



Tribal Consultation and Coordination at Federal Facilities

DECEMBER 2, 2019

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The purpose of this course is to discuss how Tribal consultation and coordination are used at Federal Facilities listed on the National Priorities List (NPL) in accordance with the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

Group Poll: What role have you filled when consulting or coordinating with Tribes at Federal Facilities?

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Please identify what role you have played in consulting or coordinating with Tribes at Federal Facilities?

- A. EPA RPM
- B. Lead Agency Representative
- C. State Representative
- D. Tribal Representative
- E. Tribal Member
- F. Other (please explain)

Overview

- ❑ Consultation and Coordination
- ❑ Federal Facility Cleanups and Consultation Roles
- ❑ Identifying a Need for Consultation
- ❑ Tips for Developing Partnerships



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This course will review how tribal consultation and coordination apply at federal facilities given the role EPA and the lead agency have at these sites. Keep in mind that there is no “one size fits all” when it comes to working with Tribes and the process will vary from site to site.

Overview of EPA’s Consultation and Coordination

1984 EPA Policy for the Administration of Environmental Programs on Indian Reservations

- ❑ First formal Indian policy adopted by a federal agency.
- ❑ Outlines nine principles to guide interaction with tribes.
- ❑ Includes the following:
 - Works directly with tribal governments on a one-to-one basis
 - Removes barriers to working with tribes
 - Keep with the Federal Trust Responsibility, assures that tribal concerns and interests are considered in EPA decisions
 - Coordinates with other federal agencies to support tribes

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The 1984 EPA Indian Policy, formally known as the EPA Policy for the Administration of Environmental Programs on Indian Reservations, was the first formal Indian policy adopted by a federal agency. It outlines nine principles that guide the Agency in interacting with tribes and administering environmental programs in Indian country:

1. Works directly with tribal governments on a one-to-one basis;
2. Recognizes tribal governments as the primary parties for setting standards, making environmental policy decision and managing program for reservations consistent with Agency standard and regulations;
3. Assists tribes in assuming regulatory and program management responsibilities;
4. Removes barriers to working with tribes;
5. Keep with the Federal Trust Responsibility, assures that tribal concerns and interests are considered in EPA decisions;
6. Encourages cooperation between tribal, state, and local governments;
7. Coordinates with other federal agencies to support tribes;
8. Works to ensure compliance with federal environmental laws on tribal lands and;
9. Incorporates these principles in planning and management activities

Although not specific to federal facility cleanups, principle 7 discusses the coordination with other federal agencies to support tribes.

Available at <https://www.epa.gov/sites/production/files/2015-04/documents/indian-policy-84.pdf>.

Executive Order 13175 - Consultation and Coordination with Indian Tribal Governments (2000)

- ❑ “The U.S. has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions.”
- ❑ “...in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory.”

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Executive Order (EO) 13175, Consultation and Coordination with Indian Tribal Governments, was issued by President Clinton in 2000. Pursuant to EO 13175, executive departments and agencies are charged with engaging in regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, and are responsible for strengthening the government-to-government relationship between the United States and Indian tribes. EO 13175 available at <https://www.federalregister.gov/documents/2000/11/09/00-29003/consultation-and-coordination-with-indian-tribal-governments>.

EO 13175 Consultation and Coordination with Indian Tribal Governments (2000)

- ❑ “The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights.”



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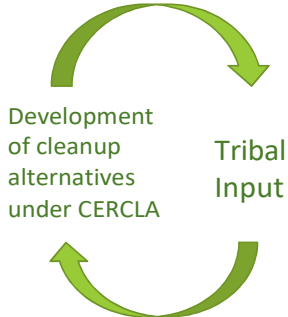
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The EO specifies that each Agency must have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. It is important to remember that a government-to-government relationship is different than the relationship between federal agencies and public stakeholder groups. Engagement with Indian tribes goes beyond requesting public comment and hosting public meetings by having consultation and coordination between the United States and Indian tribes. Summary available at <https://www.epa.gov/laws-regulations/summary-executive-order-13175-consultation-and-coordination-indian-tribal>

2011 EPA Policy on Consultation and Coordination with Indian Tribes

- ❑ Establishes national guidelines and institutional controls for consultation across EPA.
- ❑ Consultation should occur early enough for tribes to provide meaningful input to be considered prior to a decision (including CERCLA actions)
- ❑ Consultation and coordination should be continued as proposals and options are developed
- ❑ There is no single formula for appropriate consultation
- ❑ A less formal process may be sufficient for routine operational matters.



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The 2011 EPA Policy on Consultation and Coordination with Indian Tribes establishes national guidelines and institutional controls for consultation across EPA. Other federal agencies serving as the lead agency have their own policies and guidance to follow.

Consultation should occur early enough to allow tribes the opportunity to provide meaningful input. As proposals and options are developed, consultation and coordination should be continued, to ensure that the overall range of options and decisions is shared with all concerned parties. A regular meeting schedule can also be considered. For example, quarterly meetings might work best to maintain regular contact and receive updates on cleanup activities.

The 2011 policy is available at <https://www.epa.gov/sites/production/files/2013-08/documents/cons-and-coord-with-indian-tribes-policy.pdf>.

Consultation vs. Coordination

- “Consultation is a process of meaningful communication and coordination between EPA and tribal officials prior to EPA taking actions or implementing decisions that may affect tribes.”
- Coordination is sharing information, education, and outreach.
- Coordination can be part of consultation.
- Coordination cannot substitute for consultation.

Source: EPA Policy on Consultation and Coordination with Indian Tribes, 2011

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EPA’s consultation 2011 policy defines consultation as a process of meaningful communication and coordination between EPA and tribal officials prior to EPA taking actions or implementing decisions that may affect tribes. This policy seeks to balance the need for consistency with the latitude to tailor the consultation approach to reflect the circumstances of each consultation situation and to accommodate the preferences of tribal governments.

Coordination captures a great portion of an agency’s communication, education, and outreach efforts, not just with tribes but communities, states and members of the public. General education and outreach efforts can supplement, but not take the place of consultation.

