



# Budget Priority Guidance

Fiscal Year 2022



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### FY2022 Budget Request and Priority Recommendations

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To protect natural resources and community health in Indian country, the NTC respectfully urges EPA to increase tribal program funding to achieve parity with states. Historically, the amount of funding requested by the NTC for tribal environmental programs and public health improvements has been approximately 5.5% of EPA's overall national budget. In 2016, that amount was \$452 million. Based on the current FY2022 budget, 5.5% would be \$498 million. Currently, tribal programs represent 3.2% of the EPA budget, with an unmet need identified by the NTC of an additional 2.3%. The NTC's foremost budget priorities for FY2022 include upholding tribal sovereignty through improved consultation and increased flexibility under the General Assistance Program (GAP), promoting water quality, supporting tribal solid waste management, and addressing air quality.

While some programmatic budget request amounts are included in this document, they do not collectively equal the \$498 million figure, as that total would also include participation in optional funding mechanisms, such as loans for infrastructure that EPA implemented in recent years that may not be a good fit for some tribal communities. Budget requests in this document comprise \$388.5 million for State and Tribal Assistance Grant (STAG) funding and funding mechanisms for solid waste management, as well as \$109.5 million for programs outside of STAG funding that tribes participate in and benefit from. These programs include toxics and pesticides programs; Superfund programs on and near tribal lands; special studies grants and EPA Office of Research and Development programs; tribal partnership groups within EPA Offices of Air, Water, Pollution Prevention and Toxics, and Land and Emergency Management; and other programs benefitting tribes.

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### National Tribal Caucus

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The NTC, a national body of tribal advisors, works to identify and elevate environmental issues across Indian country to ensure sovereign tribal nations can protect health, tribal traditions, and the environment. NTC executive leadership comprises:

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There are 573 federally recognized American Indian and Alaska Native tribes in the United States, each unique in its culture, governance, and environmental concerns and needs. Tribes share the common goal of protecting community health and traditional lifeways by safeguarding the environment. In Indian country, the quality of the environment can have especially profound impacts on human health because the natural world is an integral part of tribal subsistence and cultural practices. Many tribes also face environmental challenges tied to geographic isolation, such as difficulty obtaining infrastructure and increased vulnerability to drought, fire, and floods.



# National Tribal Caucus

## Budget Priority Guidance – Fiscal Year 2022

Many tribal governments respond to environmental challenges with well-managed, cost-effective environmental programs that protect vital resources. However, vast unmet environmental needs remain throughout Indian country. The NTC helps articulate these needs and presents them to EPA. The NTC comprises representatives from across EPA regions who summarize the tribal voices from their regions to inform recommendations at the national level.

The U.S. Constitution, case law, and federal policy have long recognized the sovereign authority and responsibility of tribal governments to manage and regulate the environment on tribal lands. To support tribal environmental endeavors and honor the federal government's trust responsibility to tribal nations, EPA must acknowledge and support tribal environmental needs. This support must ensure adequate funding; straightforward, flexible grant programs and processes; and the integration of tribal input in EPA policies, rules, and performance measures.

### NTC Officers and Members

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<b>Chair</b>	<b>Vice Chair</b>	<b>Secretary</b>
<b>Gerald Wagner, R8</b> Blackfeet Tribe	<b>Scott Clow, R8</b> Ute Mountain Ute Tribe	<b>Shawn Howard, R6</b> Citizen Potawatomi Nation
<b>Sharri Venno, R1</b> Houlton Band of Maliseet Indians		<b>Alvin Crook, R9</b> Hualapai Tribe
<b>Shavonne F. Smith, R2</b> Shinnecock Indian Nation		<b>Meyo Marrufo, R9</b> Guidiville Rancheria
<b>Jerry Cain, R4</b> Mississippi Band of Choctaw Indians		<b>Ronnie Ben, R9</b> Navajo Nation
<b>Justice Wabasha, R5</b> Lower Sioux Community		<b>Annette George, R9</b> Duckwater Shoshone Tribe of the Duckwater Reservation
<b>Mark Parrish, R5</b> Pokagon Band of Potawatomi		<b>Gayla Hoseth, R10 Alaska</b> Bristol Bay Native Association
<b>Pinu'u Stout R6</b> Pueblo of San Felipe		<b>Bill Hand, R10 Alaska</b> Native Village of Kluti-Kaah
<b>Lisa Montgomery, R7</b> Sac and Fox Nation of Missouri in Kansas and Nebraska		<b>Daniel Ravenel, R10</b> Quinault Indian Nation
		<b>Lee Juan Tyler, R10</b> Shoshone Bannock Tribes

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## Introduction

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The NTC applauds EPA for creating and implementing the 1984 Indian Policy, which codified EPA's commitments to support tribal self-governance of environmental programs and to engage in government-to-government consultation with tribal nations on environmental issues.

With great respect, the NTC urges EPA to uphold the policy and honor its government-to-government relationship with tribes by

1. ensuring sufficient funding for tribes to successfully operate environmental programs and
2. engaging in meaningful dialogue with tribal nations through enhanced partnership and communication

To guide EPA in attaining these objectives, this document identifies tribal priorities for EPA's FY2022 budget and describes the NTC's top four budget priorities for tribal environmental programs:

1. Upholding tribal sovereignty through improved tribal consultation, increased flexibility under GAP, and support for tribal technological capacity-building
2. Promoting water quality
3. Supporting tribal solid waste management
4. Promoting air quality

In addition to identifying budget priorities, NTC members responded to and gathered tribal responses on the following questions from EPA on how to support tribal environmental programs and further the EPA strategic plan through enhanced communication.

