



U. S. Environmental Protection Agency

Office of Solid Waste and Emergency
Response

FY 2010 National Program Manager's
Guidance

April 2009

This page intentionally left blank

Table of Contents

| | |
|---|---------|
| Executive Summary | 1 – 9 |
| Key National Program Strategies and Priorities | |
| Superfund Remediation and Federal Facilities | 10 – 14 |
| Emergency Response and Prevention | 15 – 20 |
| Brownfields and Land Revitalization | 21 - 24 |
| RCRA Waste Management | 25 – 34 |
| Underground Storage Tanks | 35 - 45 |
| Synopsis of OSWER’s Feedback Process | 46 |
| State Grant Work Plan Instructions | 47 - 51 |
| Attachments | |
| FY 2010 Measures Appendix | I |
| FY 2010 State Grant Measures Appendix | II |
| American Recovery and Reinvestment Act Measures | III |
| Comments and Response to Comments Summary | IV |

Executive Summary: Office of Solid Waste and Emergency Response (OSWER)

I. Program Office

This guidance contains implementation priorities for all OSWER program offices: the Office of Superfund Remediation and Technology Innovation (OSRTI), the Federal Facilities Restoration and Reuse Office (FFRRO), the Office of Emergency Management (OEM), the Office of Brownfields and Land Revitalization (OBLR), the Office of Resources Conservation and Recovery (ORCR) and the Office of Underground Storage Tanks (OUST). OSWER's enforcement counterparts, principally the Office of Enforcement and Compliance Assurance's (OECA's) Office of Site Remediation Enforcement (OSRE) and Federal Facilities Enforcement Office (FFEO), also are represented in this guidance. Basic approaches remain the same from last year.

II. Introduction/Context

The OSWER guidance defines national policy, strategic goals and priority activities consistent with *OSWER's Action Plan*¹, as well as Superfund enforcement goals managed by OECA. This guidance, prepared to implement priorities described in *EPA's 2009-2014 Strategic Plan*² and in *EPA's FY 2010 Annual Performance Plan and Congressional Justification*³, should be used to assist in National Environmental Performance Partnership System (NEPPS) discussions.

III. Program Priorities

The following objectives characterize EPA's land program activities: Revitalization; Recycling, Waste Minimization and Energy Recovery; Emergency Preparedness, Response and Homeland Security; Implementation of the Energy Policy Act of 2005 (EPAAct); and Clean Energy and Greenhouse Gas Reduction.

Revitalization: All of EPA's cleanup programs (Superfund Remedial, Superfund Removal, Superfund Federal Facilities Response, Resource Conservation and Recovery Act (RCRA) Corrective Action, Brownfields, and Underground Storage Tanks) and their partners are taking positive action to protect human health and the environment through the cleanup and revitalization of contaminated properties. This action includes using enforcement to hold responsible parties accountable for performing or paying for cleanups. Revitalizing these once productive properties can provide numerous positive benefits for communities such as removing blight, satisfying the growing demand for land, limiting urban sprawl, fostering ecologic habitat enhancements, enabling economic development, and maintaining or improving health and the quality of life.

¹ OSWER's Action Plan can be found at <http://www.epa.gov/oswer/actionplan/index.htm>

²The 2009-2014 EPA Change Document can be found at http://www.epa.gov/ocfo/plan/pdfs/strategic_plan_change_document_9-30-08.pdf Waste programs and their enforcement components are contained in goals 3, 4 and 5.

³ Placeholder for link to *FY 2010 Annual Performance Plan and Congressional Justification*.

- Recycling, Waste Minimization and Energy Recovery: EPA’s strategy for reducing waste generation and increasing recycling is based on: (1) establishing and expanding partnerships with businesses, industries, states, communities, and consumers; (2) stimulating infrastructure and new technology development, environmentally responsible behavior by product manufacturers, users, and disposers (“product stewardship”), and new technologies; and (3) helping businesses, government, institutions, and consumers through education, outreach, training, and technical assistance. Furthermore, EPA’s Resource Conservation Challenge (RCC) programs contribute to the reduction of energy use and greenhouse gas (GHG) emissions.
- Emergency Preparedness, Response, and Homeland Security: EPA has a major role in reducing the risk to human health and the environment posed by accidental or intentional releases of hazardous substances and oil. EPA will improve its capability to effectively prepare for and respond to these incidents. EPA will also continue to work with other Federal agencies to prepare for nationally significant events as part of our Homeland Security responsibilities under the National Response Framework (NRF). These responsibilities include responses to biological, chemical, and radiological warfare agents.
- Implementing the EPCRA: EPA has a critical role in implementing the provisions of the EPCRA. The EPCRA substantially enhances the underground storage tank (UST) release prevention program to minimize future releases from USTs and provide additional emphasis on remediation of leaking USTs. Implementing the EPCRA provisions includes conducting more frequent inspections, prohibiting delivery to noncompliant tanks, and requiring either secondary containment for new tank systems or financial responsibility for manufacturers and installers. For further information and final EPA grant guidance, see <http://www.epa.gov/swerust1/fedlaws/EPCRAUST.htm>.
- Clean Energy and Greenhouse Gas Reduction: EPA is looking for opportunities to reduce or avoid GHG emissions through improved materials and land management practices. These include the promotion of materials management practices through the RCC and land management practices such as green remediation and the siting of renewable energy on contaminated lands.