Apply Your Understanding

Identify each of the following activities as either a consultation or coordination activity.

1. Hosting an open house on a Non-Time Critical Removal Action
2. Meeting with Tribal leadership to discuss tribal concerns on a proposed plan and providing feedback on how their input was considered in the final remedy decision
3. Exchanging emails with Tribal technical representatives to clarify information and discuss concerns
4. Having a technical meeting to discuss issues with tribal representatives and staff

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Overview of Federal Facility Cleanups

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EPA and Federal Facilities



- ❑ 174 federal facilities on the National Priorities List (NPL)
- ❑ Some are contaminated with hazardous wastes and may be located in areas that are culturally or historically significant to American Indian or Alaskan Native groups.

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Federal facilities include active and closed military installations, former nuclear production plants, abandoned mines and landfills. Types of contamination include radioactive waste, munitions and unexploded ordnance, mining waste, fuels and solvents. There are 174 federal facilities on the National Priorities List (NPL) and EPA is responsible for overseeing their cleanup under the Superfund law (Comprehensive Environmental Response, Compensation, and Liability Act - Section 120). Some are contaminated with hazardous wastes and may be located in areas that are culturally or historically significant to American Indian or Alaskan Native groups. For example, some groups retained rights to hunt and fish on lands that are not located on tribal land but are impacted by releases from federal facilities. This figure was generated on the EPA FFRRO Fed Facs website <https://www.epa.gov/fedfac/fedfacts>.

Federally Recognized Tribes

☐ Federally Recognized Tribes

- Secretary of the Interior acknowledges group to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1944, 25 U.S.C. 479a. B.
- 577 recognized tribes

☐ State Recognized Tribes or Heritage Groups

- Acknowledges their status within the state but does not guarantee funding from the state or the federal government.

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A federally recognized tribes is an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1944, 25 U.S.C. 479a. B.

Federal agencies work directly with federally recognized tribes as sovereign entities with primary authority and responsibility for each tribe's land and membership, and not as political subdivisions of states or other governmental units.

“Lead Agency” Definition

☐ The National Contingency Plan (40 CFR 300.5) states that:

- The **Lead Agency** is the agency that provides the On-Scene Coordinators (OSCs)/Remedial Project Managers (RPMs).
- The Department of Defense (DoD) or Department of Energy (DoE), then DoD or DoE will be the **lead agency** for their sites.
- For sites other than those of EPA, the US Coast Guard (USCG), DOD, or DOE, then that other federal agency will be the **lead agency** for remedial actions and removal actions other than emergencies.

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The National Contingency Plan (40 CFR 300.5) states the cases where another federal agency besides EPA serve as the lead agency.

- The Lead Agency is the agency that provides the On-Scene Coordinators (OSCs)/Remedial Project Managers (RPMs) to plan and implement response actions under the NCP.
- In the case of a release of hazardous substance, pollutant or contaminant, where the release is on or where the source of the release is from any facility or vessel under the jurisdiction, custody, or control of Department of Defense (DoD) or Department of Energy (DoE), then DoD or DoE will be the lead agency.

In the case of a release on or the source of the release is from any facility or vessel under the jurisdiction, custody, or control of a federal agency other than EPA, the US Coast Guard (USCG), DOD, or DOE, then that agency will be the lead agency for remedial actions and removal actions other than emergencies.

Role of Federal Agencies



- At Federal Facility sites (i.e., Departments of Energy, Defense, Interior, etc.), the other federal agency (OFA) is the lead agency for consultation
- Each federal agency has their own consultation procedures
- EPA may play a facilitation or coordination role if necessary.

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EO 12580 delegated presidential authorities under CERCLA to the heads of various Executive Branch agencies under certain circumstances. In exercising these powers, such agencies are given the responsibility to provide an opportunity for public participation. This means that other federal agencies are the lead agency for CERCLA actions and Tribal Consultation at federal facilities.

At federal facilities, EPA encourages a tribe seeking to consult with the United States to work directly with the federal agency with the most direct responsibility for the action or decision in question. However, EPA would consider a tribe's request to consult with EPA based on the specific circumstances, including the extent of EPA's active involvement or influence in the decision or action, whether EPA has a range of options or discretion in connection with its role, and whether EPA involvement would contribute significantly to the tribe's direct consultation with the other federal agency or agencies involved.

EPA's Federal Facilities Restoration and Reuse Office Tribal Program Goals

- ❑ Develop partnerships that will enhance participation through coordination
- ❑ Respect the unique needs of each tribal community
- ❑ Provide oversight at NPL sites to ensure protection of human health and meaningful public involvement
- ❑ Identify contaminated sites on or near tribal lands, as well as site property that may be transferred to tribes.

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FFRRO's Tribal Program protects the health of American Indians and Alaskan Native Villagers at and near federal facilities. FFRRO's goals are to:

- Develop partnerships that will enhance participation and the environmental decision-making process at federal facilities through meaningful coordination that respects the unique needs of each tribal community.
- Provide technical and regulatory oversight at NPL sites to ensure protection of human health, effective program implementation and meaningful public involvement.
- Identify contaminated sites on or near tribal lands, as well as site property that may be transferred to tribes.

The FFRRO Tribal brochure is available at

https://www.epa.gov/sites/production/files/documents/ffro_tribal_program.pdf.

Role of Tribal Governments

- ❑ Tribal governments have distinct roles through government-to-government relationships in cleanups of federal facilities under Constitution, treaties, statutes, Executive Orders, and court decisions with the U.S government.

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Tribal governments have distinct roles in cleanups of federal facilities under treaties with the U.S. government. Accordingly, EPA works in partnership with tribal governments, both at the facility level and at the national policy-making level. The framework for EPA tribal involvement is a tribal strategy that is designed to address the needs of—and mitigate impacts to—American Indian tribes, including Alaskan Native villages, living on or near federal facilities. It includes:

- Working with tribes on a government-to-government basis consistent with EPA's trust responsibility to protect tribal health and environments.
- Involving tribes in the cleanup process through meaningful dialogue that respects the unique needs of each community.
- Developing partnerships that will enhance capacity and participation in the environmental decision-making process at federal facilities.