1. How can EPA provide certainty that tribal needs are being understood and addressed?
2. What can EPA do to improve their engagement with tribes?
3. Are there non-dollar resources EPA can provide to support tribes taking more responsibility in delegated programs (e.g., access to labs, technical assistance, training)?
4. Do you see any areas where EPA could work smarter—more efficiently or more effectively—with tribes to make the agency's limited dollars go further?
5. What are your 3 or 4 top priorities on ways that EPA and tribes can advance priorities in the final year of the FY2018- 2022 EPA Strategic Plan, including any new or innovative practices?
6. Are there issues in carrying out programs that have arisen related to the pandemic that EPA could help address?
7. What input or feedback do you have on ways EPA can improve risk communications?

After describing the NTC's four primary budget priorities, this report summarizes tribal and NTC response to this series of questions.

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## Summary of FY2022 Recommendations

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This report includes recommendations from the NTC to EPA regarding:

1. How to best allocate funds to align with and support top tribal environmental priorities
2. How to improve EPA's communication with tribes and design innovative solutions to support tribal environmental efforts and the goals of the EPA strategic plan

The section immediately below summarizes key points for both topics, and the following sections articulate these recommendations in greater detail.

### Summary of Top Priorities

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Based on feedback from tribes across the EPA regions, the NTC identified the four top budget priorities for FY2022 as (1) upholding tribal sovereignty through improved tribal consultation, increased flexibility under GAP, and support for tribal technological capacity-building; (2) promoting water quality; (3) supporting tribal solid waste management; and (4) promoting air quality. Below are summaries of these top priorities. The [Budget Recommendations](#) section of this document provides a more detailed examination of these leading priorities. [Appendix A](#) includes a complete list of all budget priorities that tribes and NTC members submitted.

### Priority 1: Upholding Tribal Sovereignty

**FY2022 GAP funding request: \$88.4 million<sup>1</sup>**

To honor tribal sovereignty in environmental protection efforts, the NTC recommends that EPA:

- Engage in true government-to-government consultation with tribes, which involves participation of EPA leadership, thorough documentation and timely follow-up
- Provide flexibility under GAP guidance in how tribes define goals, approaches, and capacity indicators
- Reduce the administrative burdens of the GAP requirements
- Revise GAP guidance to more thoroughly reflect tribal input
- Expand funding under GAP
- Support tribes in building capacity to manage environmental data and information systems

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<sup>1</sup> No dollar amount can be accurately assigned to upholding tribal sovereignty.

### Priority 2: Promoting Water Quality

**FY2022 request: \$235.6 million**

To support tribal access to clean water, the NTC recommends that EPA:

- Provide tribes with treatment as a state (TAS) authority over water quality standards and program implementation
- Allocate yearly funding to tribes under the Clean Water Act (CWA) Section 106 and increase the tribal appropriation to support tribal water regulation
- Increase funding for the Tribal Nonpoint Source Pollution Control program to create tribal funding parity with states under CWA Section 319 for addressing nonpoint source pollutants in tribal water
- Provide additional tribal funding for CWA Section 104b(3) to support tribal wetlands protection programs
- Set aside tribal funding within the Drinking Water State Revolving Fund (DWSRF)
- Provide volume management funds to continue restoring and monitoring the 300+ rivers on the Total Maximum Daily Load list
- Target funding to tribes with approved water quality standards
- Offer a tribal consolidated water grant program
- Promulgate baseline water quality standards for Indian country
- Provide water infrastructure support
- Help protect tribal waters from industry contamination and impacts

### Priority 3: Supporting Tribal Solid Waste Management

**FY2022 request: \$33 million**

To promote effective solid waste management under tribal programs, the NTC recommends that EPA:

- Provide funding to assist with the collection, transport, and disposal of hazardous waste by working with Indian Health Service to create a budget set-aside for solid waste projects and developing sustainable solid waste management plans unique to each tribe
- Increase funding for tribal response programs for brownfields, including those in Alaska
- Provide resources for managing underground storage tanks, including broad training opportunities and outreach in Indian country to improve understanding of underground storage tank (UST) issues
- Assist tribes with Superfund site cleanup and related outreach and training
- Improve emergency response collaboration
- Promote available compliance and enforcement assistance to tribes

### Priority 4: Promoting Air Quality

**FY2022 request: \$31.5 million**

To support successful air quality programs in Indian country, the NTC recommends that EPA:

- Increase tribal funding under the Clean Air Act.
- Provide funding that supports the development of tribal air quality programs.
- Conduct a needs assessment for maintaining and improving air quality in Indian country.
- Reintegrate indoor air quality, radon, and climate change into EPA air quality programs.

