Report To Congress On Implementing And Enforcing The Underground Storage Tank Program In Indian Country

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REPORT TO CONGRESS ON IMPLEMENTING AND ENFORCING THE UNDERGROUND STORAGE TANK PROGRAM IN INDIAN COUNTRY

AUGUST 2007

U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF UNDERGROUND STORAGE TANKS
WASHINGTON, DC
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CHARTS AND TABLES

ACRONYM REFERENCE

DITCA – Direct Implementation Tribal Cooperative Agreement

EPA – Environmental Protection Agency

EPM – Environmental Program Management

FTE – Full-Time Equivalent

LUST – Leaking Underground Storage Tank

MOU – Memorandum of Understanding

RCRA – Resource Conservation and Recovery Act

SEE – Senior Environmental Employment

SOC – Significant Operational Compliance

STAG – State and Tribal Assistance Grants

SWDA – Solid Waste Disposal Act

UST – Underground Storage Tank

EXECUTIVE SUMMARY

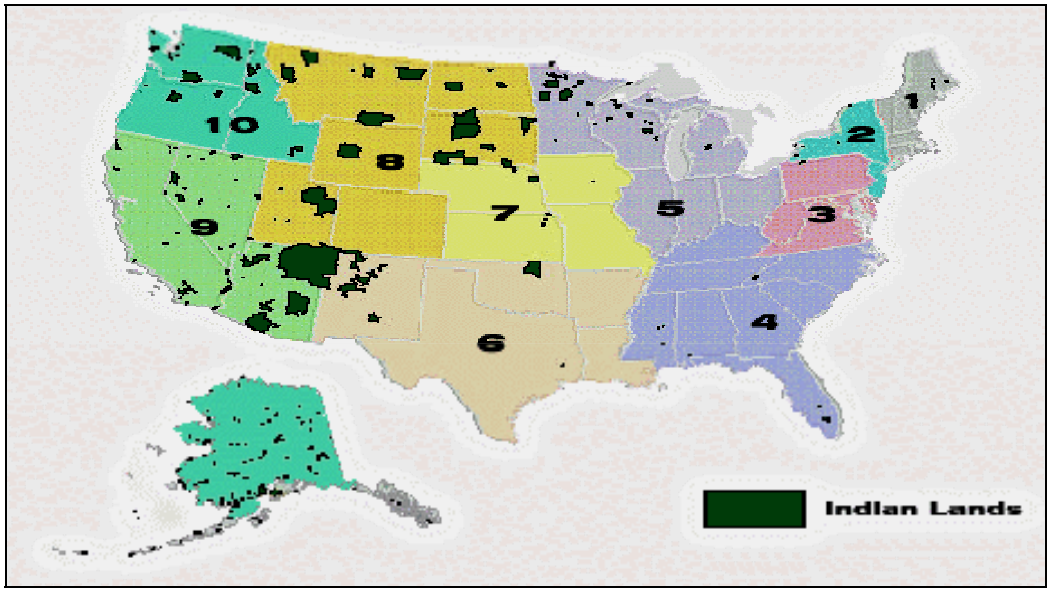
The United States has a unique legal relationship with federally-recognized Indian tribes (tribe or tribes) based on the Constitution, treaties, statutes, executive orders, and court decisions. This government-to-government relationship includes recognition of the right of tribes as sovereign governments to self-determination and an acknowledgement of the federal government's trust responsibility to tribes.

The U.S. Environmental Protection Agency (EPA or Agency) is committed to strengthening its partnership with tribes and supporting tribal governments in protecting human health and the environment in Indian country. In 1984, EPA became the first federal agency to adopt a formal Indian Policy of working with tribes on a government-to-government basis. EPA Administrator Stephen Johnson reaffirmed the Agency's commitment to this policy in 2005.

Today there are over 560 separate federally-recognized tribal governments throughout the United States. Of these tribes, approximately 200 have active or closed federally-regulated underground storage tanks (USTs or tanks) on their lands. There are currently about 2,600 active USTs in Indian country and many tribes have their own UST programs. The extent and nature of these tribal programs vary though depending upon such factors as the number of tanks, funding sources, and experience with other environmental programs.

In addition, each tribe has its own history and culture and therefore, tribal governments cannot be viewed or treated as one group. The distribution of tanks in Indian country also varies widely, with many tribes having only a small number of tanks. This cultural and programmatic diversity makes the UST program in Indian country complex to implement.

NATIONAL MAP OF FEDERALLY-RECOGNIZED INDIAN LANDS AND EPA REGIONS



Source: *EPA American Indian Environmental Office - http://www.epa.gov/indian/map.htm*

For more than twenty years, EPA has been directly implementing the UST program in Indian country. This is accomplished in part by providing technical and financial support to tribal governments to prevent and cleanup releases from USTs. Working together, EPA and tribes have made considerable progress since the inception of the federal UST program.

- **About 5,500** substandard USTs in Indian country have been permanently closed;
- **59 percent** of UST facilities are in compliance with both release prevention and detection requirements;
- **Nearly 66 percent** of known UST releases have been cleaned up; and
- **Over 150** tribal environmental professionals have received training in UST maintenance, prevention, and compliance requirements.

EPA remains committed to implementing the UST program in Indian country and will continue to develop and enhance the program by:

- **Providing technical and financial assistance to prevent and cleanup releases;**
- **Supporting tribal governments to build and improve their UST programs;**
- **Enhancing relationships with tribal partners; and**
- **Improving information sharing between tribes and EPA.**

REQUEST BY CONGRESS

On August 8, 2005, President Bush signed the Energy Policy Act of 2005. Section 1529 of the Act, which amended Subtitle I of the Solid Waste Disposal Act by adding a new section 9013, directed EPA to submit a report to Congress summarizing the Agency's progress implementing and enforcing the UST program on all lands under the jurisdiction of an Indian tribe. This report fulfills EPA's obligation to Congress under section 9013 and provides information on the background, prevention, cleanup, successes, and future of the UST program in Indian country.

CHAPTER 1
BACKGROUND AND PROGRAM OVERVIEW

In 1984, Congress enacted and President Reagan signed into law Subtitle I of the Solid Waste Disposal Act (SWDA), as amended by the Resource Conservation and Recovery Act (RCRA), directing EPA to develop a comprehensive regulatory program for USTs. This new regulatory program required owners and operators of USTs to prevent, detect, and cleanup releases. In 1986, Congress further expanded the law by creating the Leaking Underground Storage Tank (LUST) Trust Fund to pay for the cleanup of releases from USTs as well as oversight and enforcement activities by EPA and states.

After extensive input from states and other stakeholders, EPA published the final technical and financial responsibility regulations for tanks in 1988 (40 CFR Part 280 and 281). These comprehensive regulations, which continue to provide the foundation for the program today, were designed to achieve the following goals:

- **Preventing leaks** by requiring owners to close or upgrade old substandard tanks or install new, improved, and safer tanks that will not easily corrode and leak.
- **Detecting leaks** quickly by requiring owners to put in place one of several leak detection methods, such as automatic tank gauging, interstitial monitoring, and vapor or groundwater monitoring.
- **Cleaning up leaks** quickly and safely by requiring tank owners to have the financial resources to clean up a site if a release occurs.

INDIAN COUNTRY PROGRAM OVERVIEW

While states regulate the majority of the nation's USTs, EPA is responsible for directly implementing UST regulations in Indian country. Consistent with the Agency's mission, the overarching goal of the EPA UST program in Indian country is to protect human health and the environment. EPA works to ensure that UST facilities in Indian country operate in compliance with regulations in order to prevent future leaks and to clean up existing leaks.

EPA directly implements the UST program in Indian country by providing financial and technical assistance and by working with tribes to build their capabilities to develop and manage UST programs. In addition, EPA invests Agency staff and resources to support tribal environmental staff in meeting UST compliance requirements and to conduct on-site UST inspections and oversee cleanups in Indian country.

An antique gas pump at an UST site on the Navajo Nation

LEGISLATIVE HISTORY

In the early stages of the program, the work in Indian country was primarily focused on basic direct implementation activities such as registering tanks, compliance assistance, and overseeing or conducting cleanups. As awareness of UST prevention and cleanup issues improved in the 1990s, program activities in Indian country expanded.

In the Appropriations Act for fiscal year 1999 (Public Law 105-276), Congress expanded EPA's authority to provide grants to tribes to develop and implement UST prevention and compliance programs. In that same law, Congress authorized EPA to provide grants for the development of LUST cleanup programs in Indian country. These authorities increased tribal opportunities for involvement and provided funding and support for compliance assistance and the cleanup of releases.

