



# **Tribal Waste and Response Steering Committee 2021 Priorities**

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**\* All photos are courtesy of TWAR Steering Committee members and reflect activities occurring on their Tribal Nation lands.**



The Tribal Waste and Response Steering Committee (TWAR SC) is a Federal US EPA Tribal Partnership Group comprised of subject matter experts from federally recognized Tribes and Alaskan Native Villages from various EPA regions. The views expressed by the TWAR SC are those of the SC members and not of individual Tribes and/or Alaskan Native Villages. Furthermore, interaction with the TWAR SC is not a substitute for, or constitutes government-to-government consultation, which can only be achieved through direct, early and meaningful consultation between the Federal government and individual Indian Tribes and Alaskan Native Villages.

This is a living document that will be updated as the TWAR Steering Committee sees necessary. Its intention is to communicate the needs of Tribes, influence policy, and determine useful actions for the protection of health, culture, and natural resources in respect to OLEM-related issues.



# TWAR SC Overview

The Tribal Waste and Response Steering Committee (TWAR SC) is a Tribal Partnership Group, composed of Tribal professionals working in waste, emergency response, Superfund, Brownfields, and Underground Storage Tanks (USTs). They were established in 2009 as part of a cooperative agreement with EPA's Office of Land and Emergency Management (OLEM) and the Institute for Tribal Environmental Professionals (ITEP). The TWAR SC meets at least six times a year to provide input to EPA and other federal agencies, as well as cooperating with ITEP and other Tribal Partnership Groups (TPGs). They strive to provide two-way communication between Tribal professionals and staff at the EPA utilizing this Priority Document is one tool that is used to ensure Tribal concerns and suggestions are considered by OLEM personnel and others at EPA.

## Mission

The TWAR SC will maintain a cooperative exchange of information between American Indian Tribes and Alaska Native Villages, EPA OLEM, and other federal partners and organizations to assess, understand, prevent, or mitigate environmental impacts that adversely affect health, culture, and natural resources. The TWAR SC also coordinates with other Tribal Partnership Groups (TPGs) throughout the year where appropriate. They also work closely with ITEP to plan and coordinate the annual Tribal Lands in the Environment Forum which brings together Tribal professionals, TPG members, EPA OLEM staff, and others to discuss case studies and strategies on implementing OLEM Programs in Indian Country and Alaskan Native Villages.

## TWAR SC Goals

**Goal 1:** Protect human health and the environment while recognizing the cultural values and unique needs of American Indian Tribes and Alaska Native Tribes and Villages.

**Goal 2:** Improve communication and foster interagency collaboration between Tribes and Alaska Native Tribes and Villages, federal agencies, and other partners.

**Goal 3:** Increase Tribal opportunities to guide OLEM in developing policies and programs related to the evolving needs and priorities of Native environmental programs.

# Cross-Programmatic Priorities for EPA

The TWAR SC has identified the following actions that EPA should undertake to help reach the goals outlined above. These activities include, but are not limited to, the following:

## General OLEM Priorities

- Track and share collaborative efforts with Tribes on contaminated sites to ensure the accuracy of Tribal database/map layers, including those areas that affect Treaty Rights, aboriginal areas, Usual and Accustomed Areas, and ceded territories during all project phases including updates and revisions.
- Expand current efforts to assist EPA offices that are historically “data poor” in being added to the EJ Screen, to better assist Tribes and EPA in ongoing environmental justice activities.
- Investigate the possibility of utilizing new environmental justice funding to increase the number of professionals (both Tribal and federal) engaged in compliance assistance and monitoring work, as well as cleanup work to meet Tribal standards at sites of concern.
- Once a Tribe has developed a plan or code, regardless of media, ensure that EPA staff at Regional and/or Headquarters’ levels provide support and assistance to them so they may effectively and efficiently implement their community-specific plans.
- Recognize traditional risk assessment approaches alone do not fully capture the unique exposure and vulnerability of Tribal people. Consider integrating the tenets of the Precautionary Principle with traditional risk assessment paradigms when initiating OLEM-related actions, initiatives, and regulations. This approach not only assists Tribal programs, but also supports the EPA’s priorities of addressing the effects of global climate change and environmental justice; issues significantly affecting Native nations and communities.
- Continue to communicate and coordinate with Tribes to identify and closeout Leaking Underground Storage Tank sites that may have been addressed under Tribal or State Response Programs.
- We encourage the Agency and the National Tribal Caucus to work with the TPGs so that all parties can help break down media-based barriers and develop cooperative strategies.
- Increase and document the use of Traditional Ecological Knowledge (TEK), as defined by Tribes, related to exposures, remediation, and mitigation that are consistent with culturally significant and customary practices, while respecting Tribal data sovereignty.

