing hazardous wastes. Under RCRA Subtitle D, EPA has established nationally applicable criteria for non-hazardous waste disposal facilities. Under RCRA Subtitle I, EPA has established criteria for the operation and closure of USTs and Leaking USTs (LUSTs). Also pursuant to RCRA, EPA promotes sustainable materials management, including pollution prevention and environmentally sound recycling. Sustainable materials management uses a “cradle-to-cradle” approach to focus on the full life cycle of materials including how they can be reinvested and reincorporated into manufacturing, thus reducing the use of virgin materials. For more information on RCRA, visit: <https://www.epa.gov/tribal-lands/tribal-waste-management-program#background>.

Under RCRA, EPA implementation activities include: (1) issuing permits to hazardous waste treatment, storage, and disposal facilities; (2) issuing RCRA identification numbers to facilities that handle (generate, store, treat, transport, etc.) hazardous waste; (3) conducting compliance assurance (including inspections) and enforcement at facilities subject to the hazardous waste or UST requirements; (4) accepting required notifications from regulated UST owner/operators; (5) directing corrective action activities at facilities subject to the hazardous waste or UST requirements; and (6) exercising enforcement options as necessary under RCRA, including: RCRA § 7003 (which allows EPA to respond to conditions at non-hazardous waste facilities which may present an imminent and substantial endangerment to health or the environment) or § 4005(c)(2).

In 1994, Congress passed the Indian Lands Open Dump Cleanup Act of 1994 (25 U.S.C. § 3901-3908, <https://www.govinfo.gov/app/details/USCODE-2008-title25/USCODE-2008-title25-chap41>). The Act authorizes the Indian Health Service (IHS), in cooperation with EPA, to develop and maintain an inventory of open dumps and an assessment of the relative severity of the threat posed by each dump. The IHS uses the Web Sanitation Tracking and Reporting System (w/STARS) database to inventory sanitation infrastructure deficiencies, including open dumps in Tribal areas.

EPA’s RCRA Information system (RCRAInfo) is a national program management and inventory system that maintains information on hazardous waste generators, transporters, treatment facilities, storage facilities, and disposal facilities. To access RCRAInfo, please visit <https://www.epa.gov/enviro/rcrainfo-overview>. EPA regional offices maintain UST inventories for each Tribal land area.

Tribal governments have opportunities to partner with EPA in its RCRA activities under the Subtitle C (hazardous waste) and I (UST) programs. As appropriate, EPA regional offices can utilize Direct Implementation Tribal Cooperative Agreements (DITCAs), memoranda of agreement, program funding, or other mechanisms to provide for Tribal participation in the implementation of the RCRA hazardous waste and UST programs. Examples of activities that Tribal staff may be able to engage in with EPA include: (1) assisting the Agency to develop/update an inventory of facilities subject to federal compliance requirements; (2) conducting compliance assistance activities for inventoried facilities; (3) obtaining federal inspection credentials to inspect facilities on behalf of EPA; (4) assisting EPA to draft facility permits; and (5) assisting EPA to provide oversight of corrective actions.

