



Indian Country Update: 2009

A Note From: Carolyn Hoskinson, Director
EPA's Office of Underground Storage Tanks

This year we celebrated three important milestones. The American Reinvestment and Recovery Act was passed in February 2009, which provided authority and funding to create jobs and assess and cleanup shovel-ready sites in Indian country and nationwide. It also marks the 25th anniversary of EPA's UST program and the 4th anniversary of the Energy Policy Act. As we complete this year, I am delighted to see all that EPA and tribes continue to achieve by working together.

In August 2006, EPA and tribes developed a strategy, as a result of the 2005 Energy Policy Act, to further the goals of the UST program in Indian country. This strategy lays out five commitments that were formulated through the hard work and thoughtful input of an EPA-tribal workgroup. Since then, we have been working together to continue to fulfill these commitments, which include:

- ✓ ***Strengthening Relationships, Communication and Collaboration;***
- ✓ ***Improving Information Sharing;***
- ✓ ***Implementing New UST Provisions of the Energy Policy Act;***
- ✓ ***Implementing UST Prevention Activities through EPA and Tribal UST Programs; and***
- ✓ ***Implementing LUST Cleanup Activities through EPA and LUST Tribal Programs.***

In the next few pages, we share with you some of our key accomplishments and progress to date as well as our plans for continuing our partnership to meet these commitments to improve the UST/LUST Program in Indian country. We also identify some of the challenges facing the program. Our successes and plans for the future are important to the tank program's goal of reducing and cleaning up underground storage tank releases.



Tribal Strategy Commitments And What EPA And Tribes Have Done Together

Strengthening Relationships, Communication and Collaboration

- Developed web site <http://www.epa.gov/oust/tribes/index.htm>
- Developed UST Program Directory <http://www.epa.gov/oust/pubs/ustindiancountrydirectory11-08.pdf>
- Held two Annual Tribal-EPA Meetings: Albuquerque, NM (2007) and Rapid City, SD (2008)
- Held quarterly conference calls
- Increased tribal role in national conference
- Developed chat room
 - http://tech.groups.yahoo.com/group/Tribal_UST/
 - http://groups.yahoo.com/group/Tribal-EPA_UST_Workgroup/
- EPA Administrator Jackson reaffirmed EPA's 1984 Indian Policy on July 27, 2009

Improving Information Sharing

- Developed and implemented communication and outreach plan
- Enhanced EPA's Indian country planning and funding process to provide a more open understanding of program resources available to tribes
- Provided information about EPA's Petroleum Brownfields Grant Funding www.epa.gov/oust/rags/pbgrants.htm
- Provide mid-and end-of-year program performance reports www.epa.gov/oust/cat/camarchv.htm
- Utilize national and regional tribal operations committees to disseminate information

Implementing New UST Provisions of the Energy Policy Act

- Developing regulations to require provisions (such as delivery prohibition, operator training and secondary containment) apply to USTs in Indian country and in states that do not have state program approval.
- Performing mandatory inspections of all USTs in Indian country every three years
- Awarded grant to provide owner/operator training for Indian country http://www.itcaonline.com/program_ust.html
- Provided information on the status of federal and state agency compliance
 - <http://www.epa.gov/oust/fedlaws/ffreport.htm>
 - <http://www.epa.gov/oust/fedlaws/staterpt.htm>



Tribal Strategy Commitments And What EPA And Tribes Have Done Together

Implementing UST Prevention Activities through EPA and Tribal UST Programs

- Working to improve Significant Operational Compliance (SOC) at UST Facilities in Indian country so that facilities' operation and maintenance prevent and detect releases
- Issued federal credentials to six tribal inspectors
- Provided about \$2.2 million annually in prevention funding for Indian country

(additional information on page 4)

Implementing LUST Cleanup Activities through EPA and LUST Tribal Programs

- Worked to reduce the backlog of cleanups not yet completed in Indian country
- Expanded efforts to identify abandoned tank sites in Indian country
- Provided sustained annual budget of about \$2.6 million in LUST to assess and cleanup sites in Indian country
- Began implementing American Reinvestment and Recovery Act, which provided an additional \$6.3 million to perform site assessments and cleanup of sites in Indian country
- Provided national and regional contractor support to assess and cleanup leaking underground storage tank sites (e.g. where the owner or operator is unknown, unwilling, or unable to perform cleanup)
- Provided LUST funding directly to tribes to conduct cleanups
- Provided LUST corrective action training for tribes in 2008 and 2009

(additional information on page 5)

What's Coming Up?