- Participate in resilience planning activities that are hosted by Tribes in order to increase the understanding of Tribal priorities and concerns, as well as strengthening relationships with Tribal colleagues by Federal employees. These may include Tribal Sovereignty courses, climate change adaptation trainings, emergency management meetings, and multiple agency events.
- Continue to provide written updates detailing actions taken regarding past year's priorities prior to meeting with the TWAR SC each year in Washington DC.
- Leverage resources that support increasing Tribal capacity to interact in leadership roles in prevention planning, climate resiliency, mitigation, response, and recovery among their federal and local partners. This should include having Tribal staff serve on advisory and oversight boards, increasing access to technical and scientific mentoring possibilities, and creating additional opportunities for Tribal professionals to share their perspectives and participate as peers with their government colleagues.
- Continue to enhance the tools developed by EPA E-Enterprise activities and integrate them into existing, and future EPA projects.
- When EPA staff revise GAP guidance, include Tribal representatives throughout the entire discussion process.

### PFAS and Emerging Contaminants of Concern

- The TWAR SC, along with several other TPGs, provided comments on the Interim Guidance on the Destruction and Disposal of PFAS. EPA should ensure they review this comment letter regarding this interim guidance and provide a response to the TWAR SC and the other TPGs.
- Identify and compile a list of Tribal Nations that are being affected, or have the potential to be affected, by PFAS and make that list available not only to TWAR SC but to other TPGs as well.
- The EPA Office of Research and Development should prioritize research that involves bioaccumulation in subsistence food that could impact Tribes. This includes fish, wildlife/ game and culturally sensitive plants.
- Tribal Nations need easier access to the PFAS Analytical Tool. Currently, accessing the tool requires going through a difficult approval process.
- Provide appropriate and plain language outreach materials to Tribal Nations to use to inform their members of the hazards of PFAS.
- Create a clearinghouse of PFAS data that Tribes can access to better understand risks, remedies and fate and transport of emerging contaminants.

# Program Specific Priorities

## Solid/Hazardous Waste

- The reduction of materials that end up in our waste stream (including single use resources, excessive packaging, etc.) needs to be a priority for EPA when they develop guidance, outreach, and regulations as well as in their discussions with industry groups. Recycling alone will not solve the problem of plastics contaminating the environment.
- Tribes can be, and often already are, leaders in their regions addressing waste reduction, recycling, and composting. For Tribes to fully collaborate with EPA in achieving our mutual goals (such as the recycling goal of 50% by 2030) additional funding is necessary so Tribes can enact effective and efficient procedures and operate appropriate facilities.
- We strongly encourage EPA to collaborate with Tribal professionals in developing outreach materials, creating training/technical assistance activities, and securing sponsors who can contribute to initiating and maintaining recycling so, they can better assist EPA in reaching meaningful recycling, composting, and waste diversion goals.
- For local and regional recycling operations to maximize their impact, they need buyers for their feedstock who can manufacture useful products. EPA should use its influence and authority to encourage the development of regionally based operations that use recycled materials, and should provide a list of potential buyers of recyclable materials by type and region to Tribes.
- While we recognize that EPA cannot change the way wSTARS is utilized by IHS, the Agency should cooperate and collaborate with both Tribal professionals, as well as IHS, to ensure operational and data consistency across the Regions and that adequate funding and resources are available for Tribes to address illegal dump sites. In addition, when requirements are changed for Tribes to access funding, these changes need to be clearly and consistently communicated to Tribes.
- We encourage EPA to fully implement the recommendations developed by the Infrastructure Task Force (ITF) work teams, and continue to engage in cross-agency collaborations.
- Prioritize funding and resources to the EPA Regions to hold waste stream audits on-site for Tribes. Some Regions are doing this, and the process of conducting a waste audit provides multiple benefits. EPA should also provide funding and resources to Tribes to conduct their own waste audits, as well as assisting more Regions to provide this service. An area for improvement is that EPA must follow-up after these audits, across all Regions, to ensure that Tribes have the data necessary



to make plans for their programs, and that they have access to the tools they need to enact these plans. When data is collected from EPA funded waste audits, the Agency must be transparent in how the data may be used and answer the question as to whether it is for the sole benefit for the Tribe or if it will be made public.

- EPA should directly support Tribes in their work on food waste but also, as they address food sovereignty and security. A growing number of Tribes are working on projects that bridge traditional waste management concerns (such as food waste) and food security and ecosystem restoration (such as using compost to grow food and improve soil health). We encourage EPA to not only work with Tribes on this issue, but also with other federal agencies such as the U.S. Department of Agriculture.
- When designing solid waste training courses for Tribal staff, utilize Tribal experts as instructors and ensure Tribal involvement in the creation of course materials and resources.
- Continue to provide funding to support Tribal Household Hazardous Waste operations and highlight Tribal case studies in order to assist other Tribes.



### Brownfields

- Solicit from Tribes suggestions on how evaluation criteria can be changed to allow Tribal programs to conduct more site improvements, including reuse based on their specific needs, as part of their grant-funded programs.
- In 2021, increase the number of acres that are assessed or cleaned up under 104 or 128 on lands defined by Tribal Treaty, Customary and Traditional Use, and Traditional Cultural Properties.
- Conduct additional outreach to Tribes about the use of 128(a) funds for pre-disaster assessments.
- Provide the TWAR SC with information on the number of Tribes assisted by service providers and, when possible, case studies on the results of these assistance activities.