Examples of Tribal Waste Management and UST Program Capacity Building Activities
Develop a staffing plan (position description and recruitment/retention/promotion plan) for who will serve as Tribal waste management program coordinator(s).
Participate in appropriate training and acquire baseline knowledge and skills related to the relevant areas of RCRA (become familiar with the major goals, programs, and requirements of the RCRA; the national structure for implementing the RCRA; and the EPA regional personnel and organization).
Establish a program to meaningfully participate in waste management programs administered by other Tribal, federal, state, or local governments (including reviewing and commenting on waste disposal facility permits and applicable waste management regulations).
Apply for funding under the RCRA or other related EPA media specific program (subject to limitations identified in 2022 GAP Guidance Section 2.1)
Conduct community education and outreach activities to assess community knowledge and interest in source reduction, alternatives for managing household hazardous waste, recycling, composting, and the use of green materials in Tribal construction and to promote the use of such integrated solid waste management systems.
Conduct a waste assessment (e.g., a waste stream characterization study of the solid and hazardous waste management practices, facilities, and issues in the community; effectiveness of current waste management system(s); waste collection and disposal options; and associated costs).
Develop a Tribally approved Integrated Waste Management Plan (IWMP).
Establish a program to provide waste minimization, recycling, household hazardous waste collection, used oil collection, junk vehicle removal, bulk waste/appliance/electronic waste collection, and/or composting.
Establish co-management roles through an intergovernmental agreement with a municipal government (e.g., Memorandum of Understanding or other mechanism) regarding landfill management where both governments have a stake.
Develop a solid waste facility plan/feasibility study.
Conduct an open dump inventory and submit it to EPA and IHS for inclusion in the w/STARS database (including: GPS location; estimated size/volume; contents/type of waste; estimated distance to nearest homes, surface water and groundwater; estimated project costs; and site name).
Add a health hazard ranking score to sites included in the open dump inventory.
Coordinate with EPA to ensure accuracy of EPA's regulated hazardous waste facility inventory and operating status.
Coordinate with EPA to ensure accuracy of EPA's regulated UST & LUST facility inventory and operating status.
Provide information to EPA that may be used to conduct compliance monitoring inspections or in a RCRA § 3008, § 7003, § 4005(c)(2), or § 9006 enforcement action.
Establish a program to assist EPA with implementing the federal RCRA program(s) (e.g., assisting the Agency to conduct compliance assistance activities for regulated entities, obtaining federal inspection credentials to inspect regulated entities, and assisting EPA to draft permits for regulated entities).
Develop and enact waste management and/or UST laws, codes, and/or regulations with effective compliance assurance and enforcement mechanisms (including anti-littering provisions and protocols to address small-scale dumping/burning activities; siting/operating requirements for USTs that are at least as stringent as the federal program).
Establish a compliance monitoring and enforcement strategy for the Tribe's solid and hazardous waste management laws, codes, and/or regulations.

Establish mechanisms to assure a financially sustainable waste management program, including financing for trash collection services (e.g., fee for service, Tribal government funding of trash collection services, or other cost recovery systems).

Participate in or lead circuit rider, train the trainer, and/or peer-match programs.
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Key sources program guidance include:

- The Environmental Protection Agency-Wide Plan to Provide Solid Waste Management Capacity Assistance to Tribes, November 2013: https://www.epa.gov/sites/default/files/2018-03/documents/epawideplantoprovidesolidwastemanagementcapacityassistancetotribes_nov152013_508compliant.pdf
- The Five Elements of a Tribal Integrated Waste Management Plan, July 2007: <https://www.epa.gov/tribal-lands/five-elements-tribal-integrated-waste-management-plan-memorandum-july-30-2007>
- Building a Tribal Solid Waste Program: <https://www.epa.gov/sites/default/files/2018-11/documents/building-self-sustaining-tribal-solid-waste-program-region-10.pdf>
- Sustainable Materials Management: <https://www.epa.gov/smm>
- Underground Storage Tanks: <https://www.epa.gov/ust>
- Strategy for an EPA/Tribal Partnership to Implement Section 1529 of the Energy Policy Act of 2005, August 2006. <https://www.epa.gov/sites/default/files/2014-01/documents/tribal-strat-080706r.pdf>
- RCRA Compliance Monitoring Policies and Guidance: <https://www.epa.gov/compliance/resources-and-guidance-documents-compliance-monitoring#rcra>
- Underground Storage Tank Enforcement Compendium: <https://www.epa.gov/ust/underground-storage-tank-ust-technical-compendium-about-2015-ust-regulation>

Building Tribal Contaminated Site Remediation and Emergency Response Programs

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund, is the primary federal law that ensures responses to releases or threatened releases of hazardous substances that may endanger public health or the environment. The law was originally passed in 1980 and amended in 1986 by the Superfund Amendments and Reauthorization Act. CERCLA authorizes responses to address releases requiring prompt response and actions to address dangers associated with releases or threats of releases to the environment that are not immediately life-threatening. EPA can fund remedial actions under CERCLA only at sites listed on the National Priorities List, which is a list of national priorities among the known releases or threatened releases from uncontrolled or abandoned hazardous waste sites. The CERCLA provides EPA with authority to ensure cleanup and payment for cleanup. If a responsible party does not agree to do the cleanup, EPA can issue an order to do certain work, or work with the Department of Justice to pursue the party through the federal court system. If a party is out of compliance with an order or settlement, the Superfund enforcement program takes action to bring them into compliance. For more information on CERCLA, visit: <http://www.epa.gov/superfund>.