The Jicarilla Apache Environmental Protection Office overseeing UST removals on the Jicarilla Apache Nation

RECENT LEGISLATIVE CHANGES

The Energy Policy Act of 2005 enhanced the UST program in Indian country by giving EPA new tools to encourage greater opportunities for tribal involvement. The Energy Policy Act directed EPA to coordinate with tribes to develop and implement an UST program strategy in Indian country to supplement the program's existing approach. In response, EPA and 41 tribes coordinated and collaborated over the course of ten months and on August 7, 2006, EPA published the *Strategy for an EPA/Tribal Partnership to Implement Section 1529 Of the Energy Policy Act Of 2005* [1] (tribal strategy).

The tribal strategy lays out five objectives for the Agency to improve the UST program in Indian country. In particular, the strategy identifies steps that EPA and tribes can take to further the cleanup and compliance of USTs. EPA intends to work with tribes toward achieving the following:

- **Strengthening relationships, communication, and collaboration;**
- **Improving information sharing between tribes and EPA;**
- **Implementing the new provisions of the Energy Policy Act;**
- **Implementing UST prevention activities through EPA and tribal UST programs; and**
- **Implementing LUST cleanup activities through EPA and tribal LUST programs.**

In the upcoming years, EPA will strive to meet or exceed established goals to improve UST compliance and release cleanup in Indian country along with meeting the objectives laid out in the tribal strategy.

[1] http://www.epa.gov/swerust1/fedlaws/final_ts.htm

UST Distribution in Indian Country

As of September 30, 2006, there were approximately 2,600 active USTs and about 5,500 closed USTs in Indian country.[2] Of the approximately 200 tribes that have USTs on their lands, about 170 have active tanks and about two-thirds have less than ten active tanks. The variety in the number of active USTs in Indian country speaks to the diverse nature of the UST program. Tribal and EPA activities and roles vary with the needs of each tribe. As a result, there is not a prescriptive "one-size-fits-all" approach to developing and managing tribal UST programs.

Tribes with Active USTs in Indian Country

Number of Active USTs	Number of Tribes	% of Tribes with Active USTs
100+	1	*1%*
50-99	8	*5%*
25-49	23	*13%*
10-24	32	*18%*
Less than 10	107	*63%*

171 Total Tribes

Source: *EPA Regional data- includes tribally and non-tribally owned tanks.*

Moreover, the varied tank distribution in Indian country poses unique and complex challenges. Many tribes have a small number of USTs and their programs generally are emerging or limited. Tribes with a large number of tanks typically have more developed programs and established partnerships with EPA. The following table is a list of the top ten tribes with the highest number of active tanks. A comprehensive list of tank data, by tribe, can be found in *Appendix A.*

[2] ***Source:*** *EPA UST FY 2006 End-of-Year Report*
Note: *"Active USTs" equals all USTs that are not permanently closed.*

Top 10 Tribes with the Highest Number of Active USTs

Tribe	Number of Active USTs	*% of Total Active USTs*
Navajo Nation	375	*14%*
Seneca Nation	95	*4%*
Saginaw Chippewa Tribe	89	*3%*
Confederated Salish & Kootenai Tribes of Flathead	89	*3%*
Confederated Tribes and Bands of the Yakama Nation	74	*3%*
Nez Perce Tribe	64	*2%*
Northern Arapahoe Tribe of the Wind River Reservation	57	*2%*
Leech Lake Band	51	*2%*
Ute Indian Tribe of the Uintah & Ouray Reservation	50	*2%*
Omaha Tribe of Nebraska	48	*2%*

992 Active USTs in Top 10 Tribes

Source*: EPA Regional data- includes tribally and non-tribally owned tanks.*

Outreach to Tribal Consortia

EPA works toward conducting outreach activities to all tribes with USTs on their land in order to encourage effective program development suitable to tribal needs and capabilities. Tribal consortia also provide an effective way to provide support to numerous tribes with small UST inventories on their lands.

Since the 1990's, EPA has provided grants to tribal consortia to develop and conduct a comprehensive training program for tribal environmental professionals. Grant recipients include (1) the Inter Tribal Council of Arizona, Inc., (2) the Inter-Tribal Environmental Council, and (3) the Eight Northern Indian Pueblos Council. The tribal consortia represent approximately 90 tribes and of these tribes about 60 have active USTs.

The EPA grants provided to these tribal consortia have enabled them to hold training sessions for over 150 tribal environmental professionals as well as for many UST owners and operators in Indian country. This training helps increase knowledge of UST requirements which in turn helps increase tank compliance and reduce petroleum releases in Indian country. The training also allows tribal representatives to enhance the capabilities of their UST programs.

Program Resources

In the early 1990's, the Agency's budget included about $500,000 annually for tribal UST work. However, in recent years the Agency has spent about $4.8 million a year on the UST Program in Indian country.

EPA has historically used these appropriated funds to support prevention activities and to clean up releases in Indian country. In addition, the Agency has approximately ten EPA full-time equivalent (FTE) employees supporting the tribal UST program. The table below details the average resource levels appropriated in recent years and provides examples of the activities conducted under each appropriation to support the program in Indian country.

Annual Funding Support for the UST Program in Indian Country

Appropriation	Examples of Activities Conducted with Appropriated Funds
EPM $475,000* (approx)	▪ Support for EPA compliance assistance and inspections in Indian country. These activities are supported by funding EPA Senior Environmental Employment (SEE) program enrollees in the EPA regional offices. ▪ Maintain and improve information on USTs located in Indian country.
LUST $2.5 million* (approx)	▪ Support for cleanup and remediation of LUST-eligible sites in Indian country. ▪ Grants for tribes to oversee cleanups in Indian country. ▪ Grants for tribes to perform site assessments and remediation on LUST-eligible sites. ▪ EPA SEE Program grants for implementation of the LUST program in Indian country (e.g., corrective action oversight).
STAG $1.8 million* (approx)	▪ Grants for tribes and tribal consortia to build their expertise to deal with UST issues and capability to manage UST programs. ▪ Training for tribal staff and owners and operators in Indian country on UST requirements. ▪ Direct implementation of compliance assistance activities in Indian country.

**Note:* *These numbers represent the recent approximate amount of annual funding the Indian country UST/LUST program. The funding levels may change in any given year based on annual appropriation levels.*

CHAPTER 2
RELEASE PREVENTION ACTIVITIES IN INDIAN COUNTRY

The lack of proper tank operation and maintenance is one of the major causes of new releases from USTs. As a result, EPA and tribes strive to improve operational compliance at UST facilities in Indian country.

Since the inception of the UST program in 1984, nearly 5,500 old tanks in Indian country have been permanently closed. EPA continues to work with tribes to prevent and detect leaks from the over 2,600 active federally-regulated tanks in Indian country. One of the key elements in preventing releases is to increase a facility's operational compliance with UST regulations. Operational compliance means that a facility has both the necessary equipment required by current UST regulations and performs the necessary operation and maintenance for the UST facilities.

Outreach and education are critical to improving compliance and consequently leak prevention. EPA has produced compliance assistance documents to help owners and operators in Indian country and in states understand the regulations and a wide variety of UST topics, these include:

- ***Musts for USTs***- a comprehensive summary of the federal requirements.
- ***Operating and Maintaining UST Systems: Practical Help and Checklists***- a manual to help owners and operators understand how to properly operate and maintain USTs.
- ***Straight Talk on Tanks: Leak Detection Methods for Petroleum USTs and Piping***- a booklet that summarizes leak detection methods and regulatory requirements.

A tribal technician testing an UST on the Standing Rock Sioux Reservation*

WORKING TO INCREASE COMPLIANCE

The UST program in Indian country strives to meet the national annual goal for the rate of UST facilities in significant operational compliance (SOC) with both release prevention and detection requirements. In FY 2006, the national goal was for 66 percent of UST facilities to meet the SOC requirements. These requirements include having and operating equipment that prevents petroleum releases, such as equipment that prevents gasoline from spilling when tanks are being filled, and having and operating equipment that detects a release if it occurs.

In FY 2004 the percentage of UST facilities in Indian country that met both release detection and prevention SOC requirements was 48 percent, in FY 2005 the

* ***Note:*** *In accordance with regulations, this tank is considered an UST because more than 10% of its combined volume is underground.*

rate was 37 percent, and in FY 2006 the rate was 59 percent. As of September 2006, the overall SOC rate in Indian country still lags behind the national goal of 66 percent and the national average SOC rate of 62 percent.