### Summary of Partnership and Communication Recommendations

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EPA posed a series of questions to the NTC and tribes regarding how to enhance partnership and communication to better support tribal environmental efforts and EPA strategic plan goals. Respondents offered the following broad recommendations for achieving these improvements:

- Provide certainty by engaging in tribal consultation and meaningful engagement, thoroughly documenting all interactions, and following up on action items
- Build trust with tribes as a foundation of better engagement by conducting tribal consultation, focusing on relationship-building, gathering tribal input early, and sharing information effectively
- Improve risk communications through transparency and a collaborative approach.
- Seek innovative solutions for maximizing current resources and partnerships, including training and technical assistance, shared laboratory access, technology, and improved grant application and management processes
- Incorporate tribal perspectives and partner with tribes to accomplish the goals of EPA's strategic plan
- Increase overall flexibility during the pandemic through funding extensions, additional virtual training and technical assistance opportunities, and extended comment periods for tribal input on decisions and rulemaking



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## Budget Recommendations

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The following sections fully describe the NTC's top four budget priorities for FY2022, based on input from NTC members and tribes throughout the EPA regions. [Appendix A](#) provides a full list of every priority identified.

### Priority 1: Upholding Tribal Sovereignty

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**FY2022 GAP funding request: \$88.4 million<sup>2</sup>**

Tribes have the best understanding of their own environmental needs and challenges. Proper funding and support empower tribes to exercise their inherent sovereignty over their lands and natural resources. Tribes also need support in increasing their technological capacity to capitalize on digital systems that help them manage environmental programs. Additionally, to honor traditional knowledge and the sovereignty of tribal nations, the NTC recommends that EPA enhance the tribal consultation process to promote meaningful dialogue and build more flexibility into the GAP funding requirements.

#### Enhancing Tribal Consultation

Government-to-government tribal consultation is a requirement of EPA's trust relationship with tribes and a foundational aspect of coordinating successful tribal environmental programs. NTC's recommendations for improving tribal consultation include the following.

- Consult with tribes early in the process when developing guidance or making decisions
- Ensure the participation of EPA decision makers in tribal consultation
- Document the outcomes and provide written responses to any questions or issues that arose
- Be transparent, collaborative, and engaged in learning about the unique needs and priorities of each tribe
- In partnership with tribes, conduct an assessment of the Indian Policy and its implications for all aspects of EPA programming, and use this document as a basis for improving EPA's relationship with tribes

#### Improving GAP

Under the GAP statute, EPA provides funding to tribal governments and intertribal consortia to assist in planning, developing, and establishing the capacity to implement environmental programs. In 2013, EPA issued updated GAP guidance. Because tribes did not have sufficient consultation regarding the new guidance, it fails to fully honor tribal needs and priorities and, in some cases, disrupts tribal efforts. The NTC offers the following recommendations to EPA on improving GAP.

- **Provide flexibility in how tribes define goals and approaches:** Every tribe is unique and faces distinct environmental challenges and issues. The new GAP guidance interferes with tribal approaches to environmental protection. Specifically, it placed too many restrictions on solid

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<sup>2</sup> No dollar amount can be accurately assigned to upholding tribal sovereignty.

waste management. Alaska tribes, in particular, have limited options for disposing of solid waste, and much of what they can do is no longer permissible under the guidance. Tribes understand their own lands and natural resources best and must have the flexibility to address problems according to their traditional ways and the solutions available to them.

- **Increase the flexibility of tribal capacity indicators:** The implementation of restrictive capacity indicators limited the scope of GAP-eligible activities. The process for EPA approval of proposed indicators is cumbersome and often requires multiple attempts.
- **Reduce the administrative burdens of the GAP requirements:** The new guidance has increased the administrative workload of tribal recipients without providing additional funding to cover the labor these tasks create.
- **Incorporate tribal input into GAP guidance:** EPA did not fully consult with tribes in developing the 2013 GAP guidance, so the guidance does not fully represent tribal input or priorities. The NTC recommends that EPA revise the guidance to incorporate tribal needs and perspectives.
- **Expand funding under GAP:** The costs of operating tribal environmental programs continue to increase, and tribes need adequate funding to match this growth.

### Building Tribal Technological Capacity

Access to real-time information is necessary for tribes to make decisions that protect tribal environments and communities, yet many tribes lack the fundamental components needed to access tools and use data systems. Tribes need a robust digital strategy for more effectively managing their environmental programs. The NTC offers the following recommendations to EPA regarding support for tribal technological infrastructure.

- Prioritize funding for projects that help tribes build capacity to manage data and information systems.
- Adapt the Exchange Network to accommodate current tribal capacities.
- Develop digital tools and solutions to enhance tribal programs.
- Identify funding resources that tribes can leverage to update their digital systems.

### Priority 2: Promoting Water Quality

\$56.24 million: tribal portion of Section 106 funding

\$13.65 million: national tribal nonpoint source pollution control program

\$16.91 million: Section 104b (3) tribal share

\$148.80 million: other tribal water rights and water quality issues

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**FY2022 request: \$235.6 million<sup>3</sup>**

Access to clean water is a tribal treaty right and an integral component to the health of tribal communities because it supports the wellbeing of tribal citizens; the success of tribal enterprises; and the continuity of traditional lifeways, like fishing, hunting, and agriculture. However, funding for CWA Section 106 has decreased as the demand for it has expanded. Tribes need additional support to protect

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<sup>3</sup> Based on requests through FY2019 plus 2.25% inflation

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America's waters, including parity with states in funding and regulatory infrastructure.

Recommended ways for EPA to provide this support include the following.