The Emergency Planning and Community Right-to-Know Act (EPCRA) establishes hazardous chemical emergency planning and reporting requirements for federal, state, and local governments, Indian Tribes, and industry. The right-to-know provisions are designed to increase the public's knowledge and access to information on hazardous substances at specific facilities, their uses, and releases into the environment. Government entities use this information to prepare for and respond to emergencies involving hazardous substances. For more information, visit: <https://www.epa.gov/epcra>.

The Small Business Liability Relief and Brownfields Revitalization Act, commonly referred to as the Brownfields law, provides CERCLA liability relief for certain property owners and small businesses, and limits CERCLA enforcement authority at sites remediated under state or Tribal voluntary cleanup programs. The Act also significantly expands federal grant authority to increase Brownfields redevelopment. Noncompetitive CERCLA § 128(a) State and Tribal Response Program grants fund Tribes to establish and enhance a response program which can include addressing contaminated lands. For more information on Brownfields, visit: <https://www.epa.gov/brownfields/tribal-brownfields-and-response-programs-respecting-our-land-revitalizing-our-0>.

EPA implementation activities include: (1) maintaining and updating the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) database to reflect newly identified sites where contaminants are suspected to have been released or new actions at existing sites; (2) response actions to address clean-up of hazardous substances; (3) response and post-clean up monitoring at sites on the National Priorities List (NPL); and (4) compliance assistance and enforcement actions to ensure that required EPCRA reports are submitted to formal EPCRA organizations.

CERCLIS contains information on hazardous waste sites, potentially hazardous waste sites, emergency response or removal sites, and remedial activities across the nation, including NPL sites or sites that are being considered for the NPL. The information is updated by the EPA regional offices. The data describes what has happened at Superfund sites, identifies involved parties (other federal agencies, states, and Tribes), and includes information on human exposure, ground water migration, and construction status.

While there is no national database of Brownfield sites, an important component of the Brownfields Program is the development of site inventories. Tribal Response Program grants can be used to survey and develop brownfield inventories, many of which can be accessed online. Tribal staff may be aware of other facilities that may be subject to regulation under CERCLA or EPCRA.

In addition to participating in the federal CERCLA and EPCRA schemes for remediating contaminated sites and providing emergency response, Tribes may use GAP funds to develop their own programs consistent with their own priorities and authorities.

Examples of Tribal Emergency Response and Remediation Program Capacity Building Activities
Develop a staffing plan (position description and recruitment/retention/promotion plan) for who will serve as Tribal program coordinator(s).
Participate in appropriate training and acquire baseline knowledge and skills related to CERCLA, EPCRA, and Brownfields (e.g., become familiar with the major goals, programs, and requirements in CERCLA, EPCRA, and Brownfields Tribal Response Program; the national structure for implementing these programs; and the EPA regional personnel and organization).
Participate and develop proficiency in OSHA-required HAZWOPER baseline and annual refresher training to qualify Tribal staff to safely respond to spills and emergency incidents, and other appropriate training (e.g., acquire certification in an Incident Command System (ICS) course).
Participate and develop proficiency in in All Appropriate Inquiries (EPA 40 C.F.R. § 312), Phase 1 ESA (ASTM E 1527-05), and ECM 10-2 (Department of Interior).
Establish mechanisms to provide meaningful opportunities for public participation / community involvement to identify contamination concerns and/or solicit input on site cleanup decisions.
Participate in programs administered by other Tribal, federal, state, or local governments (including reviewing and commenting on cleanup and response standards/plans).
Complete a site inventory of properties of environmental concern and identified potential EPA program(s) associated with the sites.
Develop an EPCRA compliant Tribal emergency planning organization (TERC, LEPC members, or SERC coordination).
Establish a program to conduct emergency response training and exercises for community members (e.g., orientation seminars to review the contents of the emergency response plan; table tops drills to verify understanding of notification procedures and response actions; and field exercises to ensure that response personnel are familiar with equipment and responsibilities).
Establish a program to receive and manage material safety data sheets under EPCRA's Hazardous Chemical Storage Reporting Requirements.
Develop an EPCRA-compliant emergency response plan that covers Tribal lands and resources.
Establish a program to coordinate with state and federal agencies on specific spill response trainings (hands on response to oil and chemical hazards).
Conduct, alone or in collaboration with other governmental entities, annual hazmat or oil spill incident exercises (tabletop, functional or full-scale).
Apply for funding under CERCLA, EPCRA, or Brownfields (subject to limitations identified in 2022 GAP Guidance Section 2.1)
Develop and enact laws, codes, and/or regulations establishing oversight and enforcement authority to address contaminated sites, including emergency response authority.
Develop and enact cleanup standards for soil, surface water, and groundwater to guide response and remediation decisions on contaminated sites (e.g., Tribal "Applicable or Relevant and Appropriate Requirements" (ARARs)).