IV. Regional Priorities

In late 2005, the Deputy Administrator asked the Regions to identify a limited number of regional and state priorities. These priorities were based upon dividing the nation into geographic groups and establishing performance measures to support the priorities. The geographic areas include the Northeast, Midwest, Great South, Great American West, Tribes, U.S.–Mexico Border and Islands.

Many of the performance measures developed by these regional groups support OSWER national program priorities. The selected regional priorities that align with or support

OSWER's national goals include Superfund and Brownfields site assessments; Superfund construction completions; Brownfields acres made ready for reuse; emergency preparedness training and exercises; and tribal efforts to increase the number of tribes covered by integrated waste management plans, to close, cleanup, or upgrade open dumps, and to assess, clean up, and redevelop Brownfields properties.

The U.S.-Mexico border priority concerning removal and disposal of scrap tires supports OSWER's waste management priorities. Under the Midwest's Lead Poisoning priority, residential properties are being restored using Superfund authorities. These actions support Superfund priorities.

V. Tribal Program Development

OSWER supports tribal governments through capacity building, technical assistance, research and outreach. OSWER's tribal program is focused on implementing the *OSWER Tribal Strategy, an EPA and Tribal Partnership to Preserve and Restore Land in Indian Country*, which describes in detail each of OSWER's program strategies, priority activities, and associated measures for tribes; and provides cross-program strategies, direction, and national initiatives for OSWER's tribal program from 2009-2014. Through implementation of the OSWER Tribal Strategy, EPA will strengthen partnerships with tribes, improve tribal participation in OSWER-related programs, improve tribal data quality and accessibility, and enhance environmental protection in Indian country.

As part of the efforts to implement the OSWER Tribal Strategy, OSWER will focus on the following key areas to help improve tribal program development and performance:

- Actions that enable tribes to implement sustainable waste management programs, where tribes have built capacity and demonstrate program readiness.
- Climate change impacts on Native American communities and opportunities to reduce the carbon footprint in Indian country (e.g., land management, waste management and energy and resource conservation initiatives in Indian country).
- Reporting tribal-specific OSWER cross-program measures,
- EPA's role/approach to risk assessment and risk reduction in Indian country.
- New technologies for tribal outreach.
- Tribal support through the OSWER cooperative agreement with the Institute for Tribal Environmental Professionals.

VI. Environmental Justice and CARE

Environmental justice (EJ) is a priority through all of OSWER's waste programs, promoting healthy and environmentally sound conditions for all people. By integrating EJ into all its programs, OSWER seeks to mobilize its resources to address the needs of disproportionately burdened communities. OSWER has made a commitment to integrate EJ into its day-to-day activities through biennial "EJ Action Plans," and to perform EJ program reviews, incorporating their lessons for program improvement. OSWER supports the development of activities related to environmental justice that meet our agency annual and long term goals and aligns its program commitments with EPA's 2009-2014 Strategic Plan, the Administrator's priorities, and regional priorities.

To facilitate the continued integration of EJ into its programs, OSWER will:

- Identify measurable results from its program offices;
- Affirm commitment to conduct EJ program reviews;
- Overcome barriers to incorporating EJ in decision making; and
- Consider approaches for incorporating EJ in setting priorities, allocating resources, targeting activities, and measuring progress.

EPA's Community Action for a Renewed Environment (CARE) program supports the Agency's priorities for protecting children and upholding citizens' rights to be knowledgeable about the health of their environment. CARE is a community-based, multimedia collaborative Agency program designed to help local communities address the cumulative risk of toxics exposure. EPA program offices work together to provide technical support and funding to communities to help them build partnerships and use collaborative problem solving processes to select and implement actions to improve community health and the environment. Information about CARE can be found at: <http://www.epa.gov/care/>.