More information is available at <https://www.epa.gov/fedfac/tribes-and-federal-facilities> .

Tribes as Natural Resource Trustees

- ❑ CERCLA and the Oil Pollution Act (OPA) authorize the United States, States, and Indian Tribes to act on behalf of the public as Natural Resource Trustees for natural resources under their respective trusteeship
- ❑ Tribes may have critical information about the effects of hazardous substances and sensitive habitats to assist in characterizing the nature and extent of site-related contamination
- ❑ Early coordination in investigation and planning stages can help both the CERCLA and Natural Resource Damages efforts

<https://www.epa.gov/superfund/natural-resource-damages-trustees>

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CERCLA and the Oil Pollution Act (OPA) authorize the United States, States, and Indian Tribes to act on behalf of the public as Natural Resource Trustees for natural resources under their respective trusteeship [CERCLA §107(f)(1); OPA §1006(c)]. OPA also authorizes foreign governments to act as Trustees [OPA §1006(b)(5)].

Tribes often have information and technical expertise about the biological effects of hazardous substances, as well as the location of sensitive species and habitats that can assist in characterizing the nature and extent of site-related contamination and impacts. Tribes will also provide a unique perspective regarding species of plants and animals that have a distinct cultural value sometimes overlooked when considering sensitive species. Coordination at the investigation and planning stages can benefit both CERCLA and Natural Resource Damages efforts.

Federal Trust Responsibility

- ❑ The U.S. Government has a trust responsibility to federally recognized tribes, arising from Indian treaties, statutes, executive orders and historical relationships between the U.S. and Indian tribes.
- ❑ Tribes gave up or “ceded” certain rights and vast territory to the U.S. government through treaties. In those treaties, the federal government made promises to tribes regarding the protection of lands and rights that they did not give up.

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The federal trust responsibility is a doctrine defining the United States’ unique relationship with federally recognized tribes. In simple terms, it includes both moral obligations and legal duties that lead the federal government to consult with tribes and consider tribal interests and welfare when performing government tasks.

To briefly summarize, tribes gave up or “ceded” certain rights and vast territory to the United States government through treaties. In those treaties, the federal government made promises to tribes regarding the protection of lands and rights that they did not give up. The federal trust responsibility arises from treaties, statutes, executive orders and the ongoing historical relations between the United States and tribes. It is important to consider that the ceded lands may also hold spiritual/cultural meaning to the Tribes and affect their religious practices.

EPA Federal Trust Responsibility

- ❑ Cleanup actions should be consistent with the protection of tribal rights arising from treaties, statutes and executive orders.
- ❑ In many treaties (especially those negotiated in the 1850's and 1860's) the tribal governments reserved hunting, fishing, and gathering rights in territories beyond land that they reserved for occupation.

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Cleanup actions should be consistent with the protection of tribal rights arising from treaties, statutes and executive orders. In many treaties (especially those negotiated in the 1850's and 1860's) the tribal governments reserved hunting, fishing, and gathering rights in territories beyond land that they reserved for occupation. For example in the NW treaties, these were typically called "usual and accustomed places".

Apply Your
Understanding

At a federal facility listed on the NPL, the agency responsible for conducting consultation with Tribes:

A. EPA

B. State

C. Community Groups

D. Lead Agency

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Identifying a Need for Consultation

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Tribal Consultation

Consultation is triggered whenever an agency decision, activity, or action “may affect tribal interests.”

The consultation process may include several methods of interaction that may occur at different levels and in different forms (e.g., requests for comments to individual meetings).

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Consultation is triggered whenever an Agency decision, activity, or action “may affect tribal interests.” Examples of tribal interests include those agency decisions, activities, or actions that may affect their health or environment.

Keep in mind that tribal consultation under CERCLA is different than the Section 106 review process under the National Historic Preservation Act (NHPA). Section 106 is concerned with Federal undertakings. Undertakings may take place either on or off federally controlled property and include new and continuing projects, activities, or programs. Section 106 of the NHPA requires that each federal agency identify and assess the effects its actions may have on historic buildings. Under Section 106, each federal agency must consider public views and concerns about historic preservation issues when making final project decisions. In addition, Federal agencies are required to consult on the Section 106 process with State Historic Preservation Offices (SHPO), Tribal Historic Preservation Offices (THPO), Indian Tribes (to include Alaska Natives) [Tribes], and Native Hawaiian Organizations (NHO).

Tribal Consultation

- ☐ A process through which the lead agency interacts with tribal governments when actions and decisions in the remedial process may affect tribal interests.
- ☐ Informal interactions can help improve consultation by allowing for regular interaction between the project team and technical representatives
- ☐ Formal consultation should be offered to tribal leadership

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Tribal consultation is a process through which the lead agency consults with tribal governments when EPA actions and decisions may affect tribal interests. Regular informal interactions will help establish relationships and improve communication between all involved parties at the project level. A formal consultation event will include tribal officials and upper management from federal agencies.

Examples of Tribal Interest Considerations

- ☐ Do tribal members use resources from the impacted zone?
- ☐ Is a tribe a Natural Resource Trustee of the affected resource?
- ☐ Is the affected area within a tribal historic area or traditional cultural property?
- ☐ Is the affected area linked ecologically, culturally, visually or hydrologically to tribal resources or uses?

If you answered yes (or don't know the answer) to any of these questions, you likely need to reach out to the affected Tribe(s)

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These are some potential questions that may help us decide if tribal interests may be affected and if there is a need to consult. The answers to some of these questions also point to the need for the lead agency to consider if it is appropriate to confer with a Tribal Historic Preservation Officer as required by the National Historic Preservation Act.

