

## Chapter 6

# TIP Adoption & Submission

After your tribe has developed your Tribal Implementation Plan (TIP), your tribe needs to have it adopted by your tribal government and approved by the Environmental Protection Agency (EPA). There are several steps your tribe needs to follow to adopt your TIP and submit it to EPA for approval, including public notice, public hearings, and formal adoption. This chapter will help guide your tribe through the public outreach process and the requirements for public notification and hearings. It also presents information on how your tribal government must formally adopt your TIP and what happens once your TIP is submitted to EPA.

### Adopting Your TIP

*What is public outreach and how does your tribe prepare an outreach strategy?*

Public outreach involves communication with all affected parties about the development of your TIP. The CAA requires that your tribe provide reasonable notice and conduct public hearings prior to adopting your TIP. These



*The Oneida Creek on the Reservation of the Oneida Tribe of Indians of Wisconsin. The Tribe is in the process of building its air program, beginning with an emissions inventory.*  
(Photo courtesy of the Oneida Tribe of Indians of Wisconsin.)

requirements are discussed later in this Chapter. In addition to these minimum requirements, it may also be useful to conduct other public outreach efforts even earlier in the TIP development process. Such outreach is not required; however, it is likely to benefit both your tribe and potentially affected parties. Affected parties (including, for example, residents within the exterior boundaries of your reservation and in adjacent counties, business owners and operators, and air quality managers in adjacent jurisdictions) are likely to be more helpful if they have been included in the entire process. They may have ideas, viewpoints, or concerns to contribute that your tribe may not have considered otherwise. Your early outreach may also enhance their ability to contribute to the TIP development process.

The first step in organizing your outreach strategy is to identify the main issues and how your tribe will address them. One way to accomplish this task is to hold a brainstorming session with your staff and/or other individuals who may be able to provide ideas or guidance. In the *It All Adds Up to Cleaner Air* initiative, EPA used the set of questions found in Table 6-1 to begin their brainstorming on ways to effectively communicate with the public. These questions may help your tribe begin thinking about your TIP outreach strategy. The examples have been altered to reflect a TIP development scenario.

**Table 6-1. Brainstorming Questions for Developing a TIP Outreach Strategy**

Questions	Possible Answers
What is the issue your tribe wants to address?	<ul style="list-style-type: none"> <li>» Unacceptable air pollution in the community</li> <li>» Nonattainment status for a criteria air pollutant</li> <li>» Permitting new major sources of emissions</li> <li>» Fill regulatory gaps</li> </ul>
What is the overall goal?	<ul style="list-style-type: none"> <li>» Explain the current or potential air quality problem and your approach to resolving it</li> </ul>
What are the desired outcomes?	<ul style="list-style-type: none"> <li>» Widespread support for TIP</li> </ul>
Which groups are most affected by the issue?	<ul style="list-style-type: none"> <li>» General public, driving public, people with respiratory disorders, the elderly, children</li> <li>» Health professionals</li> <li>» Tribal government and agencies</li> <li>» Federal, state, and local government agencies (e.g., the Bureau of Indian Affairs)</li> <li>» Business owners/employees</li> </ul>
What can your tribe do?	<ul style="list-style-type: none"> <li>» Meet with people</li> <li>» Conduct media outreach</li> <li>» Hold public hearings</li> <li>» Make the proposed TIP and supporting information readily available</li> </ul>
Does your organization have the capacity to address the issue and affect change?	<ul style="list-style-type: none"> <li>» Determine any barriers to adopting the TIP, e.g., tribal council members, tribal laws and customs, jurisdiction disputes, resources</li> <li>» Assess current resources, e.g., staffing, funding, information, time</li> </ul>
What strategy will your tribe use?	<ul style="list-style-type: none"> <li>» Develop a plan, including all program tasks, a timetable, staffing and budge issues, evaluation methods, and partnerships</li> </ul>

***What kind of information can your tribe provide to interested parties to enhance their ability to participate in the TIP development process?***

In general, so that any interested person may be informed about the air quality on the reservation, the need to develop a TIP, and the procedures that will be used to manage air quality, EPA suggests that your tribe provide the following support information, as appropriate:

- » Ambient monitoring data with comparisons to the National Ambient Air Quality Standards (NAAQS), if available
- » Air quality trends and forecasts (this is especially important if new sources of emissions plan to begin operating on the reservation)
- » Emission limits and regulations needed to attain and/or maintain the NAAQS
- » A demonstration that the proposed regulations will resolve the air quality problem
- » Documentation that the emission limits and regulations will require the use of Reasonably Available Control Measures, including reasonably available control technology, on sources in nonattainment areas (if applicable)
- » Procedures that will be followed to enforce regulations
- » Budgets for the air quality program and/or the tribal environmental agency

***Whom should you try to reach with the outreach strategy?***

Many people will be interested in your TIP because it may affect their business costs, jobs, and air quality. You might want to meet with tribal leaders and/or other tribal members, individually or as a group, to present the TIP before presenting the TIP to other interested parties. Others who may wish to participate and have their views heard include owners and operators of businesses that emit air pollutants, their employees, residents, and environmental groups. Additional groups that may be interested in your TIP include:

- » Community, civic, neighborhood, and public health groups
- » Homeowner and resident organizations
- » Media/Press
- » Spiritual communities

Additionally, if your reservation borders Mexico or Canada, your tribe may need to consider informing foreign governments about your TIP, especially if your tribe is considering adopting a Prevention of Significant Deterioration, or PSD, program. The EPA tribal air coordinator for your region can provide your tribe with guidance about whom to inform and which interest groups and businesses your tribe should try to reach (see Appendix A).

***How can your tribe effectively communicate with all interested parties?***

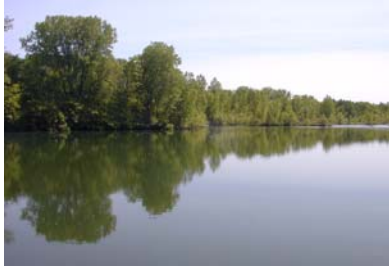
Means of communicating to the public about your proposed TIP include:

- » Speeches
- » Presentations
- » Newspaper articles
- » Editorials
- » Brochures
- » Meetings
- » Letters to the editor
- » Public service announcements

The tribal air program training manual developed by Northern Arizona University describes five steps to effectively communicate with the public.<sup>1</sup>

- » **Problem/Issue Analysis:** Examine your problem or issue and determine your goals; for example, educating the community about the air quality situation so that they can contribute to identifying air quality goals.
- » **Audience:** Determine who your audience is and its characteristics
- » **Medium Determination:** Determine what media or channels of communication your tribe will use to reach your audience
- » **Message Development:** Select the appropriate message for each communication method
- » **Evaluation:** Devise a method of evaluating whether or not your campaign was successful; for example, your tribe can count the number of people who attend educational meetings about air quality and their reactions to your suggested air quality goals

The communication methods your tribe can use range from speeches and presentations, to newspaper articles, editorials, the internet, brochures, and community meetings. Your tribe can write news releases and public service announcements which newspapers and radios will often run for free. Letters to the editor are another good way to gain exposure. Your tribe can also use these forums to update the public on the status of TIP development and any



*The Quarry Lake on the Reservation of the Oneida Tribe of Indians of Wisconsin.*

(Photo courtesy of the Oneida Tribe of Indians of Wisconsin.)

***What are the minimum requirements for notice and public hearings?***

changes that may occur. For example, a weekly or monthly column in a local newspaper or newsletter would enable many people to stay up-to-date on air quality issues while your tribe is developing the TIP. Check with area newspapers or radio stations before submitting any press release or public service announcement as there may be guidelines on how to prepare them.

When preparing documents or statements to reach stakeholders, use clear, concise language; explain complicated scientific terms; and use acronyms sparingly. It is also helpful to discuss the various impacts that may arise from implementing a TIP.

When communicating with local citizens groups, it may be helpful to relate air quality issues to the more familiar issues of water quality, natural resource quality, and even quality of life. Referencing these more familiar issues can help people understand that air quality is an important part of everyday life. Your tribe may need to give speeches or presentations to different groups of stakeholders and choose to alter your presentation to suit their interests. For example, tribal members may want to know more about the importance of good air quality for long-term human health, the health of farm crops and natural vegetation, and the tribe's culture, while representatives from business and industry may want more technical explanations of proposed emissions reductions.

Public notice allows interested parties to review your plan and offer comments at a meeting to be held later in the process. Your tribe must make the TIP available for public review by having it accessible in public locations on and off the reservation, and provide information about how, when, and where the public can access it in a prominent advertisement in a general circulation newspaper. This advertisement can also provide information about the public hearing(s) for the TIP. Notice should be provided at least 30 days prior to the date of the hearing.