EPA and tribes are making several efforts to improve the compliance of UST facilities in Indian country. One effort is the increase in the frequency of UST facility inspections by EPA's regional offices. As facilities are inspected more often, owners and operators are better able to understand what is required to attain and maintain compliance. Another effort is the partnership EPA and the tribes have created to provide for additional training on UST requirements. This compliance training helps improve the knowledge of tribal environmental professionals, owners, and operators which in turn may have a positive effect on compliance rates.

To strive to close the gap and improve UST operational compliance in Indian country, EPA and the tribes have identified ways to enhance current prevention activities. These enhancements are laid out in the 2006 tribal strategy and include the following activities:

- **Working with tribes** to conduct inspections at UST facilities in Indian country, including inspections conducted by EPA-authorized tribal inspectors.
- **Developing additional collaborative assistance agreements** with tribes, where appropriate, to help manage the UST program in Indian country.
- **Providing further training** to help tribes build their UST expertise.

INSPECTING USTs IN INDIAN COUNTRY

One way to improve operational compliance and reduce releases is to increase the frequency of UST inspections. With more frequent inspections of UST facilities, owners and operators are better able to understand what is required to attain and maintain long-term compliance.

About five years ago, EPA was inspecting USTs in Indian country approximately once every four to five years. Today, the program inspects tanks in Indian country once every three years which is consistent with the Energy Policy Act. EPA conducts approximately 300 inspections on average each year in Indian country and is currently on track to meet the first three-year inspection deadline in August 2010 as set in the Energy Policy Act.

In addition, the Energy Policy Act also required that all UST facilities that have not been inspected since 1998 must be inspected by August 8, 2007. EPA has worked diligently with tribal partners to inspect these previously uninspected facilities and meet this deadline.

Tribal and EPA staff inspecting an UST facility located on the Red Lake Band of Chippewa Reservation

EPA also promotes creative methods and efficient applications of resources in order to meet the three-year inspection requirement. For example, one EPA regional office has entered into an interagency agreement with the Indian Health Service to provide an additional inspector to supplement EPA's existing inspection staff in the field. Some EPA regional offices are also awarding grants through the Senior Environmental Employment (SEE) program in order to provide additional staff support for compliance assistance and inspection efforts. These SEE program enrollees provide valuable technical expertise and support for the UST program in Indian country.

Federal Inspector Credentials

Section 6927(a) of RCRA enables EPA to authorize tribal government representatives to conduct inspections on behalf of the Agency. EPA's designation of tribal inspectors as authorized representatives of the Agency for UST inspection purposes can increase the geographic coverage and frequency of inspections in Indian country. This in turn helps ensure that inspections are conducted every three years while simultaneously increasing the capabilities of tribal inspectors to conduct inspections under tribal law.

After determining where and when such authorizations are appropriate, EPA can work with tribes to ensure that the tribal inspector is properly trained and enter into a written agreement addressing the scope and use of the federal inspector credential. Although EPA's issuance of these federal credentials allows a tribal government employee to conduct inspections on EPA's behalf, only EPA can make formal determinations of violations and bring federal enforcement actions.

EPA has developed guidelines[3] and procedures for authorizing tribal inspectors and issuing inspector credentials to tribal members. The Agency is now determining where such agreements are appropriate and working with tribes to identify reciprocal interest.

In April 2007, EPA and the Shoshone-Bannock Tribes entered into a written agreement that authorized a tribal inspector to conduct UST inspections on behalf of EPA; the first time EPA authorized a tribal inspector for the UST program. The responsibilities of the Shoshone-Bannock inspector include annual visits to each UST facility within the reservation to check for proper operation and maintenance and to confirm adequate financial assurance. The tribal inspector provides inspection reports to EPA and EPA then confirms whether any violations occurred, determines the appropriate enforcement response, and then takes enforcement action, as appropriate.

The issuance of this first federal UST credential built upon a successful partnership between EPA and the Shoshone-Bannock Tribes and is a key step in furthering the protection of human health and the environment on the tribe's lands.

Collaborative Prevention Activities

Direct Implementation Tribal Cooperative Agreements (DITCAs) are another avenue for EPA and tribes to collaboratively further UST prevention activities in Indian country. Initially authorized in the fiscal year 2004 Appropriations Act (Public Law 107-73, 115

[3] http://www.epa.gov/compliance/resources/policies/monitoring/inspection/statetribalcredentials.pdf

Stat. 686), DITCAs enable EPA to award cooperative agreements to federally-recognized Indian tribes and eligible tribal consortia to assist EPA in implementing federal environmental programs in the absence of an approved tribal program.

DITCAs provide tribes with the flexibility and opportunity to hire and train environmental staff to effectively manage programs and to address specific tribal needs and priorities within EPA's authority for direct implementation. DITCA work plans, negotiated by EPA and the tribe, determine the scope and pace of tribal involvement and specify the activities to be carried out by a tribe or intertribal consortium to ensure consistency with environmental regulations.

Over the past three years, EPA has entered into six DITCAs with tribes to promote compliance and to help increase tribal abilities to manage UST programs. Several success stories regarding some of these DITCAs can be found in Chapter 4.

Navajo Nation Environmental Protection Agency (NNEPA) conducting an inspection on the Navajo Nation

Another collaborative avenue for furthering prevention activities in Indian country is to develop Memorandums of Understanding (MOUs) between tribes and EPA. MOUs establish a framework of intergovernmental cooperation and coordination between a tribe and EPA. For example, in 1998, EPA entered into an MOU with the Seneca Nation to develop and implement an UST program. The MOU recognizes the Seneca Nation as the lead for conducting UST compliance activities on their tribal land and lays out the protocol for seeking EPA enforcement assistance, if needed. While the agreement does not change existing authorities, it promotes a spirit of cooperation between the tribe and EPA.

Compliance Training Activities

Another factor in improving operational compliance is training on UST requirements. Training helps tribal inspectors, UST owners and operators, and tribal environmental professionals to better understand UST requirements and keep up to date on the latest compliance measures required by the program.

Since program inception, EPA has trained numerous tribal environmental professionals, tank owners, and operators in UST regulations and compliance. Tribal environmental professionals accompany EPA regional inspectors to gain on-site education, participate in inspector trainings hosted by EPA, and attend other pertinent training and national conferences. These tribal professionals are trained to provide compliance assistance to Indian country UST owners and operators between EPA inspections. This effort helps UST owners in Indian country better understand facility requirements and tribal inspectors are able to provide immediate, hands-on compliance assistance. EPA also works with tribal environmental departments to educate and provide compliance assistance to UST facility owners and operators.

An UST-LUST Virtual Classroom is also available for tribal tank inspectors and environmental professionals, as well as others interested in learning about USTs. Launched by EPA in 2005, the virtual classroom provides free Internet-accessible introductory level courses and currently consists of two modules: an *Introduction to the UST Program* and *Basic UST Inspector Training.* The virtual classroom can be accessed 24 hours a day on EPA's National Enforcement Training Institute website and on the New England Interstate Water Pollution Control Commission website.[4]

Training is also provided to tribal environmental professionals, UST owners and operators by tribal consortia through EPA grants. The Inter-Tribal Environmental Council (ITEC) has one of the longest running working relationships with EPA on UST issues and offered the first UST owner/operator training through an EPA grant in 2000. To date, over 260 individuals have participated in the training and ITEC continues to provide about six Indian country owner/operator trainings a year.

ITCA training with the Three Affiliated Tribes (North Dakota)

In addition, since October 2001, EPA has been working with the Inter Tribal Council of Arizona (ITCA) to provide additional training to improve the UST program in Indian country. ITCA provides compliance training to tribal environmental professionals on UST regulations, UST installations, and UST inspection protocols. ITCA conducts approximately 20 tribal training sessions every year throughout the U.S. Over 150 tribal environmental professionals have been trained by ITCA to conduct UST inspections and numerous owners and operators have also received basic UST operation and maintenance training.