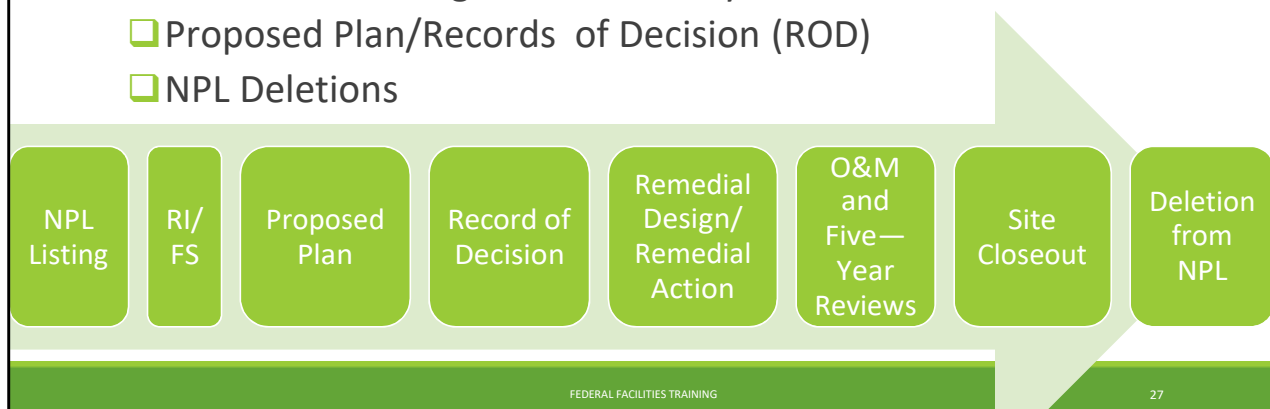
When to Offer Consultation in CERCLA Response Actions

- ☐ Emergency responses –primarily notification
- ☐ Time-critical removals – consult as time allows
- ☐ Non-time critical removals – consultation occurs
- ☐ Remedial actions – consultation occurs
 - May be needed at multiple points of the CERCLA process

EPA's 2011 Policy on Consultation and Coordination with Indian Tribes identifies response actions as CERCLA actions including removals and remedial actions. In emergency responses, there may only be time to notify affected tribes about releases that potentially impact tribal interests. For time-critical removal actions, the lead agency should coordinate with tribal staff and offer consultation prior to publishing the action memo, time permitting. If there is not enough time for consultation to occur, the tribe should be offered consultation as soon as possible afterwards. For non-time critical removal actions (NTCRAs), which have a minimum 6-month planning period, there should be enough time to implement a consultation process. For remedial actions, the lead agency should follow their consultation process.

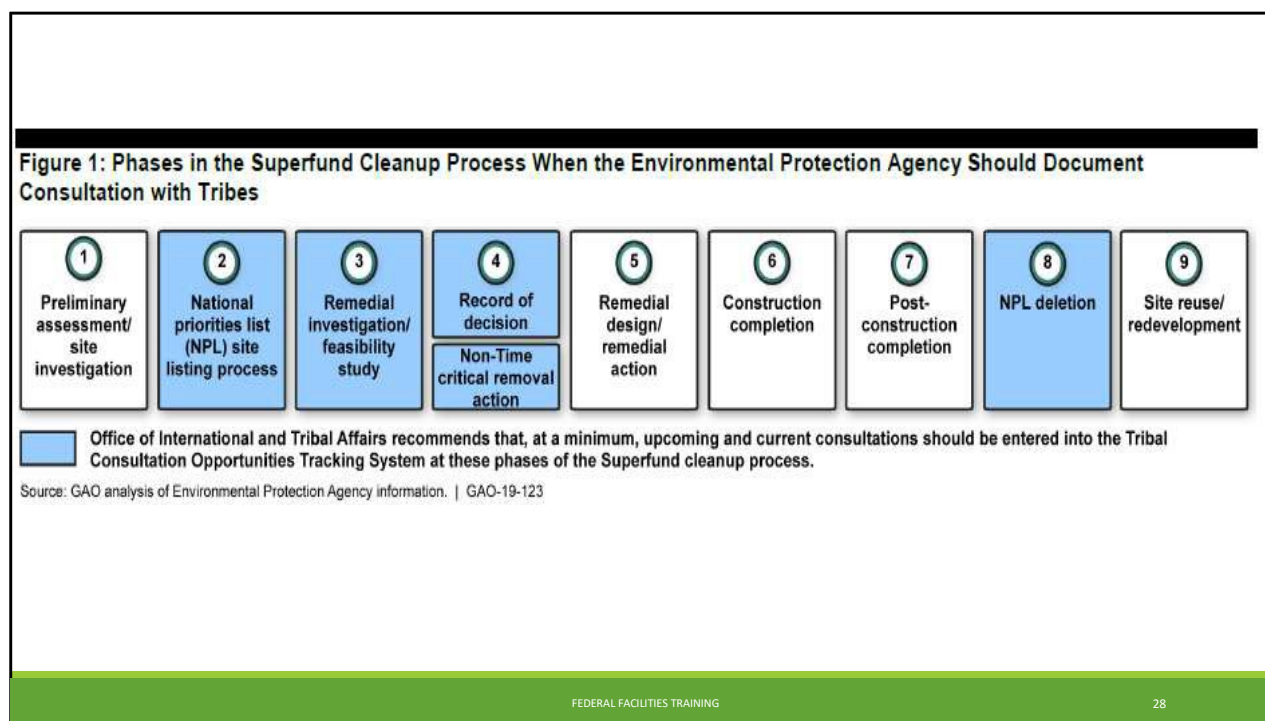
Examples of Superfund Actions or Decision Points

- ☐ Site Proposals and finalizations to the NPL
- ☐ Remedial Investigation/Feasibility Studies
- ☐ Proposed Plan/Records of Decision (ROD)
- ☐ NPL Deletions



Keep in mind that the need for consultation may arise multiple times for different parts of the CERCLA process. Examples of Superfund actions or decision points that may require tribal consultation include but are not limited to: when the scope of work is being developed in the Remedial Investigation/Feasibility Study Work Plan; when alternatives being considered for development in the Feasibility Study are identified; and when a draft of the Proposed Plan is available.

EPA guidance requires notification to natural resource trustees when a Remedial Action Report, Preliminary Close Out Report, or Final Close Out Report" are near completion." The EPA 2011 guidance on Close Out Procedures for National Priorities List Sites is available at <https://www.epa.gov/superfund/close-out-procedures-national-priorities-list-superfund-sites>.