Beginning in FY 2010, EPA will implement a performance measure to report the number of CARE projects supported by EPA regional offices. The following principle activities should be undertaken by the Regions to support the CARE program:

- Provide regional support needed to ensure the success of the region's CARE cooperative agreements.
- Consider and implement CARE regional best practices as appropriate. (Regional best practices for support of CARE communities developed by the CARE Program and CARE Executive Team).
- Identify experienced project officers/leaders for each of the CARE projects and provide training and support, as needed.
- Strengthen multi-media and cross program regional team organized to support CARE project leaders and CARE community needs.
- Work with CARE Level I projects, through the project officers, to help provide the technical support needed for communities to identify and rank their risks.
- Work with CARE Level II projects, through the project officers, to help communities' access EPA voluntary programs and measure and track results.

- Ensure staff participation in training for new project leaders and national CARE workshop.
- Participate in the evaluation of the CARE projects and support work to develop best practices and lessons learned to improve CARE program.
- Support CARE national teams that have been organized to manage the CARE program and provide support to regional teams.

VII. Implementation Strategies

The Superfund Remedial program will focus on cleaning up contaminated National Priorities List (NPL) sites and making them available for beneficial reuse. These goals will be achieved by assessing the worst sites first, ensuring that human exposure to toxic chemicals and migration of contaminated groundwater are under control, selecting remedies that optimize reuse and revitalization, completing construction of remedies, fully implementing institutional controls where necessary, ensuring sites are ready for anticipated use, and working with public and private stakeholders to redevelop sites. States, tribes and local governments are key partners in the cleanup of Superfund hazardous waste sites and the implementation of institutional controls necessary to protect public health and the environment. Superfund's regional programs will continue to work closely with these partners in accomplishing key goals and objectives under EPA's 2009 - 2014 Strategic Plan.

The Superfund Federal Facilities Response program will focus on achieving site construction completions and promoting reuse at Federal facilities listed on the NPL and specific Base Realignment and Closure (BRAC) bases. Work at these sites will be done collaboratively with our Federal, state, tribal and local partners as well as affected communities. The Federal Facilities Enforcement program will use the most appropriate enforcement and compliance tools to address the significant problems at these sites. In addition, the program will try to resolve outstanding site-specific disputes as well as obtain statutorily mandated Interagency Agreements (IAGs)/Federal Facility Agreements (FFAs) at those NPL sites without one. The Superfund Federal Facilities Response and Enforcement programs will work together to ensure that the Federal government addresses its responsibilities at NPL and those BRAC sites with active EPA involvement.

The Superfund Removal and Oil programs will ensure that releases of hazardous substances and oil in the inland zone are appropriately addressed to reduce the threat to human health and the environment. The Oil program will promote spill prevention by communicating the revised Spill Prevention, Control and Countermeasure (SPCC) regulation and working with industry to implement the requirements. EPA will continue to support local, state and other Federal responders at incidents when Federal support is needed and appropriate, and direct and/or monitor responses by responsible parties. EPA will ensure a coordinated effort concerning homeland security issues, among its own offices and with other Federal agencies, to prepare for coordinated and effective responses to nationally significant incidents. EPA also will actively audit facilities that are required to have Risk Management Plans (RMPs) and analyze RMP data to understand trends in and causes of chemical accidents. RMP data also will be utilized to

conduct outreach to improve chemical safety.

The Brownfields and Land Revitalization program will promote assessment, cleanup, and redevelopment of brownfields and other contaminated properties; fund grant programs and other research efforts; clarify liability issues; enter into partnerships with local, state, tribal and Federal entities; conduct outreach activities; and support brownfields job training programs. Regions will continue to implement the Brownfields and Land Revitalization program; support the national grant competition; emphasize performance and outcome measurement; work with state and tribal co-implementers of the Brownfields law; provide technical outreach support; and address environmental justice issues. The program also will prioritize sustainability, research and providing technical assistance to communities to implement sustainable redevelopment practices on brownfields and other contaminated properties.

The RCRA program continues its focus on two primary areas. One is the continued existing statutory obligations to ensure the safe management of hazardous and non-hazardous waste and to clean up hazardous and non-hazardous releases. The other is our emphasis on resource conservation and materials management through partnerships. Much of the effort toward solid waste and chemicals reduction and recycling is under the RCC program. The RCRA program also will continue its efforts to meet the commitments made as part of the Special Regional Priority for the Mexico Border area.

The Underground Storage Tank (UST) program will continue to assist states and tribes in implementing the UST program. The program has a strong focus on preventing leaks from USTs, and detecting, as early as possible, leaks when they occur. The program also has a strong cleanup focus to assess and clean up leaks from USTs, including those at brownfield sites contaminated with petroleum. The UST program places a high priority on close collaboration with tribes and will continue to work with them to implement the UST program in Indian Country and to build tribal capacity in the program. In addition, the program works very closely with, and provides assistance to, states to help them meet their continuing responsibilities, as well as their responsibilities authorized under the EPAct.