COMPLIANCE ENFORCEMENT

As the implementing authority, EPA enforces the UST program requirements in Indian country. The most prevalent violations that take place include failure to provide adequate leak detection, failure to provide adequate corrosion protection, failure to provide adequate financial assurance, and failure to perform annual line tightness tests.[5] Enforcement actions, such as field citations, were taken at approximately 35 sites in Indian country in FY 2006.[6]

EPA is committed to working with tribes to ensure that USTs in Indian country are in compliance and providing technical support and assistance to enable compliance. The 1984 "EPA Policy for the Administration of Environmental Programs on Indian Reservations", indicates that EPA should consider taking a civil enforcement action when it determines that (1) a significant threat to human health or the environment exists, (2) such action would reasonably be expected to achieve results in a timely

[4] See http://www.epa.gov/OUST/virtual.htm, *or* http://www.neiwpcc.org/oust1.swf

[5] ***Source:*** *EPA Regional inspection data*

[6] ***Source:*** *EPA Regional End-of-Year FY 2006 data*

manner, or (3) the Federal Government cannot utilize other alternatives to correct the problem in a timely fashion.

EPA's 2001 "Guidance on Enforcement Principles Outlined in the 1984 Indian Policy" (Enforcement Guidance) defines these determinations and outlines an approach to addressing instances of civil noncompliance by UST facilities owned or operated by tribes, in which a tribal government has a substantial interest, or over which a tribal government has control ("tribal UST facilities").

As indicated in the Enforcement Guidance, in those cases where a tribal UST facility is not in compliance with federal regulations, EPA seeks to work cooperatively with the tribe to develop means to achieve compliance. As part of this process, EPA, in consultation with the tribe, generally develops a written compliance plan. The plan communicates to the facility and the tribal government the identified noncompliance at the facility and the steps necessary to return the facility to compliance.

In addition, the compliance plan describes the nature of the assistance to be provided by EPA, the timelines for providing assistance and achieving compliance, and EPA's expectations for improvements in compliance at the facility. The plan also describes any expected enforcement response by EPA if the facility's compliance status does not improve according to EPA's stated expectations. Throughout the implementation of the plan, EPA communicates with the affected tribal government regarding the compliance developments at the facility.

In cases of noncompliance by facilities located within Indian country but not owned or managed by a tribal government, EPA generally responds in the same manner as it would toward such facilities outside of Indian country. EPA notifies the affected tribal government of any anticipated Agency action and consults with the tribe on a government-to-government basis to the greatest extent practicable and to the extent permitted by law.

EPA addresses criminal noncompliance with federal environmental laws in Indian country in the same manner and fashion as it does throughout the United States.

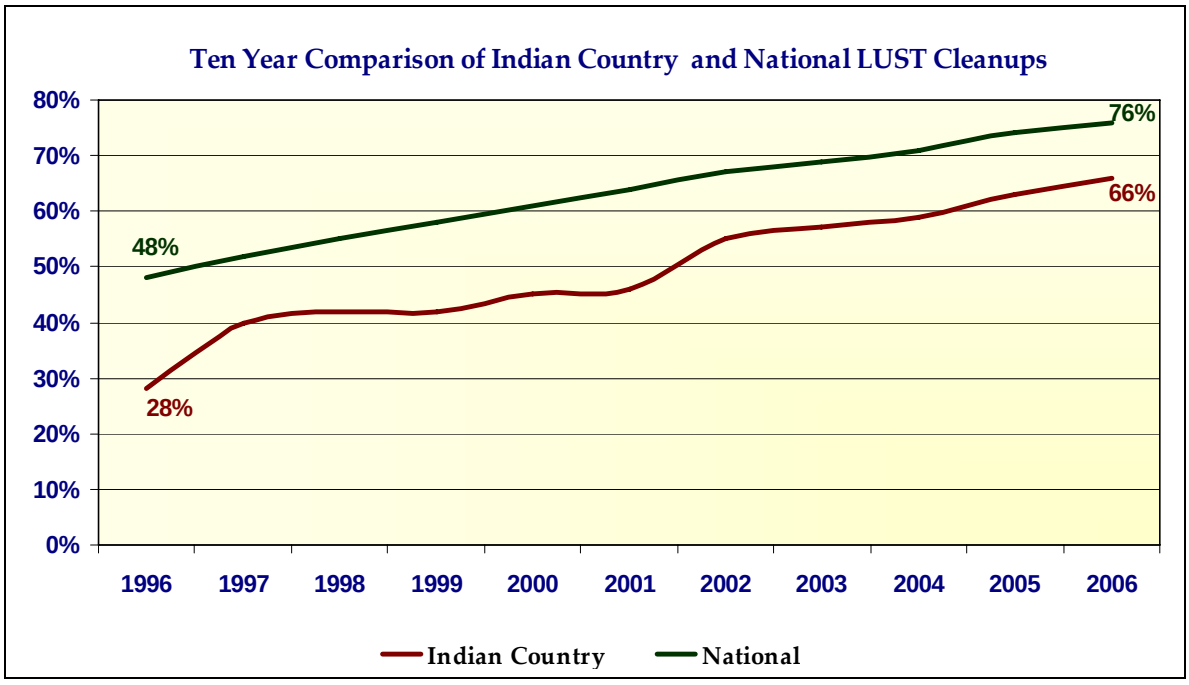
CHAPTER 3
LUST CLEANUP ACTIVITIES IN INDIAN COUNTRY

The objective of the LUST program in Indian country is to protect human health and the environment from the risks of leaking petroleum tanks by efficiently and effectively responding to releases and ensuring that they get cleaned up. Owners and operators are responsible for the cost of cleanup of their leaking tanks.

Since the mid-1990's, EPA has also used part of its LUST Trust Fund appropriation to clean up leaking UST sites in Indian country. LUST Trust funds can pay for cleanup at sites where the owner or operator is unknown, unwilling, or unable to respond, or where prompt action is needed. EPA also provides LUST Trust funds to tribes for cleanup oversight and to help build LUST program capabilities.

As of September 2006, there have been approximately 1,100 confirmed releases in Indian country. Of those confirmed releases, cleanups have been initiated at approximately 1,010 sites and completed at about 730 sites.

Over the past ten years, tribes and EPA have made progress in cleaning up LUST releases in Indian country. In 1996, cleanups had been completed at only 28 percent of known release sites, at the end of 2006 cleanups had been completed at 66 percent of sites. Although the program in Indian country currently falls behind the national percentage of cleanups completed (76 percent), EPA and the tribes decreased the gap by 10 percent since 1996.

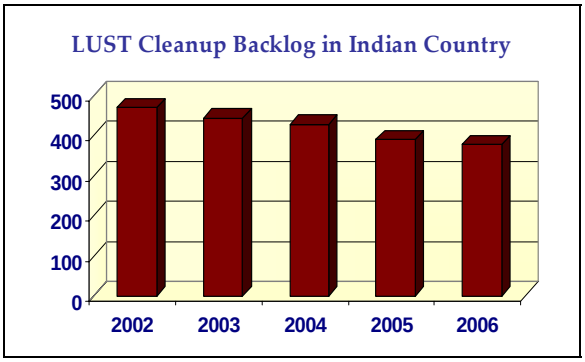


Source: *EPA UST End-of-Year Reports, FY 1996 -2006*
Note: *This chart refers to the percentage of cleanups completed relative to the cumulative number of releases.*

CONTINUING CLEANUP PROGRESS

EPA has an annual goal of completing 30 cleanups a year in Indian country. From FY 2001 - 2004, an average of 31 cleanups was completed each year in Indian country. In recent years, EPA has exceeded the annual cleanup goal with 52 cleanups completed in FY 2005 and 43 cleanups completed in FY 2006. This success is partly due to focused efforts to complete the remaining cleanup necessary at older sites in order to close them out, and also due to the increased use of the national Indian country cleanup contract which utilizes LUST Trust Funds to clean up releases on tribal land.

While the annual cleanup goal has been exceeded in recent years, at the end of FY 2006 there were still 378 confirmed releases in Indian country where cleanups have not yet been completed. However, tribes and EPA continue to make progress in reducing this backlog and the number of cleanups remaining to be completed has actually declined by 20 percent over the past five years, from 470 sites in 2002, to 378 sites in 2006.



Source: *EPA UST End-of-Year Reports, FY 2003-2006*

To continue making progress in cleaning up LUST releases in Indian country, EPA included several cleanup activities in the 2006 tribal strategy. The actions in the strategy were developed and decided upon through close coordination with tribes, and based on EPA and tribal experience in how best to accelerate the pace of cleanups, and continue to ensure high quality cleanup actions. In the upcoming years, EPA will continue to focus on using existing effective approaches, such as closing out older sites, and using the highly effective national Indian country cleanup contract, and in addition EPA will strive to achieve the following objectives laid out in the tribal strategy:

- **Implementing corrective action plans** that clarify the cleanup process;
- **Working with interested tribes** to develop and administer tribal codes and cleanup standards;
- **Reviewing the corrective action process** and streamline, if appropriate;
- **Promoting more DITCAs** for cleanup; and
- **Increasing information sharing** with tribes.