- **Ensure tribal TAS authority:** Tribes need TAS authority over water quality standards and program implementation, including development, permitting, tribe-specific fish consumption rates, and total maximum daily loads. Providing tribes with the ability to update current fish consumption rates, which states use to measure how many toxic pollutants industries can discharge in state waters, would help tribes reduce pollutant levels for tribes and states and promote safe fishing and fish consumption.
- **Provide additional CWA Section 106 funding for tribal water regulation:** Despite a growing number of TAS-approved tribes, funding allocated to tribes for water pollution control has remained the same. To match this expansion, the NTC recommends that EPA increase the tribal portion of CWA Section 106 funding to 20% (\$55 million). The NTC also recommends ensuring that tribes with water quality standards or TAS receive continued annual funding under CWA Section 106 multi-purpose tribal set-aside grant funding.
- **Increase funding for the Tribal Nonpoint Source Pollution Control program under CWA Section 319:** Funding allocations for tribes under CWA Section 319 have remained steady despite an increased number of TAS-eligible tribes. The NTC requests that EPA strengthen tribal partnerships by permanently eliminating the CWA Section 319 funding percent cap for tribes, and instead create funding parity with states. Increasing the national budget for this program to \$13.65 million would cover the rise in base allocations and provide vital support for rural tribes struggling with nonpoint source pollution.
- **Provide additional tribal funding for CWA Section 104b(3) for wetlands protection:** The NTC asks that EPA increase the CWA Section 104b(3) tribal share to \$16.54 million. The increase will ensure incremental progress towards the NTC's long-term goal of \$18 million and will enhance tribes' abilities to establish wetlands protection programs.
- **Set aside tribal funding within the DWSRF:** The NTC requests that EPA set DWSRF tribal funding at FY2010 levels, with adjustments for inflation, to bridge the significant drinking water access and funding disparity between tribal and non-tribal communities. DWSRF cuts affect tribes more severely than states because tribes must allocate funds for specific infrastructure projects instead of using loans and gaining interest on funds that can be used for future infrastructural needs.
- **Target funding to tribes with approved water quality standards:** Establish targeted funding for tribes with Section 303(d) TAS Water Quality Standard programs.



*Figure 1. An apron catchment construction catches rain and snow to collect water for wildlife and cattle on the Hualapai Indian Reservation*

- **Promote water rights through water volume management:** Low water levels in streams and rivers cause water temperatures to rise, which harms water quality. To ensure volumes that promote high quality water, tribes need funds to continue restoring and monitoring the 300+ rivers on the Total Maximum Daily Load list.
- **Offer a consolidated water grant program:** A consolidated water grant program could benefit tribes and EPA by creating spending flexibility for water regulation activities.
- **Promulgate baseline water quality standards for Indian country:** The absence of federally approved water quality standards is a major regulatory gap. The NTC urges EPA to finalize and promulgate these standards.
- **Provide water infrastructure support.** Many tribes need to replace and improve aging water infrastructure. Support in operating and maintaining these systems is also important for monitoring and addressing water quality.
- **Protect tribal waters from industry contamination and impacts:** The NTC respectfully urges EPA to stop diminishing environmental protections in favor of industry interests.

### Priority 3: Supporting Tribal Solid Waste Management

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#### FY2022 request: \$33 million<sup>4</sup>

Indian country faces solid waste challenges caused by unauthorized dumping of solid waste on tribal lands. However, GAP funding, the sole funding source for tribal solid waste management, is insufficient to support tribes in building capacity and developing programs for solid waste management. The NTC recommendations for supporting tribes in solid waste management include the following.

- **Provide funding to assist with the collection, transport, and disposal of solid/hazardous waste:** Tribes need a funding source for solid waste programs that is separate from GAP. Under this request, the NTC recommends the following to EPA.
  - Work with Indian Health Service to create a budget set-aside for solid waste project funds
  - Develop sustainable solid waste management plans unique to each tribe by doing the following
    - Re-establish funding for solid waste and hazardous waste response and management
    - Identify the responsibilities of other federal agencies to maximize and link resources
    - Amend the Resource Conservation and Recovery Act statute that currently defines tribes as municipalities to instead treat tribes in the same manner as states in developing solid waste programs
    - Prioritize solid waste management when allocating resources
    - Provide resources and assistance to tribes in promoting behavioral changes among community members and addressing environmental justice concerns

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<sup>4</sup> This dollar amount is in addition to requested GAP funds.



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- Offer financial assistance with the ongoing issues of infrastructure maintenance, equipment, and staffing
- Develop a database for compiling data on tribal solid waste needs and activities
- **Increase funding for tribal response programs for brownfields, including those in Alaska:** Under this request, NTC recommends the following to EPA.
  - Allow Comprehensive Emergency Response, Compensation, and Liability Act (CERCLA) 128(a) funds to be used toward assessments and cleanup of contamination on lands defined by tribal treaty, customary and traditional use, and traditional cultural properties
  - Train regional tribal project officers who manage grants under CERCLA 128(a) to help facilitate program development and consistency
  - Implement a CERCLA statute change to adjust the eligibility criteria to include Alaska Native tribes and villages as possible awardees for CERCLA 104(k) grants
  - Continue to provide a scoring system that enables tribes to compete for CERCLA 104(k) grants or receive preference
  - Improve funding to further enhance tribal response programs
- **Provide resources for managing underground storage tanks, including broad training opportunities and outreach in Indian country to improve understanding of UST issues:** Under this request, the NTC also recommends the following to EPA.
  - Provide resources to tribes or tribal consortia for federally credentialed tribal staff to conduct regular compliance inspections of facilities every 3 years
  - Improve collaboration between the Office of Land and Emergency Management and the Office of Enforcement and Compliance Assurance to simplify the distribution of federal credentials for tribal professionals conducting UST compliance assistance activities and inspections
  - Improve the process by which tribes and intertribal consortia obtain federal credentials for UST compliance assistance and inspections
  - Develop a uniform tank inspection and inventory form
  - Support and expand cross-media partnerships within EPA to provide resources to tribes for preventing releases and conducting cleanup of leaking UST sites
  - Foster research collaborations to explore solutions to the critical problem of corrosion at UST facilities
- **Assist tribes with Superfund site cleanup and related outreach and training:** Under this request, the NTC recommends the following to EPA.
  - Support tribes with community involvement activities to effectively engage with tribal citizens impacted by Superfund sites