This figure was taken from the 2019 GAO report titled “EPA Should Improve the Reliability of Data on National Priorities List Sites Affecting Indian Tribes.” It identifies phases in the Superfund cleanup process when consultation with Tribes may be appropriate. Report available at <https://www.gao.gov/assets/700/696541.pdf>

Importance of Documentation

- ☐ Correspondence (emails, letters, phone records, etc.) between the lead agency and the tribe providing documents, information or receiving comments from the tribe.
- ☐ Documentation of meetings.
- ☐ Request for or submission of ARARs.
- ☐ Ensure documentation is included in Administrative Record.

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It is critical to document in the site file and administrative record (as appropriate) all of the interaction with the tribe(s) that meets the requirements of the policy for coordination with the tribe(s) that demonstrates that the lead agency has provided for meaningful and substantial tribal involvement. If consultation occurs, this should also be documented in the site file and AR, as appropriate. Be sure to include correspondence with the tribal environmental staff and elected leaders, meeting summaries, grant documents and other relevant documentation.

Apply Your Understanding

Which of the following is **NOT** an example of a way to build relationships between government agencies and tribal governments involved in federal facility cleanups?

- A. Interacting with representatives from each group on a regular basis.
- B. Hosting a technical meeting or workshop to discuss a proposed cleanup approach.
- C. Calling a representative from one of the groups with questions or concerns.
- D. Waiting until a cleanup decision is reached before engaging with tribal governments affected by the cleanup.

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Tips for Developing Partnerships

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Tips for Successful Consultation

- ☐ Engage early and often
- ☐ Respect the government-to-government relationship
- ☐ Recognize multiple tribes may be interested in consultation
- ☐ Document consultation but be sensitive to confidentiality concerns

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It is best to build upon the ongoing communication and coordination with tribal representatives and tribal governments. Early engagement with tribal representatives is an important part of ensuring tribal concerns are considered in the decision-making process. Be aware and sensitive to confidentiality concerns and document appropriately.

Tips to Build Partnerships

- ❑ Although EPA does not serve as the lead cleanup agency at most federal facility cleanups, EPA can help provide information and opportunities for discussion with Tribal representatives.
- ❑ EPA can serve to communicate concerns and goals more thoroughly as the lead oversight agency.



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Establishing and maintaining communication between the lead cleanup agency, EPA, and tribal representatives will facilitate identifying concerns and common goals earlier in the cleanup process. This will allow more time for issues to be worked and ultimately resolved. Although these efforts will initially require more time and effort, it will likely help avoid significant delays later in the process, particularly when developing and issuing a CERCLA record of decision.

Tips to Build Partnerships

- ❑ Communication can be a mix of:
 - Written comments (e.g., email, letters,)
 - Phone conversations
 - In-person conversations



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There are multiple ways to communicate concerns. Written comments provided in hardcopy or by email may be helpful when communicating technical level concerns on a document such as an RI/FS or Proposed Plan. Phone conversations may be helpful to address questions on the purpose of a document or on the anticipated schedule for making a decision. Lastly, in-person meetings are also helpful when discussing technical concerns, clarifying a situation, and for helping to establish relationships between tribal and agency representatives.

Tips to Build Partnerships

- ❑ Encourage regular (informal) interactions between lead agency and/or regulators with Tribal representatives.
 - Discuss ongoing concerns and provide opportunities for face-to-face discussions.
 - May help groups be prepared in the event formal consultation is needed.
- ❑ Participants in these informal interactions will likely differ from those involved in formal consultation.



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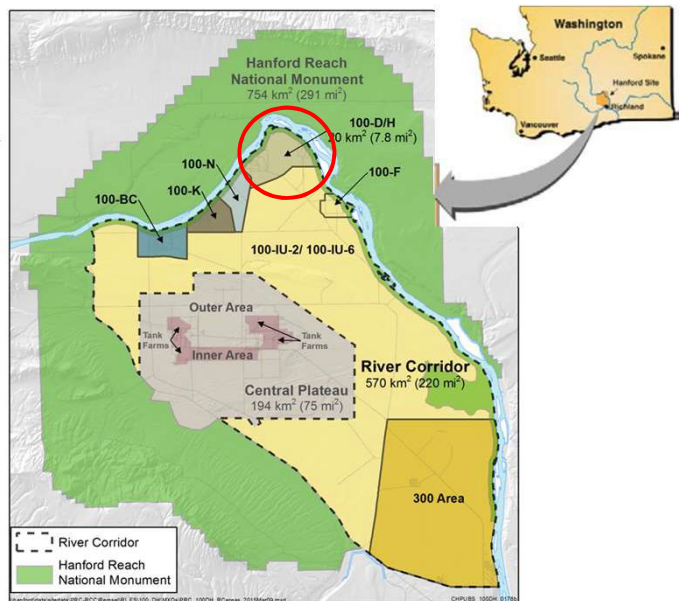
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Regular interactions may include technical meetings, quarterly check-ins, or whichever type of interaction works best for those involved. Relationships are based on trust. Tribal representatives must believe that you, as a federal representative, are telling them the truth, that you are listening to their concerns with an open mind, and that you will consider changing the course of the action based on their input.

Hanford Case Study

- ❑ Land was ceded to the United States under separate treaties with Tribal nations
 - Confederated Tribes of the Umatilla Indian Reservation
 - Confederated Tribes and Bands of the Yakama Nation
 - Nez Perce Tribe
- ❑ DOE is primarily responsible for consulting with Tribal Nations at Hanford
- ❑ EPA interacts with Tribal representatives though technical meetings, phone calls, and emails based on requests



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Tribal Consultation and Coordination at Federal Facilities Federal Facilities Academy

The Hanford Site is located on land that historically was extensively used by tribal nations. The land was ceded to the US under separate treaties. As a result, those tribes retained certain rights at the Hanford Site.

The policies of both the United States and Washington State commit to maintaining a government-to-government relationship with Tribal Nations. While DOE is responsible for conducting consultation, EPA and the Washington State Department of Ecology interact with tribal representatives on a regular basis.