Roadmap to Support Tribal Environmental Program Capacity
and Solid and Hazardous Waste Implementation

Establish capacity to conduct Phase I and Phase II site assessments
Establish a program to participate in Department of Defense and Department of Energy advisory boards (Federal Facilities Restoration and Reuse) that involve stakeholders in cleanup decisions.
Establish support agency cooperative agreements with EPA to provide for Tribal input in cleanup decisions at CERCLA sites.
Develop a MOA/MOU with EPA on implementation of appropriate CERCLA programs.

Key sources of program guidance include:

- Funding Guidance for State and Tribal Response Programs: <https://www.epa.gov/brownfields/state-and-tribal-response-program-grants>
- Tribal Brownfields and Response Programs: Respecting Our Land, Revitalizing Our Communities, 2014. <https://www.epa.gov/brownfields/tribal-brownfields-and-response-programs-respecting-our-land-revitalizing-our-0>
- Tribal Emergency Preparedness and Response Coordination - Who are the players and what do they do? <https://www.epa.gov/emergency-response/tribal-emergency-preparedness-and-response-coordination-who-are-players-and-what>

Building Tribal Chemical Safety and Pollution Prevention Program Capacities

The Asbestos Hazard Emergency Response Act (AHERA) is a provision of the Toxic Substances Control Act (TSCA) that was enacted in 1986. The EPA implemented AHERA through the Asbestos-Containing Materials in School rule (40 C.F.R. Part 763(E)). This rule requires local education agencies to inspect public and non-profit private K-12 schools for asbestos-containing building material and prepare management plans to prevent or reduce asbestos hazards. Specific requirements include: performing an original inspection and re-inspection every three years of asbestos-containing material; developing, maintaining, and updating an asbestos management plan and keeping a copy at the school; providing yearly notification to parent, teacher, and employee organizations regarding the availability of the school's asbestos management plan and any asbestos abatement actions taken or planned in the school; designating and training a contact person to ensure the responsibilities of the local education agency are properly implemented; performing periodic surveillance of known or suspected asbestos-containing building material; ensuring that properly accredited professionals perform inspections and response actions and prepare management plans; and providing custodial staff with asbestos-awareness training. To implement AHERA, the Agency provides outreach and compliance assistance, and conducts compliance inspections. For more information on AHERA, visit: <https://www.epa.gov/asbestos/asbestos-and-school-buildings>.

In addition to AHERA requirements, the Asbestos National Emissions Standards for Hazardous Air Pollutants (NESHAP) under the CAA specifies practices to be followed for renovations or demolition of buildings containing asbestos (40 C.F.R. Part 61(M)).

The Federal Insecticide, Fungicide, and Rodenticide (FIFRA) provides for federal regulation of pesticide distribution, sale, and use. All pesticides distributed or sold in the United States must be registered by EPA. Pesticide use is regulated through the registration program, label requirements, and a compliance assurance and enforcement program. The labeling requirements include directions for use, precautionary statements, environmental hazards, detailed explanations regarding acceptable use sites, and requirements related to pesticide handlers and field workers. It is a violation of FIFRA to use a pesticide in a manner contrary to its labeling. This provision applies to all label requirements, including but not limited to mixing, loading, applying, storage, and disposal. Through FIFRA, EPA also addresses the certification and training of restricted use pesticide applicators and establishes requirements for restricted use pesticide record-keeping. The law was originally passed in 1947, substantially revised in 1972, and amended in 1988, 1996, and 2003. Under FIFRA, the Agency provides compliance assurance (including inspections), takes enforcement actions against violators, provides technical assistance, and conducts education and outreach. For more information on FIFRA, visit: <https://www.epa.gov/laws-regulations/summary-federal-insecticide-fungicide-and-rodenticide-act>.

The TSCA provides EPA with the authority to regulate the importation, manufacture, and use of chemical substances and/or mixtures. It does this through reporting, recordkeeping, and testing requirements, as well as restrictions and bans. TSCA addresses the production, importation, use, and disposal of specific chemicals including [polychlorinated biphenyls \(PCBs\)](#), [asbestos](#), radon and [lead-based paint](#). TSCA was originally enacted in 1976, and significantly amended in 1986, 1988, and 1992. To implement TSCA, EPA provides outreach and compliance assistance and conducts compliance inspections. For more information on TSCA, visit: <https://www.epa.gov/tsca-inventory>.

