Understanding ETEPs and the Power of Planning to Protect the Environment and Public Health in Indian Country

TREDa GRAYSON & REBECCA ROOSE
EPA’S AMERICAN INDIAN ENVIRONMENTAL OFFICE

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Session Objectives

• Provide general overview of EPA-Tribal Environmental Plans (ETEPs)
• Explain roles of EPA and each tribe in relation to the four core components of an ETEP
• Explore advantages of joint planning
• Provide an opportunity for EPA and tribal representatives to share examples of successes and challenges associated with developing and implementing ETEPs
What We’ll Cover

Background and Introduction

Developing and Implementing ETEPs
- Overview of ETEP Components
- Connection with GAP and Other Funding

Power of Planning – Getting Results through ETEPs
- ETEP examples
- Challenges and Lessons Learned

Exercise

Wrap-up
Why do we plan?

Audience Question: Why develop an ETEP?

“If you don't know where you are going, you'll end up someplace else.”
— Yogi Berra
Background and Introduction

WHY ARE WE FOCUSED ON ETEPS TO ACHIEVE ENVIRONMENTAL RESULTS IN INDIAN COUNTRY?
Background: EPA’s 1984 Indian Policy

Development and implementation of ETEPs support the fundamental concepts embodied in the 1984 EPA Policy for the Administration of Environmental Programs on Indian Reservations (1984 Indian Policy), which recognizes the unique relationship between the federal government and tribes.

The 1984 Indian Policy sets forth nine principles that guide Agency policy in protecting human health and the environment in Indian country, including the following:

- Tribes and EPA have a government to government relationship;
- EPA recognizes tribes as the primary authorities for setting standards within Indian country;
- Keeping with the federal trust responsibility, consider tribal interests when taking agency action that may affect reservations;
- Until tribes are willing and able to assume full responsibility for delegable programs, EPA retains responsibility for managing such programs; and
- EPA works with tribes to assure compliance with environmental statutes and regulations.
Background: From “TEAs” to “ETEPs”

- Joint EPA/Tribal planning was originally introduced by the first EPA National Tribal Operations Committee (NTOC) in 1994 in coordination with the National Tribal Caucus.
  - Led to development of Tribal Environmental Agreements (TEAs) by some tribes.
- EPA provided the concept and basic structure of ETEPs through the 2013 GAP Guidance.
What exactly is an ETEP?

- A road map that shows where you are, where you are trying to go and how to get there.
- A practical, living document that should be a guide for EPA and the tribe on an ongoing basis.
- Mutually beneficial (aka, not just a paperwork exercise) and flexible (aka, not a straight-jacket).
Purpose of an ETEP is . . .

• To develop the complete picture of the particular environmental issues facing the tribe,

• Establish a shared understanding of the issues the tribe will be working on, and

• Establish a shared understanding of those issues that EPA will address consistent with its responsibility to protect human health and the environment.

Ultimately, an ETEP should lead to stronger environmental and public health protection in Indian country.
ETEPs and Capacity Building

ETEP Development

Capacity Building

ETEP Implementation

ETEP Refinement
Developing and Implementing ETEPs
ETEPs have Four Components

1) Identification of tribal environmental program priorities, including capacity building and program implementation goals;

2) Identification of EPA program priorities and management requirements;

3) An inventory of regulated entities; and

4) Identification of mutual roles and responsibilities.

The complete ETEP supports Tribal and EPA decisions on program implementation and capacity building through technical and financial assistance.
Walking through the Four ETEP Components . . .

1) Identification of tribal environmental program priorities, including capacity building and program implementation goals;

2) Identification of EPA program priorities and management requirements;

3) An inventory of regulated entities; and

4) Identification of mutual roles and responsibilities.
Component 3: Inventory of Regulated Entities

- The presence of regulated entities determines which federal statutes are applicable
- Tribe and EPA compare notes on known pollution sources
- Data sources include EPA databases, including the Facility Registry System, and tribal and state program information
- This inventory informs the EPA program priorities and management responsibilities (Component 2), which in turn inform the tribe’s environmental program priorities (Component 1)

- Tribes may also want to include facilities that are of environmental/public health significant to the tribe but are not subject to federal environmental regulation.
Walking through the Four ETEP Components . . .