COLLABORATIVE CLEANUP ACTIVITIES

EPA and tribes actively work together to identify, assess, and clean up UST releases. Since 2001, EPA has maintained a national LUST cleanup contract to clean up tank releases in Indian country. The contract is supported by the LUST Trust Fund and provides for a contracting firm to conduct the following cleanup activities:

- **Site assessment and characterization;**
- **Remediation and oversight support; and**
- **Technical assistance, materials, and equipment support**

LUST Site Assessment on the Hopi Indian Reservation conducted through the national LUST cleanup contract

The cleanup contract is used at LUST Trust Fund-eligible sites, in other words, those sites where the responsible parties are unknown, unable, or unwilling to pay or where a situation that required prompt action existed. EPA works with tribes to use the contractor support to assess and cleanup LUST-eligible sites more promptly.

The national cleanup contract has currently supported LUST work at 48 sites on 15 Indian reservations. This work includes evaluation of LUST-eligible sites, site assessment/site characterization, and remediation work. In FY 2007, EPA intends to award a new national cleanup contract to replace the initial expiring contract.

Prior to the establishment of the national LUST cleanup contract in 2001, EPA took an affirmative step to clean up Some priority tribal sites through a regional specific contract. In 2000, EPA's Region 8 office awarded two cleanup contracts to tribally-owned firms to address approximately 12 suspected LUST sites that needed remedial activities conducted. Since the award of the contracts, there have been site assessments, soil excavations, vapor intrusion assessments, and remediation activities conducted and six cleanups completed in the region. Several additional sites have been discovered since 2000 and EPA plans to continue the use of this region-specific contract in order to enhance the pace of cleanups in the region.

To enhance the cleanup progress in Indian country, EPA has also recently begun to provide LUST Trust funds directly to tribes to conduct cleanups. Providing this type of funding directly to tribes furthers their capability to develop and manage a LUST cleanup program.

CURRENT LUST NATIONAL CONTRACT WORK IN INDIAN COUNTRY

***Source**: Map provided by Bristol Environmental Remediation Services, LLC, under contract with EPA/OUST, Contract No. 68-W-01-057*

In 2007, EPA awarded the first LUST grant of this kind to the Navajo Nation to conduct LUST site assessment activities. In April 2007, the Navajo signed a contract with a local tribally-owned company to perform site assessment activities at two sites and conduct initial investigations for at least five sites.

Cleanup Training Activities

Another factor in improving the progress of cleanups in Indian country is training on LUST cleanup procedures. LUST training helps tribal environmental professionals better understand LUST sampling and corrective action reporting procedures. EPA occasionally provides LUST sampling training to tribal environmental staff and technicians during visits to LUST sites.

EPA staff conducting LUST sampling with the UST/LUST Coordinator for the Oglala Sioux Tribe (Pine Ridge, SD)

EPA has also been working with the Inter Tribal Council of Arizona (ITCA) to provide LUST-related training to tribes. The training is designed to provide tribal staff with the technical knowledge of contamination issues as well as the skills to conduct oversight of cleanup activities at UST facilities in Indian country. ITCA currently offers three LUST related trainings: LUST Site Assessment, LUST Geology and Hydrology, and LUST Remediation. Since 2006, ITCA has provided these LUST-related training courses to approximately 45 tribal environmental professionals.

Site Cleanup and Reuse

EPA encourages and supports tribes to look for ways to reuse properties contaminated by leaking USTs. To assist in this effort, EPA created the pilot USTfield Initiative in 2000. USTfields are abandoned or underused properties where revitalization is complicated by real or perceived environmental contamination from USTs. Three tribes received USTfield pilot grants: the Crow Tribe, the Gila River Indian Community, and the Metlakatla Indian Community. The successes achieved through one of these pilots are highlighted in Chapter 4.

The USTfields pilots were available for only one fiscal year, however, with the 2002 passage of the Small Business Liability Relief and Brownfields Revitalization Act, relatively low risk priority petroleum sites became eligible for Brownfields funding. Subsequently, funding for certain assessment and cleanup projects may be available through the Brownfields program.

EPA's Brownfields program provides cleanup grants to address sites contaminated by relatively low risk petroleum and hazardous substances, pollutants, or contaminants (including hazardous substances co-mingled with petroleum). The Brownfields grants allow recipients to inventory, characterize, assess, and conduct planning and community involvement related to Brownfields sites. EPA continues to encourage tribes to compete for these Brownfields cleanup grants at eligible petroleum Brownfield sites.

CHAPTER 4
SUCCESSES IN INDIAN COUNTRY

Since the inception of the UST program in Indian country there have been numerous successes and advancements made by tribes and tribal consortia through partnerships with EPA. This section describes several of those successes.

UST PROGRAM DEVELOPMENT ON THE NAVAJO NATION

The Navajo Nation extends into the states of Arizona, Utah, and New Mexico and is home to about 210,000 people. The Navajo Nation Environmental Protection Agency (NNEPA), established in 1972, has jurisdiction over more than 17.6 million acres with about 375 active USTs.

The Underground and Leaking Underground Storage Tank Program Office (USTPO) of the NNEPA provides regulatory control for the 375 active USTs. In 1998, the Navajo Nation's council passed a resolution adopting an Underground Storage Tank Act which has been instrumental in providing the framework for NNEPA's ability to manage its tank universe.

Over the past four years, the NNEPA has developed its UST program by conducting project management, technical oversight, site assessments, performing corrective action, and undertaking corrective measures evaluations. As a result of the adoption of their UST Act and the funding provided by EPA and the Navajo Nation, the program has removed over 125 tanks at approximately 50 facilities. In addition, the NNEPA USTPO staff has increased compliance at operating facilities through UST inspections and on-site operator workshops. The NNEPA USTPO has also established draft petroleum cleanup standards which are used to evaluate the effectiveness of UST cleanup projects.

Window Rock, AZ- The seat of government of the Navajo Nation

IMPROVING THE UST PROGRAM OF THE SHOSHONE-BANNOCK TRIBES

For decades, the Shoshone-Bannock Tribes have recognized the potential for improving protection efforts of groundwater on the Fort Hall Reservation. In 2003, even though the relationship between EPA and the Shoshone-Bannock Tribes had many obstacles to overcome, they began building a relationship based upon technical coordination and communication. As trust and understanding grew, EPA and the Tribes began to consider a future partnership.

In 2004, the Shoshone-Bannock Tribes entered into a formal DITCA with EPA with the goal of developing and implementing an UST program on the Fort Hall Reservation. A tribal employee completed classroom training, certification, and EPA's on-the-job training program to become the first EPA-authorized inspector for the UST program in the nation. The Tribes also began developing their own regulations for USTs, compiling an inventory of abandoned tanks, and conducting outreach sessions and workshops for farmers and residents of the Fort Hall Reservation.

As a direct result of working in partnership, 10 abandoned USTs have been removed and several UST facilities have been closed. Additionally, farmers throughout the Fort Hall Reservation are more aware of UST prevention actions they can take to prevent polluting groundwater and soil.

The Shoshone-Bannock Tribes have played a significant role in developing national policy improvements for the tribal UST program and have become a resource not only for EPA, but also for other tribes who have contacted them for advice and assistance.

UST Compliance Assistance for the Oneida Tribe, the Red Lake Band of Chippewa, and the Inter-Tribal Council of Michigan

On October 2005, the Oneida Tribe of Indians of Wisconsin, the Red Lake Band of Chippewa, and the Inter-Tribal Council of Michigan (ITCM) entered into Direct Implementation Tribal Cooperative Agreements (DITCAs) with EPA in an effort to provide UST compliance assistance. The DITCAs allow EPA and the tribes to enhance tribal program capacity and foster information sharing, in order to reach the long-term goal of improving compliance rates and reducing releases.

Since the DITCAs were established, the grantees and EPA have adopted a rigorous schedule to meet the goals of the project. In 2006, all of the tribes completed classroom training and certification, on-the-job training, and joint compliance assistance.

