

# **EPA-Tribal Environmental Plan (ETEP)**

**August 9, 2023**

**Regional Tribal Operations Committee**

**Willard Chin, Tribal Branch**

**EPA Region 9**

# EPA-Tribal Environmental Plans (ETEPA)

- ▶ ETEPA Background
- ▶ ETEPA Basics
- ▶ What's New
- ▶ Summary and next steps

# BACKGROUND

1994

Tribal  
Environmental  
Agreements (TEAs)

2001

Final rule for EPA  
Env. Program Grants  
for Tribes

2008

Office of Inspector  
General (OIG) Report

2013

GAP Guidance

# Who needs to do an ETEP update?

- ▶ Existing ETEPs can be used if their planning periods have not ended.
- ▶ ETEPs will be updated once the planning period has ended (4 or 5 year period).
- ▶ For example, ETEPs completed in FY 22 using the 2013 GAP guidance are still valid until the end of their planning period FY 26 (FY 23-FY 26).
- ▶ New ETEPs being updated in FY 23 and beyond will follow the 2022 GAP Guidance and use the new Capacity Indicators.
- ▶ Option: Tribes may choose to come in early to update their ETEPs before the planning period ends.

# BASICS

- ETEPs are an EPA and Tribal *joint* environmental plan, that supports strategic planning and performance management.
- The life of an ETEP is 4-5 years, but it should be reviewed annually.

Three required components:

- 1) EPA Regulated Entities
- 2) Tribal Environmental Priorities
- 3) EPA Priorities, including Direct Implementation

## EPA-Tribal Environmental Plans (ETEPS)

ETEPs help Tribes and EPA plan and manage areas of joint responsibility



# EPA Regulated Entities

EPA will provide the Tribe with a draft inventory of federally regulated entities in Indian country. Tribes may include other entities of interest.

# Tribal Environmental Priorities

- ▶ A short description of each priority area the recipient plans to address with GAP funds.
- ▶ Capacity indicators the recipient intends to pursue that is associated with that priority.
- ▶ Anticipated timeline for completing **capacity indicators**.
- ▶ Long term program development goal(s).
- ▶ Requested assistance.

# Capacity Indicators

- ▶ New capacity indicator document separate from the GAP Guidance

<https://www.epa.gov/system/files/documents/2022-09/GAP%20Capacity%20Indicators%202022.pdf>

- ▶ Process for Tribes to submit Indicators for EPA approval

- ▶ 2013 GAP Guidance Indicator info now reside in the Technical Assistance Handbook

<https://www.epa.gov/system/files/documents/2022-09/Technical%20Assistance%20Handbook.pdf>



# Capacity Indicators (cont.)

An ETEP defines a Tribe's environmental priorities and long-term program development goals.

Indicators identify the Tribe's short-term goals, or milestones, to address those priorities with GAP funding.

The GAP work plan lists the Tribe's commitments toward achieving the indicators. There are often many activities, or work plan commitments, that must occur to accomplish a single indicator

Code	What is the indicator?	How does EPA define when the indicator is complete?	Where to go for more information?
XCUT 02.01	Recipient is establishing a climate change preparedness/adaptation plan.	Recipient provides copy of climate change adaptation plan.	Climate Change Adaptation Resource Center (ARC-X): <a href="https://bit.ly/3R09rx2">https://bit.ly/3R09rx2</a>
XCUT 02.02	Recipient is developing strategies and procedures to achieve greenhouse reduction targets and increase climate resilience.	Recipient provides copy of strategies and procedures.	Greenhouse Gas (GHG) Emissions and Removals: <a href="https://www.epa.gov/ghge/missions">https://www.epa.gov/ghge/missions</a>