Public hearings are required so that all those that are affected by the proposed law have an opportunity to review



*Ocumulgee National  
Monument, GA*

The National Monument preserves a continuous records of human life in the Southeast from the earliest times to the present. From Ice-Age hunters to the Muscogee (Creek) people of historic times, there is evidence here of 12,000 years of human habitation. (Photo courtesy of the National Park Service)

the plan and make comments. The CAA requires that public hearings are held before an implementation plan is sent in for EPA's approval.<sup>2</sup> There are certain requirements for holding public hearings. These requirements are outlined in 40 CFR Part 51.102(d) and are as follows:

- » Notice should be given to the public by prominent advertisement in the area affected announcing the date(s), time(s), and place(s) of such hearing(s);
- » The proposed plan should be available for public inspection in at least one location in each region to which it will apply;
- » The EPA Administrator should be notified (through the appropriate Regional Office);
- » Notification should be provided to each local air pollution control agency which will be significantly impacted by such plan, schedule, or revision;
- » In the case of an interstate region, notification should be given to any other states included, in whole or in part, in the regions which are significantly impacted by such plan or schedule or revision.

A tribe may request approval from EPA to utilize procedures different from those listed above, however such alternative procedures would have to ensure public participation in matters for which hearings are required and provide adequate public notification of the opportunity to participate.<sup>3</sup> In addition to the above requirements, there are suggestions on how to make the process run more smoothly. These suggestions are listed below.

- » Consider holding a hearing in the evening to accommodate those people that cannot attend a daytime hearing.
- » Include in the notice how the public can obtain a copy of the TIP. Make the plan available on and off your reservation.

- » Try not to make changes to the TIP between the time of advertising and the hearing, if possible. If significant changes are made to the TIP during this time, the TIP may need to be “re-proposed” to the public through additional advertising.
- » In the notice for the hearing, explain the air quality goals to be achieved and how the TIP will help to meet those goals.
- » Allow everyone to speak during the hearing, if possible. If there is a large number of people interested in speaking, your tribe may want to have time limits on comments to ensure there is time to hear from everyone.
- » Make the hearing transcripts available to the public. These transcripts need to include a list of speakers and their remarks.

After the public hearing, your tribe should prepare a summary of the public’s comments and your responses, showing how they may have influenced the final version of the TIP.

***Are there other consultation requirements?***

Under Section 121 of the CAA, consultation with certain governmental entities (e.g., Federal land managers) may be necessary before you adopt your TIP. You should consult with your EPA regional contact to determine whether or not such consultation will be required.

***How does your tribal government formally adopt the TIP?***

After the consultation process, public notice period, public hearings, and any revisions resulting from public comment, the tribal government can adopt the TIP. The tribal government must adopt the TIP in the tribal code or body of regulations. Your tribe’s laws and constitution may include procedural requirements that you will also need to follow in conducting and completing the adoption of the TIP.



# Submitting Your TIP to EPA for Approval

## *What needs to be submitted to EPA along with the TIP?*

Once your tribe has adopted the TIP, it should be submitted to EPA for approval. Appendix H, *TIP Enforceability Checklist*, provides criteria that can be used to determine if your regulations are clearly written before your TIP is submitted. Appendix K, *TIP Completeness Checklist*, provides an example of one Region's criteria for deeming a TIP submission complete.

The EPA has specified in the Code of Federal Regulations (40 CFR 51, Appendix V), the information that must be submitted with your TIP in order for it to be deemed a complete submission.<sup>4</sup> The list is broken down into administrative requirements, technical requirements, and exceptions to the requirements.

The administrative requirements are:

- » A formal letter from your tribe's Chair/President/Chief to EPA requesting approval of the plan
- » Evidence that the TIP was adopted into tribal code
- » Evidence of your tribe's legal authority to adopt and implement the TIP
- » Evidence that your tribe is eligible to implement the TIP, including evidence that your tribe has adequate personnel and funding
- » A copy of the tribal air code and the date the TIP is effective and enforceable
- » Certification that public hearings were held
- » A copy of the public comments and your tribe's response



*A major stationary source located on the Fort Hall Reservation on a winter day. A portion of the reservation was designated nonattainment for the  $PM_{10}$  NAAQS in 1990. The Shoshone-Bannock Tribes and the EPA worked together to address pollution from the source (see Chapter 1). (Photo courtesy of Shoshone-Bannock Tribes.)*