1) Identification of tribal environmental program priorities, including capacity building and program implementation goals;

2) Identification of EPA program priorities and management requirements;

3) An inventory of regulated entities; and

4) Identification of mutual roles and responsibilities.
EPA Identifies Programs/Priorities for Component 2

- Component 2: EPA’s Programs and Priorities
  - EPA retains responsibility for federal program implementation for a tribe until that tribe assumes responsibility for the program through federal authorization, delegation or primacy approval
  - EPA Regional Offices review EPA’s implementation of federal statutory programs and document these in the ETEP (e.g., specifying which programs the tribe is implementing with TAS status)
  - EPA’s priorities in an ETEP will be informed by broader EPA priorities as laid out in various agency documents, including:
    - Strategic Plan
    - National Program Manager Guidance
Walking through the Four ETEP Components . . .

1) Identification of **tribal environmental program priorities**, including capacity building and program implementation goals;

2) Identification of **EPA program priorities and management requirements**;

3) An **inventory of regulated entities**; and

4) Identification of **mutual roles and responsibilities**.
Tribe Identifies Programs/Priorities for Component 1

• Component 1: Tribe’s Program and Priorities
  • Some may call this the TEP, or Tribal Environmental Plan, and may build off of an earlier Tribal Environmental Agreement (TEA)

• Include the following information for each of the tribe’s environmental program priorities:
  • Short description of the priority
  • The tribe’s long-term environmental program development goals that help to address or support the priority
  • Intermediate program development milestones the tribal government would like to meet during the time period of the ETEP
  • The tribe's plans to manage authorized environmental programs
  • Any type of assistance (training, technical assistance, EPA direct implementation actions, financial, etc.) that may be needed
Walking through the Four ETEP Components . . .

1) Identification of tribal environmental program priorities, including capacity building and program implementation goals;

2) Identification of EPA program priorities and management requirements;

3) An inventory of regulated entities; and

4) Identification of mutual roles and responsibilities.
Bringing it All Together: Component 4, Mutual Roles and Responsibilities

- Components 1-3 are the basis for discussion between EPA and tribal staff on joint work planning and partnering.

- Define the actual activities that the tribe and EPA anticipates conducting during the time period of the plan, including activities that:
  - Tribal staff will perform to support EPA direct implementation of federal environmental programs.
  - EPA will perform to support tribal program development and implementation.
  - Tribes will undertake to either apply for program approval/delegation, and/or build capacities to partner with EPA to implement applicable federal programs.
Who’s Involved in Developing the ETEP?

Most likely these individuals will play key roles:
- Tribal environmental staff and director
- Tribal community members
- GAP Project Officer
- EPA media program staff at HQ and region
- Senior officials in both EPA region and tribal government

Additional people who may be involved:
- Tribal council and/or tribal chairperson
- Tribal consultants
- Others?
Common Process for ETEP Development

- Review the GAP Guidance for Tribes and Intertribal Consortia, Section 4.0, Developing EPA-Tribal Environmental Plans
- Review a sample ETEP work plan component with timeline and due dates
- Consider other environmental program plans developed by the tribe in the past
- Tribe identifies priorities with community involvement and input
- Staff from EPA and Tribe connect early and often to coordinate on plan development and share key information such as:
  - ETEP template, if applicable
  - Inventory of regulated entities
  - EPA responsibilities for environmental program implementation with the tribe
What Happens During ETEP Implementation?

- Review and revise plan goals and implementation progress annually – either the Tribe or EPA may initiate a change in the plan.

- Carry out agreements in the Mutual Roles and Responsibilities portion of the ETEP, including how the tribe and EPA will monitor progress being made toward the goals described in the document.

- EPA and Tribe refer back to the ETEP during discussions and decisions surrounding technical and financial assistance.
Linkage Between ETEPs and EPA’s Tribal Grant Programs and Beyond

- GAP funding supports development of ETEPs
- Beginning in FY19, tribes will need to have an ETEP in place in order to maintain eligibility for GAP funding
- ETEPs drive decisions around activities/commitments in future workplans for PPGs, GAP, CWA 106, etc.
  - Approved GAP work plans should contain capacity indicators that are related to accomplishing the goals identified in the ETEPs, as applicable
- EPA and the tribe will measure progress being made toward accomplishing the ETEP goals, in part through annual reviews of commitments fulfilled through EPA grant awards
Power of Planning

GETTING RESULTS THROUGH ETEPS
ETEPs Strengthen EPA’s Tribal Program to Better Support a Tribe’s Needs

- ETEPs are an important part of EPA’s Tribal Program because they:
  - Help focus direct implementation efforts on a tribe’s program areas of highest need by aligning the tribe’s priorities with EPA’s environmental program responsibilities and the best available data on environmental program needs (e.g., number and type of regulated entities)
  - Promote tribal self-governance by serving as a planning tool to help a tribe build environmental program capacity and achieve environmental goals
  - Form a critical component of EPA’s national framework for improved management of GAP, EPA’s largest financial assistance program for tribes, including measurement of progress over time