Meetings and Trainings:

- **International City/Council Management Association (ICMA)/EPA Brownfields Conference**, New Orleans, LA, November 16-18, 2009 <http://www.brownfieldsconference.org/en/index.aspx>
- **22nd National Tanks Conference and Expo**, Westin Hotel Boston Waterfront, Boston, Massachusetts from September 20-22, 2010 <http://www.neiwpc.org/tanksconference/>
- **Owner/Operator Training for Tribes** for updates go to: http://www.itcaonline.com/program_ust.html



Preventing Releases In Indian Country

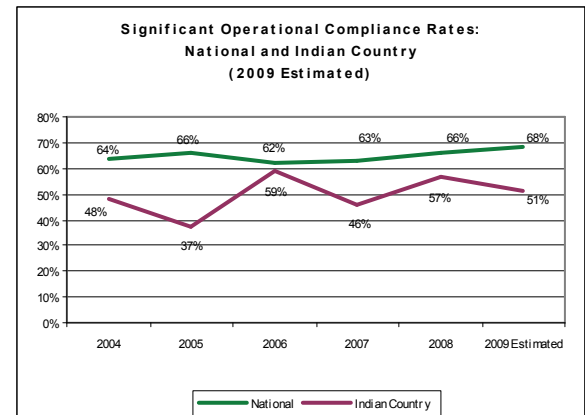
Tribes and EPA continue to work to prevent releases and improve underground storage tank (UST) compliance in Indian country by:

- ✓ enhancing inspection frequency at UST facilities to at least once every three years;
- ✓ issuing federal credentials to tribal inspectors;
- ✓ developing additional compliance-focused assistance agreements with tribes;
- ✓ providing training to tribal environmental professionals and facility owners and operators; and,
- ✓ working to develop regulations to implement provisions of the 2005 Energy Act.



Status Of Significant Operational Compliance At UST Facilities In Indian Country

Significant operational compliance (SOC) is a key element to preventing releases because it means that a facility has the equipment required by regulations and performs operation and maintenance to prevent and detect releases. SOC rates in Indian country have varied considerably from year to year due to the relatively small number of USTs. Between 2004-2009, SOC in Indian country has been on average about 15 percent below the national rate. However, at the end of FY 2009, the gap is estimated to be 17 percent. EPA, in partnership with tribes, will continue to identify ways to improve SOC in Indian country.



Five Tribal Inspectors Authorized To Conduct Federal UST Inspections

Designating tribal inspectors as authorized representatives of EPA to inspect USTs can help increase the geographic coverage and frequency of inspections in Indian country. It also helps enhance relationships and increase the capabilities of tribal inspectors. In FY 2009, three tribal inspectors received credentials to conduct federal UST inspections at tribal facilities and potentially other facilities. Since EPA's commitment in 2006 to issue federal credentials for tribal inspectors, a total of six inspectors have received credentials, five of which are still with their respective tribes. Currently, four tribes have federally-credentialed inspectors:

- ✓ Confederated Salish and Kootenai Tribes
- ✓ Eastern Band of the Cherokee Indians
- ✓ Navajo Nation
- ✓ Shoshone-Bannock Tribes

EPA anticipates that these inspectors will conduct more than 15 percent of the federal inspections in Indian country in 2010.

Developing Regulations

EPA is revising the 1988 federal UST regulations to require that the 2005 Energy Policy Act provisions apply to USTs in Indian country and in states that do not have state program approval. The Agency is also considering revisions to the existing regulations, as appropriate.

Over the past year EPA has consulted with a variety of stakeholders, including tribes and states, concerning potential regulatory changes. EPA has narrowed the list of potential changes to a short list of items to analyze further. Additionally, EPA is determining the costs and benefits of these potential changes and plans to issue a proposed rule in 2010, which will be followed by a final regulation that will carry the underground tank program into the future.

EPA provided \$2.6 million in FY 2009 for the UST Indian country prevention program.

National Tribal Grant For Compliance Assistance Awarded

In April 2009, EPA awarded a grant for the Inter Tribal Council of Arizona (ITCA) to provide compliance assistance training to tribes and owners/operators in Indian country. This is a five year grant worth up to \$2.5 million. This grant also provides inspector training and certification for tribal staff to conduct inspections at tribal facilities.