Currently, the project is focused on compliance assistance activities that are fostering significant UST data sharing and environmental presence throughout the 13 tribes in Michigan, the seven tribes in Minnesota, and the Oneida Tribe. The DITCA project periods are in effect through October 2008. Some key factors that are contributing to the success of the DITCAs include:

- **Full support and commitment of the participating tribes and tribal consortia;**
- **Individual compliance assistance training;**
- **Well developed work plans with ample coordination and follow-up; and**
- **Open dialogue through monthly conference calls.**

Successful UST Program Building in the Choctaw Nation and Chickasaw Nation

In 2004, the Choctaw Nation of Oklahoma, the Chickasaw Nation of Oklahoma, and EPA entered into a three year capacity building assistance agreement. The Chickasaw Nation has seven large tribally-owned and operated UST facilities (travel plazas) along the I-35 corridor from the Texas/Oklahoma border to Oklahoma City. The Choctaw Nation has 13 travel plazas with a total of 43 USTs.

One of the goals was to develop a capacity building project for each tribe and all of their operating travel plazas. Another goal was to train a full time tribal environmental staffer in UST operation, maintenance, and compliance. The Choctaw Nation, the Chickasaw Nation, and EPA have successfully met the project goals.

A tribal UST Monitor on the Choctaw Nation

Tribal staff have been comprehensively trained and given the title of "UST Monitor", and all of the facilities underwent a baseline compliance assistance inspection by an EPA inspector. In addition, assistance was provided to the tribes to take the necessary actions to bring the facilities into full compliance. Moreover, the Choctaw and Chickasaw have quickly advanced their level of expertise to comply with federal regulations at all of their travel plazas.

Cleanup Collaboration Among the Cherokee, EPA, and North Carolina

In 2000, the Eastern Band of Cherokee Indians, EPA, and the State of North Carolina, signed a Memorandum of Agreement (MOA) to define the UST program responsibilities for each party. The MOA addresses EPA regulatory enforcement, eligibility requirements for participation in the North Carolina State Trust Fund, corrective action, and general information sharing. The MOA also allows cleanup coverage for fee-paying facilities on the Reservation, under the State UST Trust Fund, commensurate with facilities off the Reservation. In addition, through EPA funding, a tribal representative has been hired to serve as a liaison between the three parties and the owners/operators of UST facilities on the Reservation, to maintain an UST inventory, and to provide UST compliance assistance.

The benefit of the MOA became evident in September 2006 with the successful response to a release at a service station located on tribal lands that impacted the Tribes' primary drinking water supply. EPA's Region 4 Emergency Response Center and the Cherokee's Environmental Planning Office coordinated the initial response, abatement, and site investigation activities. Since the responsible party met the required deductible, the activities were covered under the State's UST Trust Fund. The Agreement guided each party's actions and contributed to the successful and efficient response to a UST release that threatened human health and the environment on the Reservation.

GILA RIVER INDIAN COMMUNITY USTFIELD SUCCESS

The Gila River Indian Community is located south of the Phoenix, Arizona metropolitan area. In 1998, following the removal of an UST at a site known as St. John's Mission, the Community discovered petroleum contamination in the soil and groundwater. Using EPA USTfield and Brownfields grants, the Community worked closely with EPA to remediate the site.

With EPA's assistance, the Community assessed the extent of soil and groundwater contamination beneath the former UST and prepared a Remedial Action Plan to address the contamination. In addition, the Community constructed a vapor barrier to prevent the migration of hydrocarbon vapors and installed a remediation system.

In 2003, with EPA USTfields and Brownfields grants and technical assistance, the Community constructed the Gila River Resource Center at the St. John's Mission Brownfields site for the purpose of educating the Community about diabetes prevention and care. In addition, the cleanup work conducted at the site has allowed the Community to continue using a Boys and Girls Club located on the site and has laid the groundwork for potential future development of other areas on the site.

The Gila River Community project illustrates how close communication between EPA and tribes, along with collaborative programs such as USTfields and Brownfields, can lead to successful remediation and reuse of contaminated properties.

Gila River USTfield- Before

Gila River USTfield- After (Resource Center)

THE CLEANUP SUCCESSES OF THE OMAHA TRIBE OF NEBRASKA

In 2000, the small municipality of Walthill on the Omaha Reservation had three separate businesses with leaking tanks. The site posed a risk to a nearby creek and groundwater sources. In response, the Omaha Tribe of Nebraska, the Nebraska Department of Environmental Quality (NDEQ), and the EPA entered into an agreement regarding the assessment and cleanup of the facilities.

To date, assessments have been completed at all three facilities and two of the facilities will undergo additional corrective action. These experiences have provided the foundation for an Indian country UST cleanup process in the EPA regional office that will facilitate the assessment and remediation of all Indian country leaks in that region.

The agreement between EPA, the Omaha Tribe of Nebraska, and NDEQ was the result of their willingness to set aside jurisdictional issues; adjust resources, schedules and priorities; ensure communication, participation, and information sharing; and speak with one voice through a single point of contact.

A Successful DITCA with the Nez Perce Tribe

The Nez Perce Tribe, located in Idaho, makes protecting and restoring water one of its highest objectives. The Tribe values the emphasis of the UST program on groundwater protection as nearly 100% of the drinking water on the Reservation comes from groundwater wells. In addition, the Tribe is historically a fishing culture with the majority of their diet provided by the threatened and endangered anadromous steelhead and salmon, which spawn on the Nez Perce Reservation. The spawning beds for these fish are often connected to groundwater sources. The Tribe therefore values high quality groundwater and protects and restores it through UST pollution prevention and cleanup activities.

In September 2002, the Nez Perce Tribe entered into a Direct Implementation Tribal Cooperative Agreement (DITCA) with EPA to conduct UST compliance assistance on the reservation. With 20 active UST facilities, the Nez Perce Tribe has the second highest number of facilities of any tribe in the Pacific Northwest region. The role of the DITCA is to enhance tribal program capacity to improve compliance rates and reduce releases from USTs on the Nez Perce Reservation.

Nez Perce environmental professional staffers have completed classroom training and certification, as well as EPA's on-the-job training program. They have conducted outreach sessions and provided onsite compliance assistance to UST owners and operators. Since the establishment of the DITCA, compliance rates have dramatically improved. In 2003, only 11 percent of operating facilities passed EPA's inspection, while in 2006, 60 percent of such facilities passed EPA's inspection.

In addition, the Nez Perce Tribe has developed a Brownfields program and been instrumental in redeveloping contaminated LUST sites. The synergy between the UST and Brownfield programs has allowed the Tribe to broadly address multiple environmental programs on the Reservation. The Nez Perce tribal staff has invested their own time and skills to permit and manage land farm sites and establish petroleum land farming operations where contaminated soil is remediated and prepared for reuse. The Nez Perce Tribe has also participated in developing improvements in national policies to improve the rate of cleanups in Indian country and provides assistance and advice to other tribes who have similar UST issues.

CHAPTER 5
FACING THE FUTURE

For the past 20 years, EPA and tribes have been working together to prevent and detect releases from USTs, and to cleanup those that occur. Through these partnerships, compliance and cleanup rates have been improved and numerous tribal environmental professionals, owners and operators in Indian country have been trained in proper operation and maintenance of USTs.

While much has been achieved and progress has been significant, there are still challenges remaining and work to be accomplished. The compliance rates for UST facilities in Indian country are below those for the rest of the country. In addition, there are 378 releases in Indian country where the cleanups have not yet been completed and the cleanup completion rate is below the national rate.

An UST is removed during a site assessment on the Tohono O'Odham Nation

As a result, EPA will continue working with tribes to prevent and detect new leaks, as well as increase the pace of cleanups for new and existing leaks. In addition, EPA intends to work with the numerous tribes with a small number of tanks as well as improve the programmatic capabilities of the several tribes with a large number of tanks.

The Energy Policy Act of 2005 gave EPA and tribes new tools to improve the UST program in Indian country. With the development of the tribal strategy, EPA and tribes identified objectives to further the cleanup and compliance of USTs in Indian country. In upcoming years, the Agency plans to work with tribes to implement the objectives laid out in the strategy. Following is an outline of the tribal strategy objectives as well as some current EPA activities.

STRENGTHENING RELATIONSHIPS, COMMUNICATION, AND COLLABORATION

EPA is working with tribes to expand their role at the annual national UST conference. In recent years, a tribal speaker participates in the opening plenary session and several sessions are led and facilitated by tribal environmental professionals. These tribal sessions are designed to disseminate and discuss important information to tribes regarding developments in the UST program and to strengthen relationships between the tribes and EPA. The Agency is currently working with tribes to expand these sessions at future conferences.

In addition, EPA is also working to establish an annual meeting with tribes to provide a forum to discuss key issues, propose solutions, and share ideas. The annual meeting will increase awareness of tribal needs, priorities, and resources and foster the relationship between EPA and tribes.