The Residential Lead-Based Paint Hazard Reduction Act’s Real Estate Notification and Disclosure Rule requires landlords, property management companies, real estate agencies, and sellers to inform potential lessees and purchasers of the presence of lead-based paint and lead-based paint hazards in pre-1978 housing. This ensures that potential tenants and home buyers are receiving the information necessary to protect themselves and their families from lead-based paint hazards. The Lead-based Paint Activities Training and Certification Rule holds that no individuals or firms can perform lead-based paint activities without certification from EPA. The Renovation, Repair and Painting Rule addresses common renovation activities like sanding, cutting, and demolition that can create hazardous lead dust and chips by disturbing lead-based paint. Under the rule, contractors performing renovation, repair and painting projects that disturb lead-based paint in homes, childcare facilities, and schools built before 1978 must be certified by EPA-approved training providers and must follow specific work practices to prevent lead contamination.

EPA generally is the primary enforcement authority for pesticide use violations in Indian country. Tribes may restrict or prohibit the sale or use of a federally registered pesticide but may not allow the sale or use of an unregistered product. EPA works cooperatively with Tribes to enforce FIFRA, as it does with states and territories. For example, under FIFRA Section 23, EPA may enter into cooperative agreements with Tribes. These agreements may include provisions for Tribes to assist EPA in ensuring compliance with FIFRA by obtaining federal inspector credentials, conducting inspections, and recommending enforcement actions to EPA.

Under FIFRA and TSCA, EPA regional offices can utilize, as appropriate, Direct Implementation Tribal Cooperative Agreements (DITCAs), memoranda of agreement, program funding, and other devices to provide for Tribal participation in the implementation of the federal program. Examples of activities that Tribal staff may engage in with EPA include: (1) conducting compliance assistance activities for regulated entities; (2) providing technical and compliance assistance, education, and outreach; and (3) obtaining federal inspection credentials to inspect regulated activities.

For many of the activities regulated under TSCA (including AHERA and lead programs) and FIFRA, the Agency does not maintain a national inventory of regulated entities.

Tribes may seek EPA approval of and subsequently implement certain lead-based paint programs under TSCA and pesticide programs under FIFRA in a manner similar to states. For example, EPA may approve Tribal training and certification programs for applicators of restricted-use pesticides.

In addition to participating in the federal AHERA, FIFRA, and TSCA schemes, Tribes may use GAP funds to develop their own chemical safety and pollution prevention programs consistent with their own priorities and authorities.

Examples of Chemical Safety and Pollution Prevention Program Capacity Building Activities
Develop a staffing plan (position description and recruitment/retention/promotion plan) for who will serve as Tribal program coordinator(s).
Participate in appropriate training and acquire baseline knowledge and skills related to TSCA (including AHERA and lead paint programs), FIFRA, and pollution prevention (e.g., become familiar with: the major goals, programs, and requirements related to TSCA and FIFRA; the national structure for implementing these programs; and the EPA regional personnel and organization).

Roadmap to Support Tribal Environmental Program Capacity
and Solid and Hazardous Waste Implementation