- Improve outreach and training on the availability of cooperative agreements to tribes for Superfund sites
- Continue supporting the Tribal Superfund Workgroup through quarterly conference calls, in-person meetings, and peer-to-peer mentoring
- Develop a national database or map layer to identify Superfund sites in Indian country and areas that may impact treaty rights and cultural resources, and integrate this tool with similar resources
- Incorporate tribal environmental knowledge and tribal lifeway models when considering cleanup standards and build tribal capacity to oversee, coordinate, and conduct cleanup activities on the National Priorities List sites
- Encourage collaboration among federal entities involved in cleanup activities and the positioning of tribes as active partners in all cleanup processes
- Improve outreach and training to tribes regarding CERCLA oversight roles and responsibilities on other federally led actions
- **Improve emergency response collaboration:** Under this request, the NTC recommends the following to EPA.
  - Develop a matrix or other tool that illustrates the agencies involved in emergency response to help tribes delineate roles and responsibilities and facilitate planning and notification before and during emergency response activities
  - Improve local hazard identification and coordination of transportation issues with the U.S. Department of Transportation
  - Continue to recognize tribal treaty rights, as well as customary and traditional use areas and traditional cultural properties, which can affect transboundary jurisdiction
- **Promote compliance and enforcement assistance.** The NTC advises that the Office of Compliance and Enforcement Assurance work to increase tribal awareness of the assistance available.

### Priority 4: Promoting Air Quality

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#### **FY2022 request: \$31.5 million**

Across the nation, tribes are addressing air quality issues ranging from monitoring for air pollutants to addressing indoor air quality. However, as much as tribes have progressed in their air quality program management, funding for tribal air programs has become stagnant, even as program costs have increased and air quality issues such as wildfire smoke have worsened. Tribes have also expanded the areas of air quality management in which they participate, such as addressing emissions from mobile sources. However, tribal air quality funding has not risen to match this growth. The NTC makes the following requests related to air quality programs.

- Increase tribal funding under the Clean Air Act.

- Provide funding that supports the development of tribal air quality programs, including training and updating or acquiring monitoring equipment.
- Conduct a needs assessment for maintaining and improving air quality in Indian country.
- Reintegrate indoor air quality, radon, and climate change into EPA air quality programs.

To alleviate some of the financial pressure on tribal air programs, the NTC recommends an allocation of \$31 million to tribal air programs, which excludes the cost of a comprehensive air quality needs assessment. A needs assessment would require approximately \$500,000 of additional, dedicated funding. This amount accounts for the increase in health care costs for employees of tribal air programs, which drives up the cost of employing staff, thereby taking funds away from other aspects of operating air quality programs.

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## Partnership and Communication Recommendations

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To advance environmental protection in Indian country, partnership and effective communication between EPA and tribal nations are vital. NTC members and tribes responded to a series of questions from EPA on how to improve communication and strengthen partnerships. The following sections summarize responses to each question.

### Providing Certainty

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**EPA question: How can EPA provide certainty that tribal needs are being understood and addressed?**

EPA can promote a sense of certainty by creating additional opportunities for government-to-government consultation, listening and engaging meaningfully, and following up on issues of concern to tribes. Seeing actions and outcomes emerge from tribal input will help build trust among tribes that EPA is listening to and acting to resolve tribal concerns.

### Tribal Consultation and Engagement

Meaningful, frequent government-to-government dialogue through tribal consultation and engagement with the NTC, Regional Tribal Operations Committees (RTOC), and tribal partnership groups will help create a foundation for certainty.

- Conduct more tribal consultation and ensure that consultations are true government-to-government dialogues with EPA leadership in attendance
- Provide ample notice and opportunity for tribes to provide input regarding proposed changes and decisions
- Gather tribal input early in the process of developing guidance and rules
- Conduct more site visits to see how tribal environmental programs operate
- Increase the frequency of conversations at the RTOC and National Tribal Operations Committee (NTOC) levels and discussions with the tribal partnership groups
- Be transparent and timely with communication to tribes
- Provide ongoing contact and support, including continuing communication with tribal liaisons

- Converse with tribal environmental directors

### Documentation and Follow-Up

Prompt responses to tribal questions, concerns, and input should include written documentation and meaningful action. Recommendations include the following.