Elk by the Hanford 100 H Area

Hanford Case Study

- ❑ 100 D&H Reactor Areas located along the Columbia River
- ❑ Record of Decision was expected to be signed in October 2017
- ❑ Tribal concerns had not been addressed earlier in the CERCLA process
- ❑ A delay occurred as DOE worked through consultation activities
- ❑ ROD was issued in July 2018 with letter of support from the Yakama Nation

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The Hanford Site sits on 580 square miles of federally-owned shrub steppe desert in southeastern Washington state. The 100 D&H area covers approximately 7.8 square miles adjacent to the Columbia River. From 1943 to 1990, the primary mission of the Hanford site was the production of nuclear materials for national defense. The 100-D, 100-DR and 100-H Reactors and associated facilities generated large amounts of liquid and solid wastes. Liquid contaminants were released to the environment by discharging effluent to the soil and the Columbia River. Solid waste was placed into burial grounds. The ROD was expected to be signed in October 2017, but a delay occurred as DOE worked through consultation activities. EPA and DOE, with concurrence from the Washington State Department of Ecology issued the final ROD for the 100 D&H area in July 2018.

The Yakama Nation had expressed that they want cleanup to pre-Hanford conditions for Hanford's River Corridor, which is located along the Columbia River. There are tribal concerns over treaty rights in relationship to land management and tribal land use and with tribal interpretation of the National Historic Preservation Act. The Yakama Nation has provided extensive comment on documents related to this decision and is actively involved. Based on additional efforts by DOE and EPA, the Yakama Nation issued a letter supporting signature of the ROD.

Tools for Identifying Contaminated Lands

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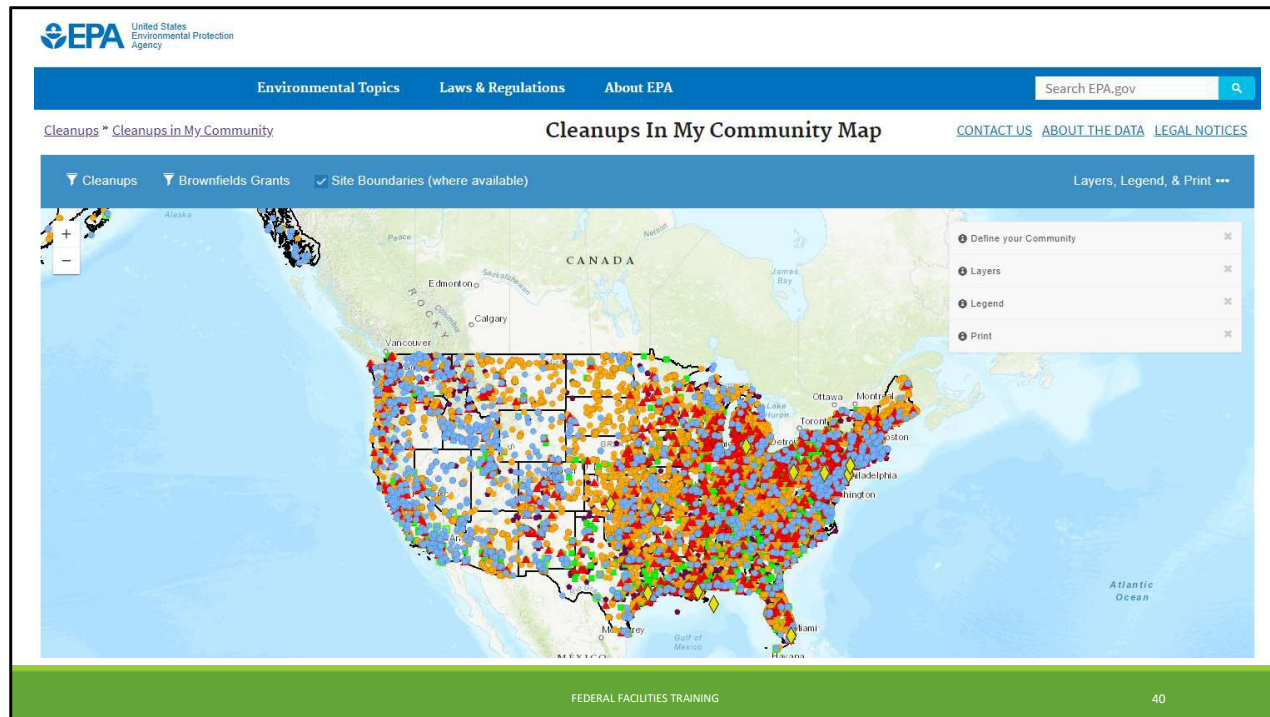
Tools for Identifying Contaminated Lands

- ❑ “Cleanups in My Community” Map with Tribal Layer
 - The Cleanups in My Community Map provides an interactive map, allowing you to zoom in and out of areas of interest in the United States and see what contaminated lands and cleanup efforts are near you.
 - <https://ofmpub.epa.gov/apex/cimc/f?p=cimc:map:0:::71>