Code	What is the indicator?	How does EPA define when the indicator is complete?	Where to go for more information?
CAA 01.01	Recipient is completing an emissions inventory.	Recipient submits emissions inventory in the NEIS (National Emissions Inventory System).	<p>Tribal Air Policy Document:  <a href="https://bit.ly/3Brfhlc">https://bit.ly/3Brfhlc</a></p> <p>Tribal Air Emission Inventories:  <a href="https://bit.ly/3BplBti">https://bit.ly/3BplBti</a></p> <p>Air Emissions Inventory Guidance Documents:  <a href="https://bit.ly/3DFIGMI">https://bit.ly/3DFIGMI</a></p>
CAA 01.02	Recipient is establishing an air quality monitoring program.	Recipient is providing data to AQS (Air Quality System).	<p>Tribal Air Quality Monitoring:  <a href="https://bit.ly/3LvrlXh">https://bit.ly/3LvrlXh</a></p> <p>Regulations, Guidance and Monitoring Plans:  <a href="https://bit.ly/3BSQuYM">https://bit.ly/3BSQuYM</a></p>
CAA 01.03	Recipient is establishing an air monitoring strategy.	Recipient provides a copy of a written air monitoring strategy in place.	<p>Ambient Air Monitoring Strategy for State, Local, and Tribal Air Agencies:  <sup>11</sup>  <a href="https://bit.ly/3qZZpBb">https://bit.ly/3qZZpBb</a></p>

Code	What is the indicator?	How does EPA define when the indicator is complete?	Where to go for more information?
CAA 03.02	Recipient is establishing indoor air quality laws, codes and/or regulations.	Recipient provides copy of established indoor air quality laws, codes, and/or regulations.	Indoor Air: <a href="https://bit.ly/3QYguGy">https://bit.ly/3QYguGy</a>
CAA 03.03	Recipient is establishing indoor air quality compliance assurance and enforcement authorities in their laws, codes and/or regulations.	Recipient provides copy of indoor air quality laws, codes, and regulations that includes compliance assurance and enforcement provisions.	Tribal Air and Climate Resources: <a href="https://www.epa.gov/tribal-air">https://www.epa.gov/tribal-air</a>
CAA 04.01	Recipient is establishing an intergovernmental agreement (MOU/MOA).	Recipient provides documentation of the approved intergovernmental agreement with a written MOU or MOA.	No EPA website reference at this time.
CAA 04.02	Recipient is establishing partnerships with non-government entities (e.g., NGOs/academic institution).	Recipient has documentation of the partnership agreement.	No EPA website reference at this time.

## POLLUTION PREVENTION ACT (PPA)

Code	What is the indicator?	How does EPA define when the indicator is complete?	Where to go for more information?
PPA 01.01	Recipient is conducting an assessment to evaluate pollution prevention opportunities, through the establishment of baselines, for individual businesses.	Recipient provides copy of the assessment (e.g., an Economy, Energy and Environment Assessment or other similar assessment) for individual businesses (e.g., casinos, hotels, manufacturing facilities).	General EPA Information on Pollution Prevention Information: <a href="https://www.epa.gov/p2">https://www.epa.gov/p2</a>
PPA 01.02	Recipient is establishing a Pollution Prevention Program to adopt reduction practices.	Recipient provides copy of documented program procedures for Pollution Prevention Program.	General EPA Information on Pollution Prevention Information: <a href="https://www.epa.gov/p2">https://www.epa.gov/p2</a>  Pollution Prevention Grant Information: <a href="https://bit.ly/3DCtJtp">https://bit.ly/3DCtJtp</a>