- Provide detailed meeting minutes for all tribal consultations and meetings with tribes and tribal groups
  - Include descriptions of tribal input and identify a follow-up action for that input or note why EPA will not act on it
- Produce written strategies based on tribal consultations and meetings with the NTC
- Provide written responses, including action items, in response to tribal white papers, needs assessments, and priority statements
- Schedule follow-up meetings to keep track of action items
- Work with the NTC to revise the NTOC charter to institute protocols for providing certainty
- Track the variance between tribal funding requests and actual funding amounts

### Enhancing Communication

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To strengthen communication between EPA and tribes, building trust and strong government-to-government relationships is essential. To foster trust, EPA must stop diminishing environmental protections in favor of industry interests. Additionally, EPA can improve communication by prioritizing tribal consultation and meaningful meetings with tribes and tribal groups, acknowledging tribal diversity and working to build relationships with individual tribal nations, gathering tribal input on decisions in a timely manner, and sharing information frequently. Effective risk communications are another important element of building trust. Transparency and seeking tribal input form the cornerstone of successful risk communications with tribal audiences.

### Engagement with Tribes

**EPA question: What can EPA do to improve their engagement with tribes?**

#### Tribal Consultation and Meetings

Building trust happens over time through in-person interaction and transparent, two-way communication. To uphold the government-to-government relationship, EPA must seek more tribal consultations, readily meet tribal requests for consultation, and ensure true consultation occurs, which requires one-on-one, face-to-face dialogue with EPA leadership in attendance. Prompt documentation of outcomes is essential to ensuring action items move forward.

EPA can create additional opportunities for meaningful interaction through regular face-to-face meetings with RTOCs, the NTC, and tribal partnership groups. Meetings should be substantive, with the objective of gathering information for decision-making, and EPA should document and share outcomes and respond in writing to questions and concerns. In addition to tribal consultations and regular



meetings, less formal settings, like research conferences and public workshops, can help EPA obtain candid input on tribal environmental issues and possible solutions.

### Relationship Building

The NTC recommends that EPA acknowledge the uniqueness of each tribe and thusly support flexibility for tribal environmental programs. Additionally, EPA must take the time to learn about each tribe they work with. Building relationships with the individuals who operate tribal environmental programs will establish a strong basis for improved engagement. Site visits provide a wealth of insight on individual tribal environmental programs. These visits should occur regularly to maintain relationships, especially during times of tribal or EPA staff turnover. To maintain effective communication in the event of tribal staff turnover, EPA should regular update its tribal contact list.

EPA regional project officers are important points of contact for tribes. Reducing the number of tribes assigned to each project officer would provide more time for them to build a solid understanding of each tribe. Better cultural sensitivity training that acknowledges tribal diversity for all EPA staff could help foster understanding and beneficial relationships.

Providing tribes with the resources they need to appropriately engage with EPA and other partners will also help foster effective relationships. EPA funding and assistance to help tribes leverage digital systems and build technological capacity would support tribes in operating their programs successfully and engaging with partners in virtual settings.

### Gathering Tribal Input

Ample response time for tribal comment periods is vital to ensuring tribes can provide input on EPA decisions and actions. The NTC recommends that EPA host public workshops to provide in-depth information on proposed regulations and offer an additional forum for tribes to provide feedback. EPA must ensure that the timeframe for comments is sufficient for tribes to request and engage in consultation about the issue. Additional avenues for tribes to report technical concerns would also support more effective communication between EPA and tribes.

### Information Sharing

The NTC recommends that EPA provide frequent, brief updates rather than occasional, exhaustive reports that are burdensome to review. EPA should follow up on all commitments made and issues discussed at meetings and notify tribes immediately of any structural changes or potential regulatory updates. EPA should capitalize on meetings of tribal consortia and regional tribal groups to network and share information through presentations.

## Risk Communications

### **EPA question: What input or feedback do you have on ways EPA can improve risk communications?**

Risk communication is the process of informing people about potential hazards to their person, property, or community. To promote effective risk communication with tribes, EPA should strive for transparency, use accessible language and visual aids, and be prepared to discuss possible mitigation

approaches. Developing tribally focused outreach materials is also an excellent way to share information with tribal communities.

The NTC recommends coordinating with RTOCs, the NTC, and tribal partnership groups to develop a standard approach for conveying risks to tribes. At the same time, EPA needs to understand and explore the variation of risk levels across tribal communities. To uphold tribal sovereignty when sharing messages about risk, EPA should involve tribes in developing mitigation approaches and present the issue to them far enough in advance to incorporate tribal input in strategies for addressing risks.

### Finding Innovative Solutions

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**EPA question: Are there non-dollar resources EPA can provide to support tribes taking more responsibility in delegated programs?**

**EPA question: Do you see any areas where EPA could work smarter—more efficiently or more effectively—with tribes to make the agency's limited dollars go further?**

With federal funds decreasing overall, it is important for EPA to design innovative solutions to help maximize currently available resources. The NTC recommends streamlining several aspects of EPA-tribal efforts, including training and technical assistance, partnerships, access to laboratories, technology solutions, Quality Assurance Project Plans, and grant processes.