EPA, states, territories, and tribes are working together to develop the National Environmental Information Exchange Network, a secure, Internet- and standards-based way to support electronic data reporting, sharing, and integration of both regulatory and non-regulatory environmental data. Where data exchange using the Exchange Network is available, states, tribes and territories exchanging data with each other or with EPA should make the Exchange Network and EPA's connection to it, the Central Data Exchange (CDX), the standard way they exchange data and should phase out any legacy methods they have been using. More information on the Exchange Network is available at <http://www.exchangenetwork.net/>

In addition to these program priorities, OSWER continues to emphasize the importance of cross-program revitalization measures to promote and communicate cleanup and revitalization-related accomplishments and associated benefits/values to society⁴. These acres-based measures will enable OSWER to describe the collective scope of sites being addressed by all of its cleanup programs as well as acres-based progress. During FY 2007, OSWER programs began implementing the following three cross-program revitalization measures, which are predominantly based on information the programs already collect:

- *Universe Indicator* - the total number of sites and acres being addressed by all OSWER's cleanup programs.
- *Protective for People Performance Measure* - the number of sites and acres at which there is no complete pathway for human exposures to unacceptable levels of contamination based on current site conditions.
- *Ready for Anticipated Uses (RAU) Performance Measure* - the number of sites and acres at which cleanup goals have been achieved for media that may affect current as well as reasonably expected future land uses, and institutional controls⁵ identified as part of the remedy are in place.

Data for FY 2007 and FY 2008 will be released in 2009. In FY 2010, OSWER programs will be expected to collect and report this data on an ongoing basis.

VIII. Measures

On October 11, 2006, the Deputy Administrator signed a memorandum entitled, *State Reporting Burden and Measures Streamlining Initiatives*,⁶ to provide an important opportunity for our state partners and EPA to identify burdensome requirements and measures for potential deletion or modification. Through these initiatives, EPA developed a smaller set of reporting requirements to support measures that are useful for monitoring Agency performance. EPA is working with its state partners to identify and address remaining high-burden, low-value reporting requirements.

For this Guidance, the Agency has undertaken a review of its measures to improve them and to ensure alignment with EPA's proposed 2009-2014 Strategic Plan. As a result of this review, OSWER has made 10 revisions to clarify measures or to align them across various planning and reporting documents. In addition, the Annual Commitment System (ACS) measure, "Tons of construction and demolition debris that is reused or recycled," has been eliminated and a new measure, "Number of major projects/efforts that support the implementation and/or development of programmatic components of the national and

⁴ See following websites for more information on documenting and reporting OSWER's land revitalization performance measures and indicators: http://www.epa.gov/fedfac/sf_ff_final_cprm_guidance.pdf, http://www.epa.gov/epawaste/hazard/correctiveaction/resources/guidance/brfields/lr_guid.pdf and <http://www.epa.gov/brownfields/pubs/rptforms.htm>

⁵ For more information concerning institutional controls please see <http://www.epa.gov/superfund/policy/ic/index.htm>

⁶ The October 11, 2006 memorandum entitled, "State Reporting Burden and Measures Streamlining Initiatives" can be found at http://www.epa.gov/cfo/npmguidance/fy07_memo_from_peacock.pdf

regional RCC efforts to address Municipal Solid Waste (MSW) recycling, industrial materials (IM) recycling, toxics reduction, or green initiatives,” has been implemented.

IX. Significant Changes to Priorities or Strategies from FY 2009

In FY 2010, the Brownfields and Land Revitalization Program plans to develop the guidelines to pilot a "multi-purpose" grant. This pilot will increase grantee flexibility by providing up to \$550,000 for assessment and cleanup activities at the same site. The new grant pilot is in response to stakeholder concerns surrounding the delay that can occur when a site is fully assessed but has not secured funding for cleanup activities. The goals of the multi-purpose grant pilot are to provide increased flexibility to recipients and expedite redevelopment efforts at a site. The Brownfields and Land Revitalization Program plans to evaluate the efficiency of the approach to determine if the pilot should continue in future years.

The Brownfields and Land Revitalization Program will promote efforts to sustainably reuse properties by encouraging green planning, design and construction, and renewable energy development. These efforts can result in better environmental performance and can help ensure that cleanups are protective after development. The Brownfields and Land Revitalization Program will also promote green jobs and local hiring at brownfields and other contaminated properties through its successful Job Training Grant Program.

EPA's Superfund program will direct additional effort and resources to the growing universe of sites that have reached the post-construction complete phase. Approximately 67 percent of final and deleted NPL sites have achieved construction completion and are in the post-construction phase of the cleanup pipeline, while many other sites have achieved completion of other milestones in the cleanup process.