Improving Information Sharing

In July 2007, EPA launched a tribal UST Web area[7] located on the EPA website. The tribal UST Web area includes important information regarding training, funding, and regulations. It also provides a directory of other online sources that offer additional information relating to UST compliance and cleanup, an UST-LUST Virtual Classroom, and a directory on funding resources for tribal UST programs.

Implementing the New UST Provisions of the Energy Policy Act

EPA has developed guidelines for states to address the provisions of the Energy Policy Act, such as secondary containment, financial responsibility, operator training, and delivery prohibition. Tribes may also use these guidelines to obtain assistance on developing similar features for tribal UST programs in Indian country.

In accordance with the Energy Policy Act, EPA is also actively working with tribes to ensure that all tanks in Indian country meet the three year inspection requirement.

Installation of new USTs - The Seminole Nation (Oklahoma)

Implementing UST Prevention Activities

The first federal UST inspector credential was issued in 2007 to a tribal inspector and EPA is currently discussing where it is appropriate to authorize additional inspectors employed by other tribes or tribal consortia.

In addition, tribes and EPA and are currently working together to identify further training needs for tribal environmental staff, owners, and operators in Indian country.

Implementing LUST Cleanup Activities

EPA continues to work with tribes to clean up sites and reduce the backlog in Indian country. To assist in reaching this goal, EPA is in the initial stages of conducting an analysis of the remaining LUST sites in Indian country. This backlog analysis project involves collecting and compiling additional information on site releases that will help better characterize sites and prioritize cleanups (e.g., by targeting facilities and releases in sensitive drinking water areas such as source water areas).

[7] http://www.epa/gov/OUST/tribal

CONCLUSION

Since inception over 20 years ago, the UST program in Indian country has developed and grown, relationships and partnerships have been built. In recent years, Congress has consistently provided nearly $5 million annually to support the program in Indian country. This support has made it possible for EPA and its tribal partners to achieve some important successes that have been described in this report. EPA looks forward to continuing to work with tribal partners so additional success stories will be written in the future.

With the renewed commitments of the tribal strategy, EPA plans to work with tribal staff, facility owners, and operators in addressing the challenges and achieving more success in Indian country. The considerable progress that has been achieved over the past 20 years and the partnerships that have been forged between the tribes and EPA will serve as a foundation for further successes in the future.

An UST Facility on the Standing Rock Sioux Reservation (North Dakota)

APPENDIX A: ACTIVE AND CLOSED FEDERALLY-REGULATED USTS IN INDIAN COUNTRY *As of March 2007*

Tribes With Active and Closed Federally-Regulated USTs

EPA Region	Tribe	# Active USTs	# Facilities w/Active USTs	# Closed USTs
Region 1	Mohegan Tribe of Indians of Connecticut	8	2	0
	Passamaquoddy Tribe of Maine	4	1	0
Region 2	Cayuga Nation*	5	2	not available
	Oneida Nation*	34	13	not available
	Saint Regis Mohawk Tribe*	3	1	not available
	Seneca Nation	95	45	not available
	Tonawanda Band of Seneca Indians*	10	4	not available
	Tuscarora Nation*	23	9	not available
Region 4	Eastern Band of Cherokee Indians of North Carolina	40	15	34
	Miccosukee Tribe of Indians of Florida	11	3	0
	Mississippi Band of Choctaw Indians	9	3	5
	Seminole Tribe of Florida	3	1	18
Region 5	Bad River Band of Lake Superior Chippewa	4	3	5
	Bois Forte Band of Chippewa *(of the Minnesota Chippewa Tribe)*	2	1	9
	Fond Du Lac Band *(of the Minnesota Chippewa Tribe)*	11	5	22
	Forest County Potawatomi Community	3	1	0
	Grand Portage Band *(of the Minnesota Chippewa Tribe)*	10	3	12
	Grand Traverse Band of Ottawa and Chippewa Indians	1	1	3
	Hannahville Indian Community	3	1	0
	Ho-Chunk Nation	17	7	0
	Keweenaw Bay Indian Community	15	4	38
	Lac Courte Oreilles Band of Lake Superior Chippewa Indians	4	2	35
	Lac Du Flambeau Band of Lake Superior Chippewa Indians	4	1	42
	Lac Vieux Desert Band of Lake Superior Chippewa Indians	2	1	0
	Leech Lake Band *(of the Minnesota Chippewa Tribe)*	51	22	154
	Little Traverse Bay Bands of Odawa Indians	2	1	0
	Lower Sioux Indian Community	5	1	0
	Menominee Indian Tribe of Wisconsin	8	6	46
	Mille Lacs Band *(of the Minnesota Chippewa Tribe)*	43	16	61
	Oneida Nation of Wisconsin	34	15	116
	Prairie Island Indian Community	3	1	0
	Red Cliff Band of Lake Superior Chippewa Indians	5	2	5
	Red Lake Band of Chippewa Indians	14	8	28
	Saginaw Chippewa Tribe of Michigan	89	26	308
	Sault Ste. Marie Tribe of Chippewa Indians	5	2	0
	Shakopee Mdewakanton Sioux Community	8	4	0
	Sokaogon Chippewa Community	3	1	2
	St. Croix Chippewa Indians of Wisconsin	5	1	5
	White Earth Band *(of the Minnesota Chippewa Tribe)*	42	24	88

EPA Region	Tribe	# Active USTs	# Facilities w/Active USTs	# Closed USTs
Region 6	Absentee Shawnee Tribe	3	1	4
	Alabama-Coushatta Tribe of Texas	4	1	2
	Apache Tribe	3	1	1
	Chickasaw Nation	26	8	5
	Choctaw Nation of Oklahoma	33	10	4
	Citizen Potawatomi Nation	8	1	5
	Comanche Nation	4	2	0
	Coushatta Tribe of Louisiana	3	1	3
	Jicarilla Apache Nation	6	2	14
	Kickapoo Tribe of Oklahoma	3	1	0
	Kiowa Tribe of Oklahoma	3	1	1
	Mescalero Apache Tribe	8	2	6
	Muscogee (Creek) Nation	8	2	4
	Ohkay Owingeh (formerly the Pueblo of San Juan)	21	7	12
	Otoe-Missouria Tribe	7	2	2
	Ottowa Tribe of Oklahoma	3	1	0
	Pawnee Nation of Oklahoma	8	3	8
	Pueblo of Acoma	8	1	5
	Pueblo of Cochiti	3	1	7
	Pueblo of Isleta	3	1	3
	Pueblo of Jemez	3	1	1
	Pueblo of Laguna	14	3	18
	Pueblo of Picuris	10	4	14
	Pueblo of Pojoaque	10	3	4
	Pueblo of San Felipe	3	1	0
	Pueblo of San Ildefonso	6	2	0
	Pueblo of Sandia	7	2	0
	Pueblo of Santa Ana	3	1	2
	Pueblo of Santa Clara	33	10	14
	Pueblo of Santo Domingo	6	1	0
	Pueblo of Taos	9	3	14
	Pueblo of Zia	3	1	0
	Quapaw Tribe of Oklahoma	4	1	0
	Seminole Nation of Oklahoma	7	2	2
	Tonkawa Tribe of Oklahoma	2	1	0
	Ysleta del Sur Pueblo of Texas	11	6	1
	Zuni Tribe	7	3	17
Region 7	Kickapoo Tribe in Kansas	7	2	1
	Omaha Tribe of Nebraska	48	13	56
	Prairie Band of Potawatomi Nation	3	1	0
	Sac & Fox Nation of Missouri in Kansas and Nebraska	10	2	0
	Sac & Fox Tribe of Mississippi in Iowa (Meskwaki Nation)	4	1	0
	Santee Sioux Nation	2	1	6
	Winnebago Tribe of Nebraska	13	4	30