### Training and Technical Assistance

- Provide more training and technical assistance for tribes, including technical assistance on data exchange, regulations, permitting, and grants; technical assistance for new staff on technical documents, such as Quality Assurance Project Plans (QAPPs) and workplans; training on program implementation; and hands-on laboratory training
- Promote available training programs to new hires of tribal environmental programs
- Increase coordination and consistency across technical reviewers to avoid contradictory edits
- Target outreach to tribes about available resources and opportunities for assistance

### Fostering Partnerships

- Encourage partnerships between states and tribes
- Share tribal success stories and best practices
- Support region-wide tribal collaborative studies where tribes are amenable and where such a study would be efficient
- Convene other federal agencies to discuss matters with cross-agency responsibilities or implications
- Explore partnerships with other stakeholders to identify and share resources that may benefit tribes

### Providing Laboratory Access

- Offer tribes access to EPA laboratories for monitoring air and water quality

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- Implement central laboratories for each region that tribes can access
- Provide technical assistance to support tribal labs in becoming accredited by EPA

### Leveraging Technology

- Reduce EPA regional staff as tribes assume delegated authority of EPA programs and pass the funding to the tribes doing the work
- House all recent EPA-approved documents in an online portal for easy access and download
- Develop a database of tribal environmental information
- Invest in technology and equipment to enhance the efficiency of data collection
- Host additional virtual meetings and trainings to reduce the need for travel expenses
- Streamline the Exchange Network to help tribes identify planned changes and implementation schedules
- Standardize and incorporate all data systems into the Exchange Network to share information seamlessly to all stakeholders

### Simplifying Grant Processes

- Allow tribes to bundle CWA 106 and base CWA 319 grants under one grant application
- Increase the flexibility of tribal grant requirements to acknowledge and accommodate the diversity of tribal needs and situations
- Refine and simplify the Performance Partnership Grants process

### Quality Assurance Project Plans

- Develop a blanket QAPP to standardize data collection
- Assign tribes Q-TRACK numbers immediately upon receipt of tribal QAPPs
- Continue to work with tribes to make improvements to the QAPP development, review, and approval processes

### Other Solutions

- Provide additional delegated authority to tribes and help build tribal capacity to assume that authority
- Offer regional meetings and trainings to reduce the travel distance for tribes to attend
- Acknowledge receipt of quarterly reports and other documents from tribes
- Increase opportunities for equipment loans

### Advancing the Strategic Plan

**EPA question: What are your 3 or 4 top priorities on ways that EPA and tribes can advance priorities in the final year of the FY2018–2022 EPA Strategic Plan, including any new or innovative practices?**

EPA's strategic plan outlines how the agency will work toward its mission to protect human health and the environment. The strategic plan's three major goals include providing a clean, safe environment for

all Americans; offering certainty to tribes, states, and local governments in carrying out shared responsibilities; and applying the rule of law to achieve more efficient, effective operations. The NTC recommends prioritizing funding, regulatory support and enforcement, relationship building, planning, chemical safety, solid waste management, and air and water quality to attain the strategic plan goals.

### Regulatory Support and Enforcement

- Stop diminishing environmental protections in favor of industry interests and take action to prevent industry activities from damaging culturally important habitat, wildlife, and natural resources
- Provide regulatory training for tribes
- Preserve and restore forests and other ecosystems that support tribal cultural practices for future generations.
- Remedy the recent decline in EPA compliance inspections and enforcement

### Funding

- Increase funding overall
- Streamline grant application processes and eliminate redundant grant reporting

### Relationship Building

- Prioritize effective communication
- Assess current communication approaches and identify ways to improve existing partnerships
- Commit to improving EPA-tribal relationships through transparency and collaboration

### Planning

- Support tribes in long-term planning and finalizing their EPA-Tribal Environmental Plan (ETEP)
- Improve emergency response planning
- Provide tribes with tools and resources to enhance their data management and analysis capacity to better inform their environmental decision-making

### Chemical Safety

- Close the regulatory loophole in the Toxics Substances Control Act (TSCA) that allows the continued, inadvertent production of polychlorinated biphenyls (PCBs) that end up in waterways
- Identify, consider, and regulate the risks that chemicals in commerce pose to highly exposed, susceptible subpopulations, including tribes
- Gather scientific data on how chemicals affect the natural resources tribal people use
- Protect vulnerable populations by declaring unsafe chemicals as imminent hazards without awaiting risk evaluation results

### Solid Waste Management

- Provide more communication and support for Superfund remediation



- Appoint a tribal representative to the Superfund National Remedy Review Board

### Air and Water Quality

- Supplement funding for indoor air projects
- Expand tribal testing for contaminants in groundwater and service waters
- Increase CWA Section 319 funding for tribal wetlands projects

### Addressing Pandemic-Related Issues

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#### **EPA question: Are there issues in carrying out programs that have arisen related to the pandemic that EPA could help address?**

The COVID-19 pandemic altered many aspects of managing environmental programs. Such changes require EPA to pivot its approaches to help tribal environmental programs continue to operate as successfully as possible during challenging times. Overall, flexibility will be crucial to supporting tribal environmental efforts during the pandemic.

Making virtual training and technical assistance widely available is essential in the absence of face-to-face interaction opportunities. Extension of comment periods for EPA decisions is also important during this time. Providing various means for tribes to access data systems will also help tribal environmental programs to continue functioning effectively during the pandemic.

The pandemic exacerbated obstacles that many tribes already faced, such as limited technological infrastructure and connectivity challenges. For tribal programs, limited connectivity can prohibit the completion of tasks, since staff may be unable to work remotely. Further, because most reservations and many tribal buildings are now closed to the public, tribal consultants may not be able to work on environmental projects either. Additionally, many tribal programs have reduced or strained workforces as a result of the pandemic. Funding extensions are crucial in instances where programs cannot complete tasks under their work plan due to the pandemic. Simplified, flexible reporting and certification requirements will also help alleviate the demands on tribes. Tribes also ask EPA to ensure that potential reduced output reflected in their reporting during this time does not negatively affect future funding eligibility.