The goal of post-construction completion activities is to ensure that Superfund response actions at both Federal and private sites provide for the long-term protection of human health and the environment. Post-construction completion activities also involve optimizing remedies to increase effectiveness and/or reduce cost without sacrificing long-term protection of human health and the environment. Five-year reviews generally are required when hazardous substances remain on site above levels that permit unrestricted use and unlimited exposure. These reviews are usually performed five years following the initiation of a CERCLA response action, and are repeated in succeeding five-year intervals so long as future uses remain restricted. Five-year reviews provide an opportunity to evaluate the implementation and performance of a remedy to determine whether it remains protective of human health and the environment.

The Agency will continue to focus attention on the management of special accounts to further advance program effectiveness and site cleanups. Superfund special accounts are site-specific, interest bearing sub-accounts within the Superfund Trust Fund established through settlements with potentially responsible parties and used to fund site-specific response work. Over the past two decades, EPA has collected and placed in special accounts more than \$2 billion in settlement funds, and has contributed more than \$1 billion to the cleanup of hundreds of Superfund sites. In FY 2010, EPA will continue

efforts to improve the management of Superfund special account resources by reviewing the planned uses of those resources with the Regions as part of the Superfund program's annual work planning process and implementing activities outlined in the Superfund Special Accounts Management Strategy.

X. Program Contacts

| Program/Issue | Contact |
|------------------------------|-----------------------------------|
| General OSWER | Sue Priftis (202) 566-1901 |
| | Howard Rubin (202) 566-1899 |
| | Glen Cuscino (202) 566-1906 |
| Superfund Remedial | Art Flaks (703) 603-9088 |
| | Janet Weiner (703) 603-8717 |
| Emergency Management | Lisa Guarneiri (202) 564-7997 |
| | Josh Woodyard (202) 564-9588 |
| | Bill Finan (202) 564-7981 |
| Brownfields | Juanita Standifer (202) 566-2764 |
| | Rachel Lentz (202) 566-2745 |
| OSWER Revitalization | Patricia Overmeyer (202) 566-2774 |
| Solid Waste | Wayne Roepe (703) 308-8630 |
| | Angela Talaber (703) 308-1848 |
| Underground Storage Tanks | Carolyn Hoskinson (703) 603-7166 |
| | Lynn DePont (703) 603-7148 |
| | Hal White (703) 603-7177 |
| Federal Facilities | Tencil Coffee (703) 603-0053 |
| Tribal | Felicia Wright (202) 566-1886 |
| Innovation | Jeffrey Kohn (202) 566-1407 |
| Clean Energy/ Greenhouse Gas | Cathy Allen (202) 566-1039 |
| Environmental Justice & CARE | Pat Carey (202) 566-0199 |

Superfund Remedial and Federal Facilities Response Programs

Goal Three: Land Preservation and Restoration

Subobjective 3.2.2: Clean Up and Revitalize Contaminated Land

On December 11, 1980, Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). CERCLA was enacted to fill a major gap in environmental and health protection by providing the Federal government with additional statutory authority to respond to releases and threats of releases of hazardous substances, pollutants and contaminants. CERCLA was later amended by the Superfund Amendments and Reauthorization Act in 1986.

The Superfund Remedial program addresses the risks to human health and the environment at contaminated properties or sites through cleanup, stabilization, or other action, and in so doing helps make these properties available for reuse. Resources in this program are used to: 1) collect and analyze data on sites to determine the need for a Federal CERCLA response, which may culminate in the placement of a site on the National Priorities List (NPL), 2) conduct or oversee investigations and studies to select remedies, 3) design and construct or oversee construction of remedies and post-construction activities at fund- and PRP-lead sites, 4) facilitate participation of other Federal agencies, state, local, and Tribal governments and communities in the program, 5) implement Superfund tribal guidance concepts to improve EPA's tribal consultation efforts in the Superfund program and consideration of tribal lifeways in the Hazard Ranking System, and 6) provide sound science and continually integrate smarter technical solutions into protection strategies.

The Superfund Federal Facilities Response program facilitates faster, more effective and timely cleanup and reuse of Federal facilities while ensuring protection of human health and the environment from releases of hazardous substances. Nationwide, there are thousands of Federal facilities which are contaminated with hazardous waste, military munitions, radioactive waste, fuels, and a variety of other toxic contaminants. These facilities include various types of sites, such as Formerly Used Defense Sites (FUDS); active, realigning and closed installations; abandoned mines; nuclear weapons production facilities; fuel distribution areas; and landfills.