The technical requirements include, as applicable:

- » A list of regulated pollutants affected by the plan
- » Locations of affected sources and the air quality designation of their locations (i.e., attainment, unclassifiable, nonattainment)
- » Projected estimates of changes in current actual emissions from affected sources
- » Modeling information (i.e., input and output data, justification of models used, data and assumptions used)
- » Evidence that the plan contains emission limitations, work practice standards, and record-keeping/reporting requirements

Since the Tribal Authority Rule (TAR) allows tribes to adopt severable TIP elements and build a TIP in a modular fashion, it may not be necessary to meet every requirement listed. Consult with EPA's tribal air coordinator in your region before submitting your TIP to determine which requirements will apply to your submission (see Appendix A).

In addition to the documents listed above, your tribe may also need to provide additional supporting materials. Examples of these materials include air quality data summaries, current and projected emissions inventories, and dispersion modeling analyses. Any documents that support your use of certain control technologies, inventory development, and other air quality documents should be submitted along with your TIP.

If your tribe has not already requested and received approval for "treatment as a state" for purposes of adopting a TIP, then this request should also be submitted with your TIP (see Chapter 1 for a more detailed discussion regarding this submission). Please note that the statutory timeframes discussed in the next Section regarding completeness

determinations and TIP approval would not apply unless your tribe has received approval for “treatment as a state” for purposes of those provisions.

***What does EPA do after your tribe has submitted your TIP?***

After your tribe has submitted the TIP to your regional EPA office, they will review it for completeness within 6-months. If your TIP submission is incomplete, EPA will return it for revision. Your tribe can resubmit the TIP when appropriate changes have been made. If EPA does not make a completeness or incompleteness finding within 6 months from the date the TIP was received, the TIP submission will automatically be deemed complete.

Partial approval/partial disapproval of your TIP may occur if some sections of your TIP are approvable but other sections are not approvable. Plans may also be approved conditionally if it is necessary for the tribal government to make certain revisions to the TIP before the TIP can be fully approved by EPA. If your TIP is partially or conditionally approved, your tribe will need to revise it and resubmit it to EPA for approval. If EPA finds that the TIP meets the requirements of the CAA, the Agency will approve it. If a tribe’s reservation boundary or other areas under the tribe’s jurisdiction are under dispute, EPA may approve the plan for the undisputed areas and request more information to resolve the conflict. Within 12 months of a TIP being deemed complete, EPA must approve or disapprove the TIP.

The EPA will notify your tribe prior to making any final decision to fully or partially approve or disapprove your TIP. EPA must take public comment on its intention to approve or disapprove your TIP in the Federal Register.

## **Revising Your Approved TIP**

***Why would your TIP need revising once it has been approved?***

If the NAAQS change or if EPA revises regulations pertaining to a program that a tribe has adopted, the tribe may have to revise its regulations and submit those regulations as TIP revisions.

In addition, if tribal laws change or if your tribe finds that your TIP is not as effective as it could be in certain areas, your tribe may wish to revise it. For example, if a source has altered its production methods it may require a different emission limit. Your tribe may also wish to change the air quality designation of your reservation and this would also require a revision in your TIP.

When the TIP needs to be revised, the same procedures must be followed as with the original TIP, and EPA applies the same completeness criteria when reviewing it for approval.<sup>4</sup>

## Conclusion

A TIP is a flexible tool your tribe can use to address its air quality goals. Your tribe can choose to develop and implement only those TIP elements - maintenance plans, attainment plans, preconstruction permitting program, and regional haze plans - it considers important for addressing air quality problems due to criteria pollutants. If your tribe chooses to adopt a TIP, your regional EPA tribal air coordinator and the references provided in this document can help your tribe develop one.

## Endnotes

1. For more information on communicating with the public and other topics relating to air program development, see *Developing a Tribal Air Program, Training Manual* (April 1999) by the Institute for Tribal Environmental Professionals, Northern Arizona University, and US EPA Region 6.
2. The requirements for public participation are established in the CAA section 110 and codified in 40 CFR 51.102.
3. Requirements for public hearings can be found in 40 CFR 51.102. Under 40 CFR 51.102(g) a Tribe may request alternative procedures.
4. 40 CFR 51, Appendix V identifies the criteria for determining the completeness of an implementation plan submission. Only a submission that is found or deemed complete triggers the requirement for EPA to decide whether to approve or disapprove the TIP.