Apply for funding under FIFRA, TSCA, Pollution Prevention Act, or other similar program to support projects or programs related to managing chemical safety and pollution prevention (subject to limitations identified in 2022 GAP Guidance Section 2.1)
Develop an asbestos, lead-based paint, and pesticides needs assessment that: collects and evaluates existing data on pesticide use and other relevant factors; assesses the need to develop related projects and/or programs; and evaluates short-term and long-term options to address those identified needs.
Participate in training/accreditation/certification to conduct lead-based paint hazard evaluations at pre-1978 Tribal housing/pre-1978 child occupied facilities.
Develop a Quality Assurance Plan (QAP) to cover sampling and analysis activities and secured EPA approval for QAP before conducting physical sampling, blood testing, or other investigations.
Establish community outreach/education programs.
Establish mechanisms to provide meaningful opportunities for public participation / community involvement to identify concerns related to chemical safety and pollution prevention and/or solicit input on decisions.
Complete an inventory of all pre-1978 target housing and child-occupied buildings and gathered information on the presence of lead-based paint and/or lead-based paint hazards in or around these buildings.
Complete an inventory of asbestos (in accordance with the AHERA), pesticides, and toxics in K-12 schools.
Adopt a pollution prevention strategy and/or policy (e.g., integrate pollution prevention practices through government services, policies, and initiatives; establish environmentally preferable purchasing standards, green building codes/standards, greenhouse gas emission reduction targets; reduction targets for the use of hazardous materials; establish an integrated pest management program; and adopt natural resources protection policies/procedures).
Meaningfully participate in programs administered by other Tribal, federal, state, or local governments.
Develop an EPA-Tribal MOA/MOU or interagency agreement concerning joint implementation of FIFRA, TSCA, or other authorities.
Establish a program to implement lead abatement and Renovation, Repair and Painting (RRP) program.
Establish a certification and training plan for restricted use pesticide applicators (commercial and private) to educate applicators and control restricted use pesticides in Indian country.
Establish a training/accreditation/certification program similar to TSCA Section 402 for individuals and firms engaged in lead-paint activities and for asbestos related accredited training under AHERA requirements (i.e., a model accreditation plan).
Establish a Pesticides Field Program, including identification of possible pesticide inspection targets and pesticide-specific issues to determine the kind of approach needed to address concerns related to the use and sale of pesticides.
Establish a pesticides compliance assurance and enforcement program under which a Tribal inspector completes all required training and, upon EPA approval, obtains federal credentials to conduct inspections of the regulated community (e.g., pesticide applicators, marketplaces that sell pesticides, etc.) to determine compliance with FIFRA or Tribal pesticide regulations.
Establish a compliance assurance and enforcement program similar to TSCA Section 406(b) that requires distribution of information on lead-based paint hazards.

Roadmap to Support Tribal Environmental Program Capacity
and Solid and Hazardous Waste Implementation

Establish a compliance assurance and enforcement program for Tribal laws and regulations to manage asbestos, pesticides, toxics, or other chemical risks that are at least as stringent as the applicable federal statutes.
Participate in or lead circuit rider, train the trainer, and peer-match programs.
Develop and enact Tribal laws, codes, and regulations with effective compliance assurance and enforcement provisions to manage asbestos, pesticides, toxics, or other chemical risks that are at least as stringent as the applicable federal statutes.

Key sources of program guidance include:

- Guidance for Funding Development and Administration of Tribal Pesticide Field Program and Enforcement Cooperative Agreements, January 3, 2011. <https://www.epa.gov/compliance/guidance-funding-development-and-administration-tribal-pesticide-field-program-and>
- The National Pesticide Tribal Program: Achieving Public Health and Environmental Protection in Indian Country and Alaska Native Villages. October 2009. <https://www.epa.gov/pesticide-advisory-committees-and-regulatory-partners/national-pesticide-tribal-program-achieving>
- Guidance on Basic Elements of an EPA-Funded Tribal Pesticide Program: <https://www.epa.gov/pesticide-advisory-committees-and-regulatory-partners/guidance-basic-elements-epa-funded-tribal>

Part 2: Solid and Hazardous Waste Implementation

Allowable and Unallowable Solid Waste and Recovered Resource Program Implementation, Collection, Transportation, Backhaul and Disposal Costs

TRIBAL WASTE MANAGEMENT PROGRAM ADMINISTRATION

Description	Examples
<p>Program administration generally includes all administrative oversight functions to ensure proper program implementation (e.g., financial management, human resources management, program performance evaluation, scheduling).</p>	<p>Personnel costs for Tribal environmental department management and administrative staff who oversee/coordinate waste management programs and workers, including recycling and other source separation projects. Costs associated with oversight of work performed by transfer station, source separation facility and landfill operators are allowable (scheduling, performance reviews, training requirements, program evaluation, tracking revenues/expenditures, administering fee collection system, managing contractors, administering records retention systems, etc.). Common positions funded under this provision include Administrator; Supervisor; Manager; Coordinator.</p>

CLEANUP AND CLOSURE ACTIVITIES

Description	Examples
<p>A wide range of cleanup activities are eligible under the 2022 GAP Guidance Section 2.1.1. Applicable solid waste regulatory standards for classification of disposal facilities and practices found at 40 CFR Part 257 apply. Cleanup activities must also comply with all applicable closure and post closure criteria found at 40 CFR Part 258.</p>	<p>Abandoned waste removals; abandoned vehicle removals; open dump cleanups and closures. Some cleanup activities may require terms and conditions to ensure proper handling of hazardous waste, including but not limited to practices for packaging, temporary storage, and manifest forms used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage. EPA approval is required using GAP to fund cleanup and closure activities (2022 GAP Guidance Section 2.1.1 and Figure 3).</p>