The Agency fulfills a number of statutory and regulatory obligations at Federal facilities, including conducting oversight of those sites on the Superfund NPL where cleanup is being conducted by other Federal agencies, such as the Department of Defense (DoD) and the Department of Energy. A major role of the program is to ensure statutory responsibilities related to the transfer of contaminated Federal properties at both NPL and non-NPL sites are properly met. Such responsibilities include approval of transfers prior to implementation of remedies at NPL sites (i.e., early transfer), and approving determinations that remedies are operating "properly and successfully" at both NPL and non-NPL sites. Often EPA, and the parties implementing the remedies, face unique challenges due to the types of contamination present, the size of the facility and extent of

contamination, ongoing facility operations that need to continue, complex community involvement requirements, and complexities related to the redevelopment of the facilities.⁶

The Superfund Federal Facilities Response program also supports DoD at selected Base Realignment and Closure (BRAC) installations. With the enactment of BRAC legislation, more than 500 major military installations representing the Army, Navy, Air Force, and Defense Logistics Agency were slated for realignment or closure in 1988, 1991, 1993, 1995 and 2005. Under the first four rounds of BRAC, 107 of those sites were identified as requiring accelerated cleanup. Seventy-two Federal facilities currently listed on the NPL were identified under BRAC 2005 as closing, realigning or gaining personnel.⁷ EPA has worked with DoD over the past several years on their effort of privatizing BRAC sites.

Working together with Federal, state and tribal partners, the Superfund Response program accomplished the following activities in FY 2008:⁸

- Completed 415 final assessment decisions, for a cumulative total of 40,187 sites completing final assessment decisions since the program's inception.
- Selected cleanup plans at 73 sites; amended 8 cleanup plans; and issued 42 explanations of significant differences at 39 sites
- Conducted or oversaw 681 ongoing construction projects (by EPA, potentially responsible parties and federal facilities) at 423 sites
- Obligated more than \$55 million in appropriated funds, state cost-share contributions, and potentially responsible party settlement resources for 16 new construction projects ranked by the National Risk-Based Priority Panel at 15 National Priorities List (NPL) sites.
- Determined that the land at a net total of 85 additional NPL sites was ready for anticipated use sitewide.
- Achieved control of all identified unacceptable human exposures at a net total of 24 additional sites, bringing the program's cumulative total to 1306 sites under control.
- Achieved control of the migration of contaminated groundwater through engineered remedies or natural processes at a net total of 20 additional sites, bringing the program's cumulative total to 997 sites under control.
- Achieved construction completion at 30 sites for a cumulative total of 1060 NPL sites. In addition, 9 sites were deleted from the NPL for a cumulative total of 329 NPL site deletions.
- Conducted 221 Five-year reviews.

⁶ For more information on the Federal Facilities program go to <http://www.epa.gov/fedfac>.

⁷ For more information on the BRAC program go to <http://www.epa.gov/fedfac/documents/baseclosure.htm>.

⁸ For more information regarding the program's cumulative accomplishments through FY 2008, please refer to the Goal 3 Chapter of the Agency's *FY 2008 Performance and Accountability Report* at www.epa.gov/ocfo.

Program Priorities

In FY 2010, as in prior years, cleanup and response work at contaminated sites will remain the top priority of the Superfund Remedial and Federal Facilities Response programs. The Superfund Response program will continue to address challenging and complex environmental problems, such as contaminated soil and groundwater affecting residential, commercial, recreational and industrial areas that can cause human health problems. The goal of this work is ultimately to reduce current, direct human exposures to hazardous pollutants and contaminants and provide long-term human health protection. In addition to its cleanup work, the Superfund program will also undertake temporary activities, such as providing alternative drinking water supplies or relocating residents when appropriate, to protect people from threats posed by uncontrolled hazardous wastes, contaminated groundwater or surface water. These efforts demonstrate the Agency's commitment to protecting human health from both possible short- and long-term effects of site-related contamination.

In addition to protecting human health, the Superfund Remedial and Federal Facilities Response programs will continue efforts to render formerly contaminated sites Ready for Anticipated Use. To accomplish this goal, EPA will focus increased effort and resources on the growing universe of sites that have reached the post-construction complete phase. It is anticipated that this focused activity will yield short term increases in the number of sites determined to be Sitewide Ready for Anticipated Use. This is due to two factors: (1) a significant portion of NPL sites are already in the post construction phase and (2) the remaining sites not yet Construction Complete generally require more complex remedies and greater funding and personnel resources to manage.

Performance goals and measures for the Superfund Federal Facilities Response program are a subset of the Superfund Remedial program's measures. The Agency's ability to meet its annual Superfund targets is partially dependent on work performed by other Federal agencies at NPL Federal facility sites.

Performance Goals for FY 2010:

- (1) 330 remedial final site assessment decisions;
- (2) A net increase of 10 NPL sites with human exposures under control;
- (3) A net increase of 15 sites with groundwater migration under control;
- (4) A net increase of 65 sites deemed ready for anticipated use sitewide;
- (5) 22 construction completions; and
- (6) 7.0 sites with current or long-term exposure controlled per million dollars expended (PART efficiency measure).