EPA Region	Tribe	# Active USTs	# Facilities w/Active USTs	# Closed USTs
Region 8	Assiniboine and Sioux Tribes of the Fort Peck Reservation	38	13	160
	Blackfeet Tribe	34	12	147
	Cheyenne River Sioux Tribe	26	10	105
	Confederated Salish & Kootenai Tribes of the Flathead Reservation	89	32	285
	Crow Creek Sioux Tribe	10	5	12
	Crow Tribe	28	16	97
	Flandreau Santee Sioux Tribe	3	1	6
	Fort Belknap Indian Community	10	2	10
	Lower Brule Sioux Tribe	3	1	12
	Northern Arapaho Tribe of the Wind River Reservation	57	21	314
	Northern Cheyenne Tribe	5	2	35
	Oglala Sioux Tribe of the Pine Ridge Reservation	25	14	106
	Rosebud Sioux Tribe	27	12	56
	Sisseton-Wahpeton Oyate of the Lake Traverse Reservation	5	1	6
	Southern Ute Indian Tribe	26	10	55
	Spirit Lake Tribe	5	2	33
	Standing Rock Sioux Tribe	33	15	112
	Three Affiliated Tribes of the Fort Berthold Reservation	35	25	99
	Turtle Mountain Band of Chippewa Indians	19	9	23
	Ute Indian Tribe of the Uintah & Ouray Reservation	50	17	227
	Ute Mountain Ute Tribe	9	2	15
Region 9	Agua Caliente Band of Cahuilla Indians	32	10	15
	Barona Band of Mission Indians	4	1	0
	Cabazon Band of Mission Indians	1	1	0
	Campo Kumeyaay Nation (formerly the Campo Band of Mission Indians)	5	1	0
	Chemehuevi Indian Tribe	6	3	18
	Colorado River Indian Tribes	39	11	84
	Duckwater Shoshone Tribe	1	1	0
	Ely Shoshone Tribe	4	1	0
	Fort McDermitt Paiute-Shoshone Tribe	1	1	0
	Fort McDowell Yavapai Nation	4	1	13
	Fort Mojave Indian Tribe	3	1	12
	Gila River Indian Community	12	6	72
	Hoopa Valley Tribe	9	3	24
	Hopi Tribe	21	15	36
	Hualapai Indian Tribe	4	2	20
	La Jolla Band of Luiseno Indians	3	1	0
	Las Vegas Paiute Tribe	3	1	0
	Moapa Band of Paiute Indians	6	2	1
	Mooretown Rancheria of Maidu Indians	3	1	0
	Morongo Band of Mission Indians	4	2	2
	Navajo Nation	375	198	659
	Paiute-Shoshone Tribe of the Fallon Reservation and Colony	3	1	0
	Pala Band of Mission Indians	3	2	5

EPA Region	Tribe	# Active USTs	# Facilities w/Active USTs	# Closed USTs
Region 9	Paskenta Band of Nomlaki Indians	3	1	0
	Pechanga Band of Luiseno Indians	4	2	0
	Pyramid Lake Paiute Tribe	10	6	16
	Quechan Tribe of the Fort Yuma Reservation	3	3	0
	Rincon Band of Luiseno Mission Indians	2	1	0
	Rumsey Indian Rancheria of Wintun Indians	3	1	2
	Salt River Pima-Maricopa Indian Community	23	9	51
	San Carlos Apache Tribe	15	10	38
	Shoshone-Paiute Tribes of the Duck Valley Reservation	6	6	19
	Smith River Rancheria	3	1	0
	Susanville Indian Rancheria	3	1	0
	Te-Moak Tribe of Western Shoshone of Nevada, Elkko Band	3	1	0
	Tohono O'Odham Nation	22	13	76
	Walker River Paiute Tribe	5	2	6
	Washoe Tribe of Nevada & California	4	2	1
	White Mountain Apache Tribe	43	24	67
	Yavapai-Apache Nation of the Camp Verde Indian Reservation	7	2	12
	Yavapai-Prescott Indian Tribe	4	2	6
	Yerington Paiute Tribe	2	1	0
	Yurok Tribe	5	3	1
Region 10	Coeur d'Alene Tribe	31	13	84
	Confederated Tribes of the Chehalis	4	1	0
	Confederated Tribes of the Colville Reservation	31	13	101
	Confederated Tribes of the Grand Ronde Community	3	1	1
	Confederated Tribes of the Umatilla Reservation	6	1	21
	Confederated Tribes of Warm Springs	15	5	15
	Confederated Tribes and Bands of the Yakama Nation	74	25	240
	Cow Creek Band of Umpqua Tribe of Indians	6	1	5
	Lummi Tribe	5	3	14
	Makah Indian Tribe	23	6	25
	Muckleshoot Indian Tribe	12	3	18
	Nez Perce Tribe	64	24	237
	Nisqually Indian Tribe	2	1	3
	Nooksack Indian Tribe	2	1	5
	Port Gamble S'Klallam Tribe	5	1	3
	Puyallup Tribe	4	2	0
	Quinault Tribe	11	4	30
	Shoshone-Bannock Tribes of the Fort Hall Reservation	23	8	103
	Skokomish Indian Tribe	4	1	19
	Spokane Tribe	19	7	19
	Squaxin Island Tribe	4	1	2
	Suquamish Indian Tribe	12	3	4
	Swinomish Indians	3	1	2
	Tulalip Tribes	14	5	22
Total:	***171 Tribes***	***2,658*** ***Active***	***1,087*** ***Facilities***	***5,446*** ***Closed***

Tribes With Closed Federally-Regulated USTs Only (no active)

EPA Region	Tribe	# Closed USTs
Region 1	Mashantucket Pequot Tribe	1
Region 2	Onondaga Nation*	not available
Region 5	Bay Mills Indian Community	2
	Stockbridge Munsee Community	7
Region 6	Cheyenne-Arapaho Tribes of Oklahoma	14
	Osage Nation	3
	Seneca-Cayuga Tribe of Oklahoma	3
	Wyandotte Nation	3
Region 7	Iowa Tribe of Kansas and Nebraska	4
Region 8	Chippewa-Cree Indians of the Rocky Boy's Reservation	6
	Skull Valley Band of Goshute Indians	5
	Yankton Sioux Tribe	5
Region 9	Ak Chin Indian Community	9
	Bishop Paiute Tribe	3
	Cocopah Tribe	6
	Confederated Tribes of the Goshute	4
	Coyote Valley Band of Pomo Indians	2
	Havasupai Tribe	2
	La Posta Band of Digueno Mission Indians	1
	Pauma-Yuima Band of Liseno Mission Indians	1
	Reno-Sparks Indian Colony	1
	Tule River Indian Tribe	3
	Tuolumne Band of Me-Wuk Indians	1
Region 10	Metlakatla Indian Community	15
	Quileute Tribe	9
Total:	***25 Tribes***	***110***

All Tribes with Federally-Regulated USTs (active & closed)

GRAND TOTAL:	***196 Tribes***	***2,658 active USTs***
		1,087 facilities with active USTs
		5,556 closed USTs

Source: EPA Regional data- includes tribally and non-tribally owned USTs in Indian country.

Note: "Active USTs" equals all USTs that are not permanently closed.

**Region 2 only has facility data for most tribes, as such the number of USTs is estimated at 2.65 per facility*

APPENDIX B: LIST OF RELATED EXECUTIVE ORDERS, STATUTES, DOCUMENTS, POLICIES, AND GUIDANCE

Statutes

• 42 U.S.C. § 6991l, Resource Conservation and Recovery Act, Section 9013, Tanks on Tribal Lands

Regulations

• 40 CFR Part 280, Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks

• 40 CFR Part 281.12(a)(2), Approval of State Underground Storage Tank Programs—Scope

Presidential Documents

• *Memorandum for the Heads of Executive Departments and Agencies, Government-to-Government Relationship with Tribal Governments.* President George W. Bush, September 23, 2004. (http://www.epa.gov/indian/pdfs/president-bush-indian.pdf)

• Executive Order 13175 -- Consultation and Coordination with Indian Tribal Governments (http://www.epa.gov/fedrgstr/eo/eo13175.htm)

EPA Policies and Initiatives

• The 1984 EPA Indian Policy (http://www.epa.gov/indian/1984.htm)

• Reaffirmation Memorandum of the 1984 EPA Indian Policy (http://www.epa.gov/indian/pdfs/reaffirmation-indian-policy.pdf)

• *Interim Final National Policy Statement for Underground Storage Tank Program Implementation in Indian Country,* OSWER Directive 9610.15A, (http://www.epa.gov/oust/directiv/d961015a.htm), October 23, 1995

EPA Guidance

• *Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy, January 17, 2001* (http://www.epa.gov/compliance/resources/policies/state/84indianpolicy.pdf)

• *Guidance for Issuing Federal EPA Inspector Credentials to Authorize Employees of State/Tribal Governments to Conduct Inspections on Behalf of EPA,* September 30, 2004, (http://www.epa.gov/compliance/resources/policies/monitoring/inspection/statetribalcredentials.pdf)

• *UST/LUST Enforcement Procedures Guidance Manual,* OSWER Directive 9610.11, May 1990 (http://www.epa.gov/OUST/directiv/od961011.htm)

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