Completing Cleanups In Indian Country

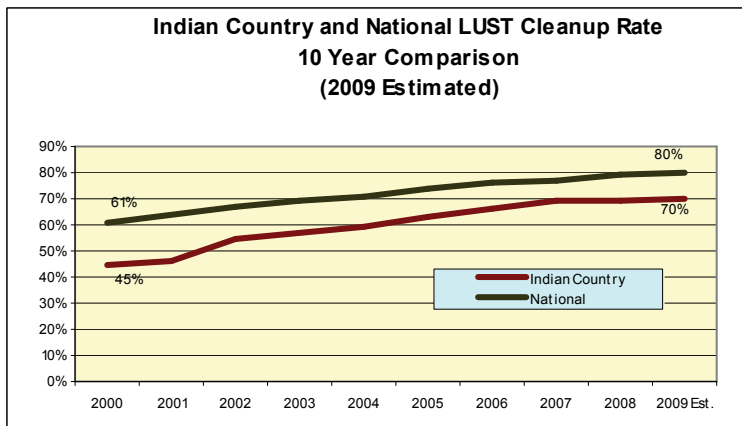
EPA has primary responsibility for cleaning up Underground Storage Tank (UST) releases in Indian country and actively works with tribes to identify, assess, and clean up these releases by:

- ✓ analyzing the backlog of cleanups yet to be completed;
- ✓ identifying Leaking Underground Storage Tank (LUST) Trust Fund eligible sites;
- ✓ continuing use of national and regional cleanup contracts;
- ✓ providing cleanup grant funding directly to tribes; and
- ✓ providing corrective action training to tribes.



Status Of LUST Cleanups In Indian Country

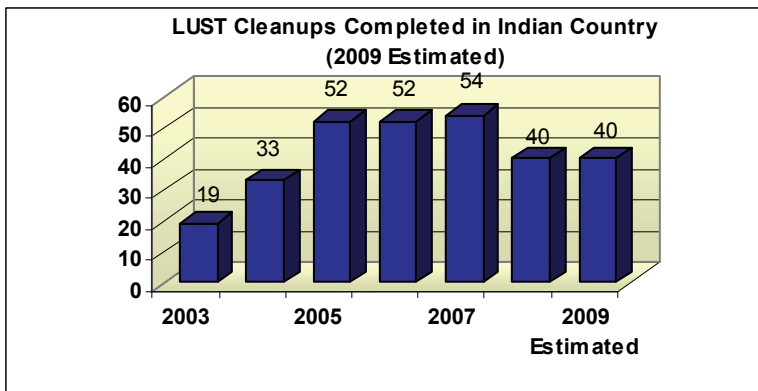
For several years the cleanup rate in Indian country lagged behind the national rate by 15-20 percent. Since 2004, this gap has been reduced to about 10 percent.



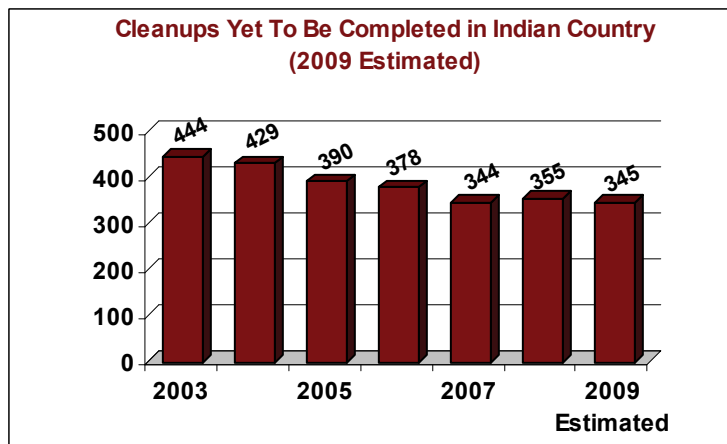
Analysis Of Cleanups Yet To Be Completed In Indian Country

Over the past eight years, the LUST cleanup backlog in Indian country has declined by about 25 percent. This success is due partly to focused efforts by EPA and tribes to complete the remaining cleanups necessary at older sites and to the increased use of the national and regional Indian country cleanup contracts. These contracts help assess LUST Trust Fund eligible sites; design corrective action plans; and remediate contaminated sites. However, completing cleanups and reducing the backlog of sites in Indian country is likely to become more difficult as a result of two factors. Some EPA Regions are in the process of conducting comprehensive surveys to identify abandoned tanks. Some of these tanks may have releases that are currently not part of the backlog. In addition, EPA is addressing more sites that require complex cleanups which take more time to complete.

EPA's annual goal is to complete 30 cleanups in Indian country. In 2009 EPA exceeded this goal by completing 40 cleanups.



Cleanups Yet To Be Completed in Indian Country (2009 Estimated)



Tribal LUST Grants

In FY 2009, EPA provided LUST funds directly to the Navajo Nation and the Nez Perce Tribe to conduct cleanups. This direct funding furthered their capacity to develop and manage their cleanup programs and reduce the number of remaining cleanups in Indian country.

EPA provided \$8.9 million in FY2009 for LUST cleanups in Indian country; \$6.3 million of which was appropriated from the American Recovery and Reinvestment Act.