The Superfund Federal Facilities program underwent a PART assessment entitled "EPA Support for Cleanup of Federal Facilities" in FY 2005 and received an overall rating of "moderately effective." As follow-up to the PART, the program has been working with other Federal agencies to attain long-term environmental measures. These efforts will

continue in FY 2010. In addition, the program conducted an evaluation aimed at policy review in FY 2006 to ensure policies and guidance documents are still relevant and comprehensive. The program implemented several of the resulting recommendations in FY 2007. Additionally, another program evaluation was conducted in FY 2008. Results and recommendations generated from this evaluation are being implemented in FY 2009 and in FY 2010. This program evaluation analyzed the Program's planning and data processes for cleanup milestones.

Implementation Strategies to Meet Performance Goals

This NPM guidance provides direction to the Regions to meet the priorities of the Superfund Remedial and Federal Facilities Response programs. In FY 2010, the Superfund program will focus on cleaning up sites and returning them to beneficial reuse. The general approach for achieving these goals will be assessing the worst sites first, ensuring that human exposure to toxic chemicals and migration of contaminated groundwater are under control, selecting remedies that optimize reuse and revitalization, completing construction of remedies and ensuring sites are ready for anticipated use. States, tribes, local governments, and other Federal agencies are key partners in the cleanup of Superfund hazardous waste sites and the implementation of institutional controls necessary to protect public health and the environment. Superfund's regional offices will continue to work closely with these partners in accomplishing these key goals and objectives under the EPA FY 2009 - 2014 Strategic Plan.

EPA is committed to providing resources to maintain adequate construction progress at all sites, including large and complicated remedial projects, once construction has started. Funding for Superfund construction projects is critical to achieving risk reduction, construction completion, and restoration of contaminated sites to productive reuse. The program will continue to work with Regions to improve long-term planning construction estimates and funding strategies. The Agency will also continue to emphasize the importance of community involvement throughout the cleanup process.

Superfund strives to utilize its resources so that its activities use natural resources and energy efficiently, reduce negative impacts on the environment, minimize or eliminate pollution at its source, and reduce waste to the greatest extent possible. This strategy supports the Agency's strategic plan for compliance and environmental stewardship⁹. The practice of "green remediation" uses these strategies to consider all environmental effects of remedy implementation for contaminated sites and incorporates options to maximize the net environmental benefit of cleanup actions¹⁰. In FY 2010, Superfund will continue its efforts to advance green remediation practices and identify new opportunities and tools to make "greener" decisions across Superfund cleanup sites.

In FY 2010, EPA will focus attention and resources to the growing universe of sites that reach the post-construction complete phase. As of the end of FY 2008, approximately 67 percent of NPL sites had achieved construction completion, while many other sites had

⁹ U.S. EPA Office of the Chief Financial Officer, 2006

¹⁰ <http://clu.in.org/greenremediation/>

achieved significant progress toward completion of all remedies. EPA plans to conduct over 280 five-year reviews in FY 2010, and the Agency will continue to need resources to conduct activities to ensure remedies (including institutional controls) are working optimally and as intended at sites where hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure.

The EPA Regions, with Headquarters oversight, will continue to evaluate all construction complete sites to ensure that necessary institutional controls (ICs) have been implemented. This work will identify many older sites for which ICs should have been implemented. EPA is also making IC information available on the internet to enable the public to view IC instruments affecting individual sites.¹¹ An information system has been developed to capture this information.

The Agency will continue to focus attention on the management of special accounts to further advance program effectiveness and site cleanups in FY 2010. Special accounts are site-specific, interest bearing sub-accounts within the Superfund Trust Fund established through settlements with potentially responsible parties and used to fund site-specific response work. Over the past two decades, EPA has collected and placed in special accounts more than \$2 billion in settlement funds, and has contributed more than \$1 billion to the cleanup of hundreds of Superfund sites. EPA will continue efforts to improve the management of Superfund special account resources by reviewing the planned uses of those resources with the Regions as part of the Superfund program's annual work planning process and implementing activities outlined in the Superfund Special Accounts Management Strategy.

¹¹ Please visit the following website to search Superfund site information:
<http://cfpub.epa.gov/supercpad/cursites/srchsites.cfm>

Emergency Preparedness, Response, and Prevention Programs

Goal Three: Land Preservation and Restoration

Subobjective 3.2.1: Prepare for and Respond to Accidental and Intentional Releases

EPA plays a major role in reducing the risks posed by accidental and intentional releases of hazardous substances and oil to human health and the environment. Under the National Response System (NRS), EPA and the U.S. Coast Guard evaluate thousands of spills and releases annually and often respond to the incidents. The Federal response is essentially a safety net to address the incidents that are beyond the capability of, or otherwise cannot be adequately addressed by, the state, Tribal or local agency or responsible party. EPA's primary role in the NRS is to serve as the Federal On-Scene Coordinator (OSC) for spills and releases in the inland zone.