# EPA Program Priorities and Direct Implementation

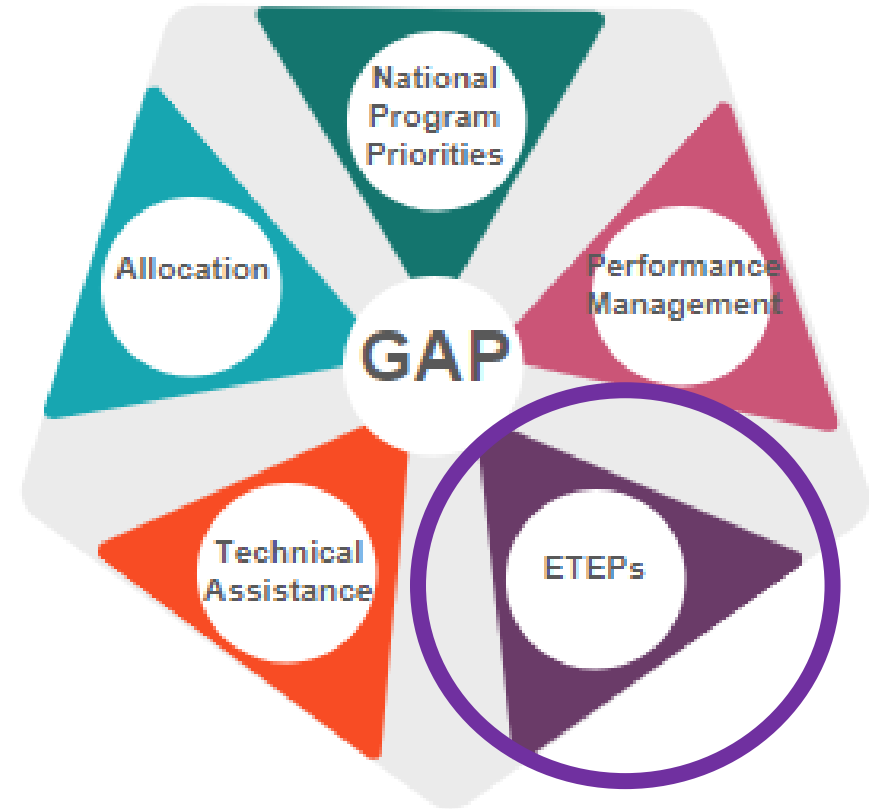
- ▶ Identify EPA program priorities
- ▶ Identify EPA's direct implementation (DI) responsibilities for each Tribe, if applicable. The information in this section may be beneficial to Tribes to identify where they may wish to seek assumption of federal laws or meaningfully participate in partnership with EPA.

# WHAT'S NEW?

## Section 2: GAP National Framework

ETEPs are strategic planning documents, have a role in performance management, are a direct result of the 2008 OIG report, and have a place in the GAP national framework. (See picture →)

***Bottom line:*** New to the 2022 GAP Guidance is the role of ETEPs in performance management. Previously, capacity indicators were in the GAP work plan. They will now be included in the ETEF. When an ETEP expires, it can be updated with the capacity indicators at that time.



# WHAT'S NEW, CONTINUED

## Section 2.3: GAP National Framework: ETEP Requirements

ETEPs are also a performance management tool. ETEPs inform AIEO on how GAP is being used to meet the long-term program development goals of the Tribe, how GAP is helping Tribes achieve capacity, and therefore helps AIEO make decisions about how to improve GAP. AIEO will report the data at an aggregate level, and not an individual Tribal level.

Also, AIEO strongly encourages a *combined GAP work plan and ETEP* to streamline required planning, reporting, and information sharing and will provide templates this year to assist recipients considering this format.



# TRIBAL PRIORITIES

## ▶ WHAT'S NEW?

### 2) Tribal Environmental Priorities

*Bottom line:* *As mentioned earlier, capacity indicators were previously in the work plan, and will now be included in the ETEP. All capacity indicators should include a timeline. (i.e., within the 4-5 year ETEP, or beyond the ETEP.)*

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*Tribal Priorities should be descriptive. Priorities should include information on the Tribe's long-term program development goals, indicators, and requested assistance.*

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# TRIBAL PRIORITIES, CONTINUED