TRIBAL COMPLIANCE AND ENFORCEMENT PROGRAMS

Description	Examples
<p>Activities associated with Tribal waste management laws, codes, and/or regulations, such as compliance assurance (including inspections) and enforcement consistent with the extent of their authorities.</p>	<p>Investigating incidents of unauthorized trash disposal violating specific provisions of a Tribal waste management law, code, or regulation. Inspecting landfills, transfer stations, recycling centers, or other waste management facility to ensure compliance with Tribally enacted facility design and operating procedures requirements. Inspecting transportation activities to ensure compliance with Tribally enacted requirements. Reviewing compliance reports and records from Tribally regulated entities. Inspecting regulated businesses that may have recycling, composting, or other source separation/resource recovery compliance requirements established under Tribal law, code, or regulation. Providing compliance assistance to regulated businesses. Issuing violation notices. Following up on citizen complaints related to potential violations of Tribal waste management laws, codes, or regulations. Preparing and submitting enforcement orders to Tribal courts for subsequent judicial action.</p>
<p>Supporting compliance with federal requirements, including:</p> <ul style="list-style-type: none"> (1) compliance assurance (including inspections) under Tribal authority at non-hazardous waste disposal facilities to help verify that such facilities are in compliance with 40 CFR Part 257 and/or Part 258; (2) compliance assistance and inspections to help verify that hazardous waste generators are in compliance with 40 CFR Parts 261 and/or 262; or (3) compliance assurance (including inspections) to help verify that hazardous waste transporters are in compliance with 49 CFR Parts 172, 173, 178, and 179. 	<p>Conducting inspections and providing compliance assistance to non-hazardous waste disposal facilities and providing results of such inspections to appropriate EPA personnel.</p> <p>Conducting inspections and providing compliance assistance to hazardous waste facilities and providing results of such inspections to appropriate EPA personnel.</p> <p>Conducting inspections and providing compliance assistance to hazardous waste transporters and providing results of such inspections to appropriate EPA personnel.</p>
<p>Conduct community outreach and education programs on solid waste, hazardous waste, source reduction and diversion, and USTs.</p>	<p>Activities to assess community knowledge and interest in source reduction, resource recovery, alternatives for managing household hazardous waste, recycling, composting, and the use of green materials in construction and to promote the use of integrated waste management/resource recovery systems and requirements Community cleanup events (including those directed towards the collection of household hazardous waste, e-waste, white goods, etc.) and roadside cleanup events that are designed to inform</p>

	community members of proper waste management practices, to promote waste reduction/source separation, and influence waste disposal practices. Activities to provide the public with information on environmental compliance requirements, a regulated entity's compliance status, and any history of formal and informal enforcement actions taken to address noncompliance.
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SOLID WASTE MANAGEMENT, RESOURCE RECOVERY, AND RESOURCE CONSERVATION

Description	Examples
Facility planning and feasibility studies	Costs associated with determining appropriate size, location, design characteristics, and estimated operating costs for potential solid waste management and/or disposal facilities (e.g., transfer stations, recycling centers, other source separation/ resource recovery facilities).
Expert consultation	Contracting for professional services required to plan and design solid waste management and/or disposal facilities.
Surveys and analysis of market needs	Costs associated with conducting waste stream analysis and potential options for disposition of recovered resources; includes economic modeling of recovered resource markets. Survey and analysis of recovered resource market is necessary to make sure that the prices that could be charged for recovered materials are realistic.
Marketing of recovered resources	Costs associated with establishing voluntary or contractual arrangements with public or private sector organizations willing to accept recovered resources.
Technology assessments	Costs associated with assessing appropriate technologies for recovering resources (separators, compact sorters, crushers, bailers, etc.).
Legal expenses	Costs associated with obtaining legal assistance in designing/reviewing contracts, intergovernmental agreements, Tribal laws/codes/regulations, or other legal documents.
Construction feasibility studies	Costs associated with designing appropriate construction plans, including whether the project is viable, identifying feasible options, and developing a business/operating plan.
Source separation projects (activities that are part of a sustainable waste management program designed to increase waste source reduction, recycling, composting, and sustainable materials management)	Source separation supplies and equipment (regulations governing the use, management, and disposition of equipment acquired under a grant are found at 2 CFR 200.313). Activities to provide technical assistance and education to schools, businesses, and other organizations to promote adoption of waste minimization activities in accordance with an IWMP. Conducting voluntary "community clean up events" (typically co-sponsored with schools, businesses, or other organizations) to promote awareness, knowledge, and behavioral changes in accordance with an IWMP.
Fiscal or economic investigations or studies.	Waste management facility economic viability analysis, including costs associated with establishing and implementing an effective pay-for-service system, pay-as-you-throw system, or other fee-collection or cost recovery system.