- By using ETEPs to identify priorities and then map how and when the priorities will be addressed and by whom, the EPA works in a cooperative manner to address environmental needs in Indian country
ETEPs Deliver Results for Tribes

- Promote tribal self-governance by serving as a planning tool to help a tribe build environmental program capacity and achieve environmental goals
- Align the tribe’s priorities with EPA’s environmental program responsibilities and the best available data on environmental program needs (e.g., number and type of regulated entities)
- Make it easier to write grant workplans that link to the tribe’s environmental program development goals
- Provide shared understanding of where you are and where you are going, which can lead to greater continuity in the face of staff and leadership changes
- Inform EPA decisions regarding technical and financial assistance for the tribe, as well as EPA’s priorities for direct implementation work
- Enables tribe to identify needs and available resources to provide consistent funding support to better recruit and retain specialized staff
ETEPs Deliver Results for Tribes- Example

Houlton Band of Maliseet Indians (Maine)

- Tribe identified restoration of the St. John Watershed as a priority in ETEP
  - Formed partnership with the Maliseet First Nations, the Maliseet Nation Conservation Council, and U.S. and Canadian federal agencies (Capacity Indicator B.2.5)

- Signed an international, cross-boundary Statement of Cooperation that established commitments for future restoration work and improved water quality

Tribal contact: Sharri Venno
ETEPs Deliver Results for Tribes - Example

Mississippi Band of Choctaw Indians (Mississippi)

- Utilizing ETEP as a strategic plan to develop a sustainable multimedia environmental program
  - Reviewing and revising existing programs
  - Expanding multimedia monitoring and assessment
  - Developing a comprehensive Tribal Environmental Ordinance and regulation implementation
  - Building multimedia program capacity necessary for future implementation

- Involved tribal leaders and the community at large

- Obtained Treatment in the Similar Manner as a State (TAS) status for sections 106 and 319 of CWA

- Clearly articulating needs helps EPA know where to focus efforts when opportunities become available

- Participate in monthly calls with EPA media programs

Tribal Contact: Jerry Cain
Challenges and Lessons Learned

Challenges may include:
- Figuring out where to start
- Gathering all the relevant information and individual expertise
- Agreeing on mutual roles and responsibilities
- Obtaining final sign-off (for both tribe and EPA)
- Ensuring plans remain current/relevant
- Others?

What are your lessons learned?

What advice would you give to a tribe that’s just getting started?
Discussion Questions

◦ Does anyone have a story to share about how ETEPs have benefited their tribe?

◦ What can we do to help overcome the challenges?

◦ How can planning better position a tribe to build and maintain capacity?

◦ Can you share of an example of how your ETEP relates to other tribal plans, such as Integrated Waste Management Plans, Watershed Management Plans, etc.?
ETEP Exercise
Problem: Asthma and respiratory problems from air pollution.

Long-Term Outcomes

Reduce public health impacts from air pollution

Intermediate Program Development Milestones

Develop Air Quality monitoring program

Work Plan Components

- Emissions inventory
- Analyze Existing Data
- Collect New Data
- Develop Methods
- Evaluate and Update
- Survey Community

Commitments

- Get CAA Training
- Hire Staff
- Participate in Regional Workgroups
- Intergovernmental Partnerships
- Identify funding needs
- Apply for CAA Funding

Outreach and Education

- Work Plan Components
- Commitments
<table>
<thead>
<tr>
<th>Milestones</th>
<th>Who?</th>
<th>When?</th>
<th>Potential Funding &amp; Technical Assistance Source</th>
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<tbody>
<tr>
<td>Emissions inventory</td>
<td>Environmental Director</td>
<td>FY18</td>
<td>GAP</td>
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<tr>
<td>Get CAA Training</td>
<td>Environmental Coordinator</td>
<td>FY19</td>
<td>GAP, Tribe</td>
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<tr>
<td>Hire Staff</td>
<td>Environmental Director, Air Tech</td>
<td>FY19</td>
<td>GAP</td>
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<tr>
<td>Participate in Regional Workgroups</td>
<td>ED, Coordinator</td>
<td>FY19</td>
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<td>Intergovernmental Partnerships</td>
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<tr>
<td>Collect New Data</td>
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<td>Identify funding needs</td>
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<tr>
<td>Apply for CAA Funding</td>
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Sample ETEP Workplan Component for GAP