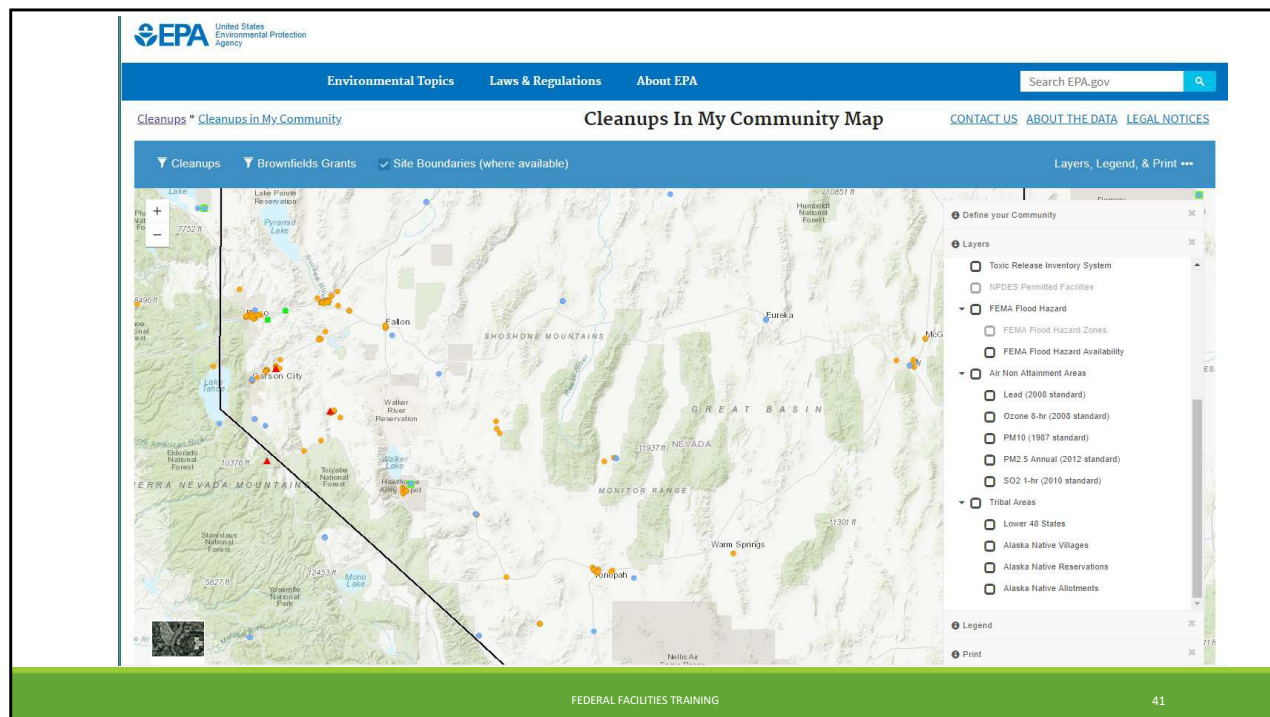
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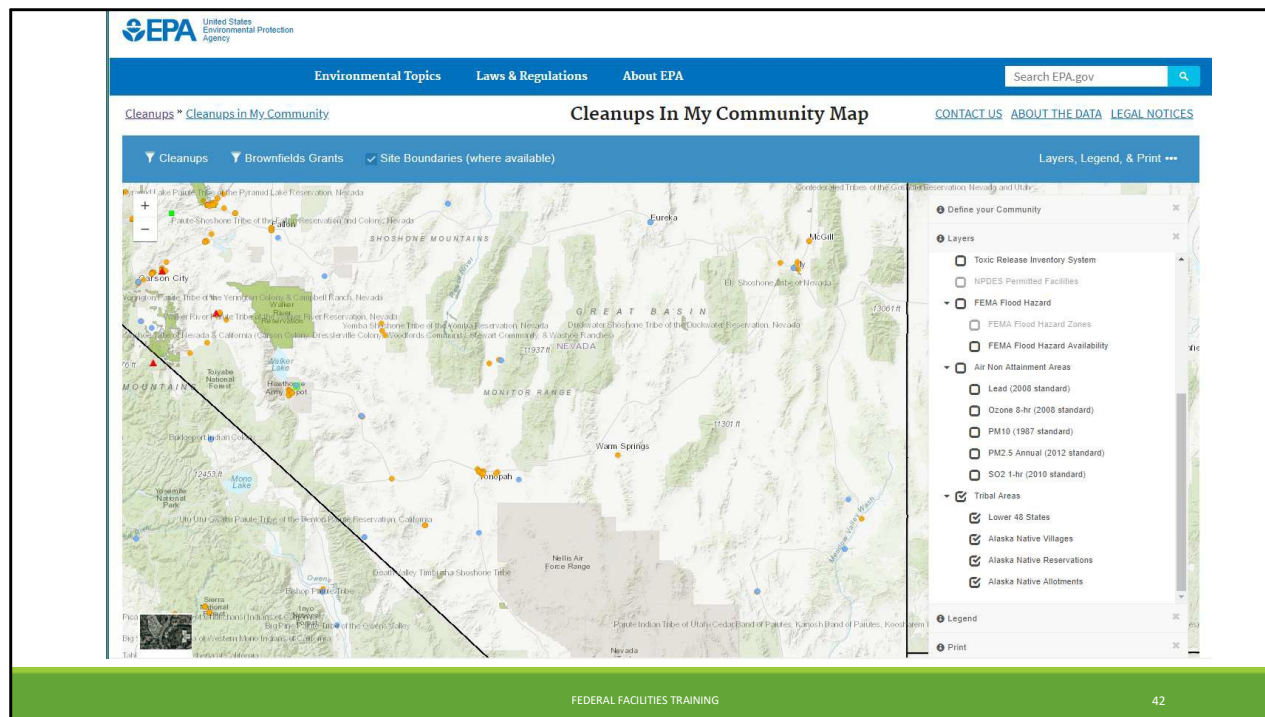
Tribal Layer in CIMC –Tribal Boundaries from the EPA Map service (<https://map11.epa.gov/arcgis/rest/services/EMEF/tribal/MapServer>) is built by combining boundaries from the 2010 Census American Indian/Alaska Native/Native Hawaiian Areas (AIANNH) data (visit <http://www.census.gov/geo/www/tiger> for details) with Federally recognized Tribal Entity Names as provided by EPA's Tribal Identification web service (found at <http://www.exchangenetwork.net/data-exchange/epa-tribal-identification-tribes/>).



A screenshot of the Cleanups In My Community Map is shown here. The map can be zoomed in/out and moved to see other states or territories, such as Alaska or Puerto Rico. In the upper right hand corner of the map is a grey drop-down that allows you to “Define your community” by entering an address, view the various layers, view a legend describing the icons and a print details option.



This is a screenshot of the map zoomed in on Nevada. The map can be zoomed in to see information for various sites. Upon clicking the “Layers” tab, a dropdown with various layers appears. The “Tribal Areas” layer can be seen towards the bottom.



Clicking the “Tribal Areas” box, we see that various tribal areas in grey text appear on the map. The layer can be filtered by unchecking additional boxes.

FEDFacts Tool

- ☐ FedFacts website:
<https://www.epa.gov/fedfac/fedfacts>
 - FEDFacts contains cleanup status information related to Federal Facilities contained in EPA’s Federal Agency Hazardous Waste Compliance Docket (the Docket).