Roadmap to Support Tribal Environmental Program Capacity
and Solid and Hazardous Waste Implementation

The purchase, repair, upgrade, and replacement of resource recovery, resource conservation, and source separation supplies and equipment.	Repair, upgrade, and replacement of source separation/ resource recovery supplies and equipment (e.g., vehicles, scales, crushers, shredders, sheds, fencing, containers/bins, and signage).
The construction, repair, upgrade, and replacement of resource recovery, resource conservation, and source separation facilities.	Recycling centers, compost facilities, household hazardous waste collection facilities, bulk waste/appliance/electronic waste collection facilities, used oil collection stations, source separation elements of a transfer station, and other similar facilities. Due to the general prohibition on use of GAP funds for construction, Section 2.1.1 of the 2022 GAP Guidance establishes a requirement to receive approval from the AIEO Director for all construction activities.
Leading circuit rider, train the trainer, and peer-match programs.	Providing technical assistance to other Tribes working to establish effective solid waste management programs.

SERVICE DELIVERY

Description	Examples
Collection, transportation, storage, backhaul, and disposal of solid waste and/or recovered resources (recyclables, compost, e-waste, bulk waste, construction debris, light bulbs, batteries, household hazardous waste, etc.).	Door-to-door collection; retrieval of materials from collection stations; transporting materials to waste management and recovered materials processing facilities (such as a Tribal transfer station or recycling center); transporting materials to disposal facilities (such as a landfill or incinerator); disposal fees.
Equipment, vehicle, and facility operations and maintenance (including fuel).	Salaries and wages for drivers, technicians, operators, or other workers responsible for conducting facility and service delivery operations (trash/recycling collectors, separators, environmental sanitation engineers, etc.); Staffing costs for crushing cans, baling paper, boxing light bulbs, securing/handling of household hazardous waste, sweeping/cleaning the facility, weighing materials, operating equipment, and driving trucks or other vehicles; and routine scheduled maintenance for vehicles and equipment.
Subsidies for the price of recovered resources.	Payments to incentivize increased participation in the source separation and recovered resource market (e.g, a \$20 gift card is given for each stove, refrigerator, window air conditioner, washer or dryer that is brought in to be recycled properly).
The repair, upgrade, and replacement of municipal solid waste supplies and equipment.	Repairing, upgrading, and replacing regular trash collection program supplies and equipment.
The construction, repair, upgrade, and replacement of municipal solid waste facilities.	Constructing, repairing, upgrading, and replacing regular trash collection program facilities. Due to the general prohibition on use of GAP funds for construction, Section 2.1.1 of the GAP Guidance establishes a requirement to receive approval from the AIEO Director for all construction activities.

UNALLOWABLE SOLID WASTE ACTIVITIES UNDER GAP

The following unallowable activities fall outside the scope of programs authorized under GAP. Consistent with the authority to fund Tribal solid waste program implementation under GAP, EPA applies statutory allowances and prohibitions under the Solid Waste Disposal Act, also known as the Resource Conservation and Recovery Act (RCRA), to GAP funding decisions. In addition, “general costs of government services normally provided to the general public” are prohibited by [2 CFR Part 200](#).

Description	Examples
Acquisition of land or interest in land.	GAP and RCRA do not authorize payments for the acquisition or interest in land.
Other general government expenses described at 2 CFR Part 200 .	<ul style="list-style-type: none"> (1) Salaries and expenses of the chief executive of federally-recognized Indian Tribal government; (2) Salaries and other expenses of a Tribal council; (3) Costs of the judiciary branch of a government; (4) Costs of prosecutorial activities; and (5) Costs of other general types of government services normally provided to the general public.