### Underground Storage Tanks

- A task force of Tribal professionals, EPA staff, and other subject matter specialists should be utilized to improve compliance rates at Tribal UST facilities. Their goals should be improving compliance rates through the use of technology (such as a national database of Tribal UST



locations) as well as direct discussions with owner/operators about what tools they lack in order to achieve compliance and the creation of site-specific training and guidance resources. This task force should be fully collaborative between Tribal and EPA staff.

- Foster opportunities for Tribal professionals to mentor one another directly as an additional way to improve compliance rates at Tribal UST facilities. This may include providing flexibility under current workplans to allow mentoring site visits or other types of assistance to make these types of mentor matches possible.
- Create more opportunities for Tribal participation in Direct Implementation Tribal Cooperative Agreements (DITCAs) and create opportunities for Tribes to receive State and Tribal Assistance Grants to allow of base funding and flexibility.
- Develop assistance and outreach documents that better clarify steps Tribal facilities should take in order to stay in compliance with regulatory changes, and ensure they are developed in collaboration with Tribal UST professionals and are provided to the appropriate Tribal contacts.
- Continue to revise outreach materials to the service industry, and provide training and guidance to their staff, to better clarify the difference (including implementation dates) between State and Tribal regulations for UST operations.

## Superfund



- EPA should engage both the Office of Water and Office of Superfund with Tribes at the national and regional levels during the development of Remedial Investigation/Feasibility studies, remedial design, and implementation phases.
- Recognize that Tribal standards, and tools utilized by Tribal Superfund programs, are critically important in protecting downstream waters, lands, and Traditional

Lifeways. These may include measures protecting cultural resources and Tribal data integrity, Treatment as a State (TAS), Tribal Water Quality Standards (WQS), and the investigation and use of innovative technologies. Working in partnership with Tribes, EPA should respect these standards and tools, and ensure Tribal data are secure and considered in decision making.

- Continue investing in and supporting the Tribal Superfund Workgroup through conference calls, in-person meetings, trainings, and onsite mentoring.

- Increase funding to support Tribes in the development of their own Tribal Superfund cleanup programs as well as their capacity to oversee, coordinate, and administer Tribal Remedial Response Cooperative Agreements, including local Tribal cultural resource monitoring with EPA on NPL sites. Ensure comensurate funding for Superfund Management Assistance Grants and increase awareness of their availability.
- Provide for Tribal representatives to serve on the National Remedy Review Board to ensure Tribal voices are included in discussions and decision making.
- Request that the Office of Mountains, Deserts and Plains report on their first year of operation, including coordination with Tribes, TPG's, RTOCs, and other Tribal organizations, as well as on their goals for the near future.

### Federal Facilities

- Develop tools and resources that assist Tribal professionals in determining the appropriate contacts and mechanisms they need to access in order to move forward on addressing federal facilities affecting them. This could include case studies based on mentoring activities, plain language flowcharts detailing correct contacts for various federal agencies, and developing questions to ask when navigating the federal facility process.
- Ensure federal facilities are remediated to Tribal cleanup standards to make reuse by Tribes possible.
- Collaborate with Tribal professionals to develop a Tribal-specific training session on how to utilize FEDFacts. This session should include real-world examples of Tribal work on a federal facility and illustrate a step-by-step approach to using the tool effectively.
- Support the development of Tribal capacity in overseeing assessment and cleanup activities.
- Encourage EPA to use convening authorities to facilitate collaboration among federal entities involved in cleanup activities, as well as reuse approaches so that Tribes are fully engaged and active partners in both.

### Emergency Management and Response

- We encourage EPA to address concerns in Indian Country regarding AST issues and increase inspections of ASTs to ensure compliance with regulations.
- Clearly define EPA involvement in emergency response activities, including across OLEM offices, as well as where other federal agencies play roles (e.g., in non-environmental emergency

response activities). Create a flowchart that defines the roles and responsibilities of EPA, FEMA, US Coast Guard, and other federal agencies with lead roles in emergency management scenarios.



- EPA personnel should participate in Regional FEMA exercises, and work with Tribal colleagues to foster cross-agency cooperation and communication.
- Encourage Tribal environmental emergency response programs to be involved with their regional and local response agencies through Local Emergency Planning Committees (LEPCs).
- Facilitate Tribal use of National Response Center communications (NRC) and outreach tools at national and local levels. Current efforts of communication would be enhanced by recruiting Tribal professionals to present at RTOCs and other Tribal meetings, developing case studies of Tribes utilizing the NRC to protect their communities, and providing lists of existing Tribal Emergency Response Committees to other Tribes at the Regional level so they know who to contact in order to develop their own resources and approaches.

# Summary

The TWAR SC priorities are shared regularly with the National Tribal Operations Committee, EPA OLEM, Tribal Nations, and others. The TWAR SC meets each year with various offices in EPA OLEM to discuss these priorities, as well as other issues of concern to Tribes. The TWAR SC also requests reports from these offices on any progress made in addressing the priorities detailed in this document, so this information can be shared with other Tribal professionals around the country. More information, including meeting notes and the committee's charter, are available at the TWAR SC website (<http://www7.nau.edu/itep/main/twarsc/Home/Index>).

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