Map of Docket Sites

Docket Facilities

Dashboard

Site Spotlight

Property Reuse

News

Map of Docket Sites

View the [Federal Facility Docket Sites map](#) to search by street address, city, county or other geographies to locate EPA Federal Facility Docket sites in communities across the U.S.

[View the full version of Cleanups in My Community](#), which includes information on Federal Facility sites, other Superfund sites, RCRA, Brownfields and Emergency Response sites

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The FedFacts website contains cleanup status information related to Federal Facilities contained in EPA's Federal Agency Hazardous Waste Compliance Docket (the Docket). The FEDFacts Tool allows you to view a map of docket sites to search by street address, city, county, or other geographies to locate EPA Federal Facility Docket sites across the U.S. The tool links to the following:

- The “Docket Facilities” tab allows you to look up the various docket facilities in additional detail and will direct you to the respective EPA page.
- The “Dashboard” tab allows you to explore interactive charts and graphs related to the Federal Agency Hazardous Waste Compliance Docket. For example, the National Priorities List (NPL) Cleanup Dashboard and the Base Realignment and Closure Act (BRAC) Cleanup Dashboard.
- The “Site Spotlight” tab will direct you to a cleanup site that has been recognized for the successful cleanup efforts and successful reuse/restoration of a site.
- The “Property Reuse” tab provides additional links to reuse success stories, partial deletions of sites from the NPL, property reuse data, property transfer guidance, and other CERCLA guidance related to property reuse.
- The “News” tab will direct you to additional links regarding important contamination news (e.g., Per- and Polyfluoroalkyl Substances [PFAS] fact sheet), trending news, and archived news.

Additional Resources

- ❑ Federal Facilities Restoration and Reuse Office (FFRRO)
 - FFRRO works with other federal entities to help them develop creative, cost-effective solutions to their environmental problems.
 - <http://www2.epa.gov/fedfac/tribes-and-federal-facilities>
- ❑ American Indian Environmental Office (Office of International and Tribal Affairs)
 - This office coordinates the EPA-wide effort to strengthen health and environmental protection in Indian Country.
 - <http://www.epa.gov/indian>
- ❑ Agency for Toxic Substances and Disease Registry (ATSDR)
 - ATSDR's Office of Tribal Affairs assists with tribal-specific environmental health needs resulting from exposure to hazardous waste sites and pollution.
 - <http://www.atsdr.cdc.gov>

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- Federal Facilities Restoration and Reuse Office (FFRRO)
<http://www2.epa.gov/fedfac/tribes-and-federal-facilities>
- American Indian Environmental Office (Office of International and Tribal Affairs)
<http://www.epa.gov/indian>
- Agency for Toxic Substances and Disease Registry (ATSDR)
<http://www.atsdr.cdc.gov>

Additional Resources

- ❑ Department of Agriculture (USDA) <http://www.usda.gov/tribalrelations>
 - USDA is committed to serving tribal organizations and individual American Indians and Alaska Natives.
- ❑ Department of Defense (DoD) <https://www.namsei.com>
 - DoD has a tool called the Native American Management System for Environmental Impacts, which tracks and maintains information on potential impacts on tribal lands from past DoD activities.
- ❑ Department of the Interior (DoI) <http://www.doi.gov/tribes/index.cfm>
 - The Department of the Interior places a high priority on respecting the government-to-government relationship between the federal government and federally recognized American Indian and Alaska Native tribes.
- ❑ Department of Energy (DoE) <http://energy.gov/em/services/communication-engagement/em-tribal-programs-indian-country>
 - DoE's Office of Environmental Management is committed to cleaning up sites that were once part of the nation's nuclear weapons complex. Several of these areas are close or adjacent to tribal nations and impact Indian lands and resources.
- ❑ Tribal Directory Assessment Tool (TDAT) <https://egis.hud.gov/tdat/>

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- Department of Agriculture (USDA) <http://www.usda.gov/tribalrelations>
- Department of Defense (DoD) <https://www.namsei.com>
- Department of the Interior (DoI) <http://www.doi.gov/tribes/index.cfm>
- Department of Energy (DoE) <http://energy.gov/em/services/communication-engagement/em-tribal-programs-indian-country>
- Tribal Directory Assessment Tool (TDAT) <https://egis.hud.gov/tdat/>

Additional Resources

- ❑ 2016 – EPA Guidance for Discussing Tribal Treaty Rights
- ❑ 2017 – OLEM – Considering Traditional Ecological Knowledge during the Cleanup Process
- ❑ 2017 – OSRTI Consideration of Tribal Treaty Rights and Traditional Ecological Knowledge in the Superfund Remedial Program
- ❑ "Consulting with Indian Tribal Governments at Superfund Sites (A Beginner's Booklet)"

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- 2016 – EPA Guidance for Discussing Tribal Treaty Rights available at https://www.epa.gov/sites/production/files/2016-02/documents/tribal_treaty_rights_guidance_for_discussing_tribal_treaty_rights.pdf
- 2017 – OLEM – Considering Traditional Ecological Knowledge during the Cleanup Process available at https://www.epa.gov/sites/production/files/2018-02/documents/considering_traditional_ecological_knowledge_tek_during_the_cleanup_process.pdf
- 2017 – OSRTI Consideration of Tribal Treaty Rights and Traditional Ecological Knowledge in the Superfund Remedial Program available at <https://semspub.epa.gov/work/HQ/500024668.pdf>
- Consulting with Indian Tribal Governments at Superfund Sites (A Beginner's Booklet) available at <https://semspub.epa.gov/work/HQ/500024668.pdf>

Course Summary

- ❑ The lead agency at Federal Facilities is primarily responsible for conducting formal consultation with tribal groups
- ❑ Regular (informal) interactions between lead cleanup agency, regulators, and Tribal representatives helps build strong relationships
- ❑ Although not the lead agency at federal facilities, EPA can be a resource for tribes in federal facility cleanups
- ❑ Formal consultation will include tribal officials and upper management from the federal agencies

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