## ▶ WHAT'S NEW?

TRIBE'S LONG-TERM PROGRAM DEVELOPMENT GOAL(S)	DESCRIPTION
Tribal Assumption of Program Authority	An eligible Tribe may receive EPA delegation, authorization, or approval to administer certain EPA programs. This option includes the process of researching, investigating, developing, and applying for administration of a particular regulatory program.
Meaningful Participation in EPA Programs	Tribes may actively engage with EPA and neighboring jurisdictions to jointly plan for, monitor, and/or regulate activities of mutual concern that are consistent with EPA's programs. Meaningful participation is often demonstrated by partnerships, intergovernmental agreements, data-sharing, and/or Memorandums of Understanding (MOUs) and Memorandums of Agreement (MOAs). Development and enactment of Tribal laws, codes, and regulations is another way to meaningfully participate in EPA programs. Tribes may develop environmental program capacities to establish their own environmental protection programs that are consistent with EPA's authorities.
Solid and Hazardous Waste Implementation	Tribes may implement solid and hazardous waste programs, including collection, disposal, backhaul, and transportation of solid waste and recovered materials.

## 2) Tribal Environmental Priorities, CONTINUED: Long Term Program Development Goals

***Bottom line: Also new in this requirement is a chart which gives options for long-term program development goals for the Tribe.***

# EPA PRIORITIES

## WHAT'S NEW?

### 3) EPA Priorities, including Direct Implementation (DI) Responsibilities

Bottom line: New, or rather, more explicit, in the 2022 Guidance is that “EPA Regional Offices should identify EPA’s direct implementation responsibilities for each Tribe.”

# DIRECT IMPLEMENTATION

- ▶ EPA retains responsibility for managing environmental protection programs in Indian country until EPA authorizes a Tribe to implement the program.
- ▶ This authority to administer environmental programs in Indian country is called Direct Implementation, or DI.
- ▶ Examples of EPA DI activities include: setting enforceable environmental protection standards, issuing pollution discharge permits, conducting facility inspections, and taking appropriate enforcement actions.

# Performance Partnership Grants (PPGs)

“The scope of allowable activities using GAP funds, the use of ETEPs, indicators, and other criteria outlined in this Guidance remain the same when GAP funds are in a PPG. ETEPs and associated indicators only apply to GAP funded components of the PPG.”

***Bottom line:** ETEPs and indicators are needed just for the GAP part of the PPG. Note that AIEO is working on a combined ETEP and PPG template, which will be provided at a later date.*

# Intertribal Consortia and Performance Management

“Tribal governments may choose not to receive GAP funds directly but decide instead to work with an intertribal consortium to address their environmental priorities...Intertribal consortia that receive GAP funding on behalf of member Tribes should develop an ETEP...”

## Intertribal Consortia and Performance Management, CONTINUED

*Bottom line:* *The 2013 Guidance stated that consortia were advised to show how their work plans aligned with tribal priorities, and now it is expected. Doing so provides AIEO the ability to include consortia in performance management.*

*Also, Consortia who receives GAP funds in lieu of a Tribe need to complete an ETEP for that Tribe. AIEO will work with regions and consortia on what this document will look like and how we will integrate their work into performance management.*<sup>13</sup>

# TRIBAL PRIORITIES AND INTEGRATED WASTE MANAGEMENT PLANS

*Bottom lines: Concerning ETEPs and Solid Waste Service Delivery, another new aspect is regarding IWMPs, or integrated waste management plans. If a Tribe does not have an IWMP they can include required components for service delivery in their ETEP. (Previously, a Tribe needed an IWMP.)*

*These 3 components are: 1) Description of the community service area, 2) Description of the Tribe's waste management program structure and administration, 3) Description of the Tribe's current and proposed waste management practices.*



# Summary and Next Steps

- ▶ ETEPs will be updated with new capacity indicators on a rolling basis, when the ETEP expires. This prevents all ETEPs needing to be updated at once.
- ▶ EPA will provide the draft regulated facility information and direct implementation information to the Tribe for review and to be incorporated to the ETEP.
- ▶ Project Officers will be working closely with Tribes completing ETEP updates in FY 23 and FY 24.

# Contact info

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