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## Conclusion

Thank you for your thoughtful consideration of these crucial budget requests. The NTC looks forward to working closely with EPA through the American Indian Environmental Office and the Office of International and Tribal Affairs in helping to make our requests a reality and in strengthening government-to-government partnerships between tribes and EPA.

### Appendix A. Complete List of Tribal Priorities

Table 1 summarizes all FY2022 budget recommendations gathered from NTC members and tribes. In many cases, NTC members and regions provided similar recommendations, so the table indicates how many times each recommendation topic surfaced.

Media/Issue	Recommendation(s)	Frequency
<b>Tribal consultation and coordination with tribes</b>	<ul style="list-style-type: none"> <li>• Coordinate more frequent, effective tribal consultation to facilitate meaningful dialogue</li> <li>• Grant tribal requests for consultation in a timely manner and ensure EPA decision-makers participate</li> <li>• Acknowledge and respect the diversity of individual tribes</li> <li>• Build relationships with tribal programs and staff and tailor communication to them</li> <li>• Provide ample notice and opportunity to provide input regarding proposed changes and decisions</li> <li>• Increase transparency in communication</li> <li>• Maximize limited funding through continued support of tribal partnership groups</li> <li>• Foster relationships and mentoring between EPA regions and tribes</li> <li>• Increase training and technical assistance</li> </ul>	28
<b>Inter-agency coordination</b>	<ul style="list-style-type: none"> <li>• Strengthen EPA relationships with federal partners</li> <li>• Meet with Congress regularly about tribal environmental concerns</li> <li>• Work with BIA on Great Lakes Restoration Initiative project implementation</li> </ul>	6
<b>Water</b>	<ul style="list-style-type: none"> <li>• Support tribal water quality monitoring</li> <li>• Finish developing and promulgate baseline water quality standards for Indian country</li> <li>• Support tribal water infrastructure needs</li> <li>• Increase funding for tribal water projects</li> <li>• Help protect tribal waters from industry contamination and impacts</li> <li>• Implement clean water programs under tribal TAS</li> </ul>	16
<b>Chemical safety and pollution</b>	<ul style="list-style-type: none"> <li>• Stop the deregulation of pollution</li> <li>• Identify and address contamination issues, such as illicit discharge to surface water and brownfield redevelopment</li> <li>• Update the Exposure Factors Handbook to include tribal exposures through subsistence and cultural practices</li> <li>• Rework existing and future risk evaluations to combine the risks of the use and disposal of legacy chemical products across all exposure pathways</li> </ul>	7
<b>Air</b>	<ul style="list-style-type: none"> <li>• Increase tribal funding under the Clean Air Act</li> </ul>	8

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Media/Issue	Recommendation(s)	Frequency
	<ul style="list-style-type: none"> <li>Target more Clean Air Act funding to regions with a higher percentage of tribes in non-attainment</li> <li>Expand air quality permitting authority and programs under TAS</li> </ul>	
<b>Solid waste</b>	<ul style="list-style-type: none"> <li>Provide training on how to properly monitor and inspect USTs</li> <li>Create a separate funding source beyond GAP for solid waste management</li> </ul>	6
<b>Science</b>	<ul style="list-style-type: none"> <li>Use objective, sound science backed by tribal knowledge</li> </ul>	3
<b>General funding</b>	<ul style="list-style-type: none"> <li>Ensure adequate funding for tribal environmental programs</li> <li>Provide sufficient funding for implementation, not just capacity building</li> <li>Develop and implement self-determination funding contracts</li> <li>Provide funding for shared services that would benefit all tribes, such as tribal software tools</li> <li>Offer funding support for tribal food sovereignty and food security efforts</li> </ul>	14
<b>Compliance</b>	<ul style="list-style-type: none"> <li>Evaluate the compliance of facilities of concern listed in ETEPs</li> <li>Boost compliance enforcement</li> </ul>	2
<b>GAP</b>	<ul style="list-style-type: none"> <li>Provide flexibility under GAP guidance in how tribes define goals, approaches, and capacity indicators</li> <li>Reduce the administrative burdens of the GAP requirements</li> <li>Revise GAP guidance to more thoroughly reflect tribal input</li> <li>Expand funding under GAP</li> </ul>	11
<b>Climate change</b>	<ul style="list-style-type: none"> <li>Provide more support and technical assistance for climate change vulnerability and adaptation planning</li> </ul>	3
<b>Tribal-state relationships</b>	<ul style="list-style-type: none"> <li>Foster relationships between tribes and states</li> </ul>	1
<b>Regulatory support</b>	<ul style="list-style-type: none"> <li>Protect subsistence activities by increasing protections for habitats of commonly harvested species</li> <li>Fund restoration projects that address nutrient issues</li> <li>Stop deregulating environmental protections in favor of industry interests</li> <li>Use United Nations Declaration on the Rights of Indigenous Peoples as a model for improving the federal trust responsibility toward tribes</li> </ul>	7
<b>Tribal technological capacity</b>	<ul style="list-style-type: none"> <li>Provide TTA for tribal data management and data exchange</li> </ul>	2

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Media/Issue	Recommendation(s)	Frequency
	<ul style="list-style-type: none"><li data-bbox="513 333 1209 426">• Develop a guide to support tribes in advancing their technological capacity to better engage with Exchange Network partners</li></ul>	