Component 1: ETEP Development (EPA Tribal Environmental Plan)

Program Capacity: Environmental Program Administrative Capacity

Indicator(s): 8.5.1

*Development of ETEP that expresses environmental priorities and goals to be focused on during the coming four fiscal years

Estimated Component Cost: $xxxx

<table>
<thead>
<tr>
<th>Commitments</th>
<th>Position</th>
<th>Estimated Cost (optional)</th>
<th>End Date</th>
<th>Outputs and Deliverables</th>
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<tbody>
<tr>
<td>1.1 The Tribe will review and provide comments on the list of regulated</td>
<td></td>
<td></td>
<td>3/31/2016</td>
<td>Comments on the EPA’s list of regulated facilities will be provided.</td>
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<td>facilities on Tribal lands (generated by EPA and provided by EPA to the</td>
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<td>Tribe).</td>
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<td>1.2 The Tribe will review and provide comments on the Areas of Involvement</td>
<td></td>
<td></td>
<td>4/29/2016</td>
<td>Comments provided to EPA on the areas of involvement document will be provided as a</td>
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<tr>
<td>Document (provided by EPA). This document summarizes the current EPA program</td>
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<td>deliverable.</td>
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<td>engagement with the Tribe and EPA’s program authorities.</td>
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<td>1.3 The Tribe will review and update the current Tribal Environmental</td>
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<td></td>
<td>5/31/2016</td>
<td>A copy of the completed Tribal Environmental Inventory will be submitted to EPA.</td>
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<td>Inventory, or develop a new TEI. The Tribe will ensure the TEI contains the</td>
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<td>most up-to-date information on environmental quality or issues. The Tribe</td>
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<td>can request the R9 template to review as a sample inventory document.</td>
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<td>1.4 The Tribe will develop and submit a draft Tribal Environmental Plan</td>
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<td></td>
<td>6/24/2016</td>
<td>A copy of the draft TEP will be submitted to EPA by 6/24/15.</td>
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<td>(TEP) to EPA. The updated TEI will inform the TEP development. The Tribe</td>
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<td>will work with the community and Tribal Council to ensure the TEP includes</td>
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<td>the elements described in Section 4.3(1) of the 2013 GAP Guidance. The</td>
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<td>Tribe will incorporate into the TEP or as an appendix an identification of</td>
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<td>which Capacity Indicators described in the GAP Guidebook will support the</td>
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<tr>
<td>Tribe’s GAP-eligible work within the TEP.</td>
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<tr>
<td>1.5 Final Tribal Environmental Plan to be submitted to EPA.</td>
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<td></td>
<td>7/29/2016</td>
<td>A copy of the final TEP with Council approval will be submitted to EPA.</td>
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<td>1.6 The Tribe and EPA will begin discussions on mutual environmental priorities for the cover memo.</td>
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<td></td>
<td>8/31/2016</td>
<td>List of environmental priorities to be submitted to EPA.</td>
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<td>1.7 The Tribe and EPA will collaborate on a cover memo that identifies areas where EPA’s and the Tribe’s goals align – areas where we will be working together to accomplish mutual interests.</td>
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<td>9/30/2016</td>
<td>The Tribe and EPA will develop and finalize a cover memo for the ETEP.</td>
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<tr>
<td>1.8 The final ETEP will be an assembly of the four documents above (items 2-5), or a narrative document that incorporates the contents of items 2-5 into a cohesive text. Future GAP workplan commitments will be developed from the final ETEP document.</td>
<td></td>
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<td>9/30/2016</td>
<td>Either the assembled four section document or narrative document will be on file with EPA and the Tribe.</td>
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Wrap-up
Key Take-Aways

- ETEPs should reflect a complete picture of particular environmental issues faced by the tribe, with a shared understanding of the issues the tribe and EPA will each address consistent with programs administered by EPA.

- The specific format, length, detail and approach to developing ETEPs will vary from tribe to tribe and region to region.

- The Four Components are all inter-related: If your plan is missing one component, you could be missing out on the full potential of the plan to drive real environmental and public health results through joint governance.
Key Take-Aways

- Involves coordination among EPA’s regional and headquarters media offices, and between EPA and tribal governments

- Joint review by tribe and EPA at least annually, and updated as appropriate
EPA AIEO Contact Information

Rebecca Roose
Roose.Rebecca@epa.gov
(202) 566-1387

Treda Grayson
grayson.treda@epa.gov
(202) 566-0916