The NRS is a multi-agency preparedness and response mechanism that includes the National Response Center, the National Response Team (composed of 16 Federal agencies), 13 Regional Response Teams and Federal OSCs. These organizations work with state and local officials to develop and maintain contingency plans that will enable the Nation to respond effectively to hazardous substance and oil emergencies. When an incident occurs, these groups coordinate with the OSC in charge to ensure that all necessary resources, such as personnel and equipment, are available and that containment, cleanup, and disposal activities proceed quickly, efficiently and effectively.

To prepare for large-scale responses to incidents such as the World Trade Center, the anthrax attacks, and the Columbia Shuttle recovery, the Agency instituted its National Approach to Response (NAR). The NAR emphasizes the need to provide the necessary levels and appropriate types of support during major responses and greater consistency across the Regions in emergency response capabilities. Preparedness on a national level is essential to ensure that emergency responders are capable of managing multiple, large-scale emergencies. EPA will improve its capability to effectively prepare for and respond to these incidents, working under its statutory authorities and, for major high-consequence incidents, will work closely with the Department of Homeland Security (DHS) and other government agencies within the National Response Framework (NRF).

As part of enhancing its readiness capabilities, EPA is continually working to improve internal and external coordination and communication mechanisms. For example, EPA's National Incident Coordination Team brings together various program offices during a response to ensure coordination of all Agency activities. Under the Continuity of Operations/Continuity of Government program, EPA continually upgrades and evaluates plans, facilities, training, and equipment to ensure that essential government business can continue during a catastrophic emergency.

EPA will continue to improve its capability to respond effectively to incidents that may involve harmful chemical, oil, biological, and radiological substances. The Agency will explore improvements in field equipment, response training and exercises, and technical capabilities. We also will review response data provided in "after-action" reports

prepared by EPA emergency responders following a release and examine “lessons learned” reports to identify which activities work and which need to be improved. Application of this information and other data will advance the Agency’s state-of-the-art emergency response operations.

In 2007, EPA made major revisions to its Core ER assessment tool. These changes included the reorganization of elements, the revision of standard language, the modification of criteria to better reflect standards, and the inclusion of criteria that better measure EPA’s capability to respond to multiple Incidents of National Significance. The regional average score has been used as a GPRA measure. Beginning in 2009, the Core NAR assessment tool will replace Core ER. The purpose of Core NAR is to build upon the Core ER concept while integrating the priority elements of EPA’s NAR Preparedness Plan, and the Homeland Security Priority Workplan, to reflect an Agency-wide assessment of progress.

Facility Oil Spill Preparedness and Prevention

The amended Clean Water Act requires facilities with certain quantities of oil to prepare Facility Response Plans (FRPs) and submit them to EPA (or other appropriate Federal agencies) for review and approval. Approximately 4,000 facilities must submit FRPs to EPA. EPA uses information in the FRPs to develop Area Contingency Plans under the National Contingency Plan. EPA inspects FRP facilities and conducts unannounced drills to test facility preparedness.

The Spill Prevention, Control and Countermeasure (SPCC) regulation under the Clean Water Act requires covered facilities to take specific steps to prevent and contain oil spills. EPA estimates that approximately 600,000 facilities are subject to the SPCC regulation. EPA amended the SPCC regulation in December 2006 and proposed additional amendments in 2007.¹² Facilities will have to develop and/or amend SPCC plans in compliance with the amended regulation in 2009. EPA inspects approximately 1,000 SPCC facilities each year.

Measures and Targets

Annual Output Measures and FY 2010 targets:

- Removal: PRP removal completions (including voluntary, AOC, and UAO actions) overseen by EPA. (target 170).
- Removal: Superfund-lead removal actions completed (target: 170).
- Oil: Percent of facilities brought into compliance (SPCC)(target: 15%).
- Oil: Percent of facilities brought into compliance (FRP) (target: 15%).
- Homeland Security: Score for Core NAR evaluation. (target: 55%)

¹² For more information on EPA’s proposed amendments to the SPCC regulation, please see http://www.epa.gov/OEM/content/spcc/spcc_oct07.htm

Long-term Output Measures:

- Removal: By 2014, oversee an additional 850 potentially responsible party (PRP) removal completions, including voluntary, administrative orders on consent (AOC), and unilateral administrative order (UAO) actions.
- Removal: By 2014, complete an additional 850 Superfund-lead hazardous substance removal actions.
- Oil: By 2014, reduce by 15 percent the number of gallons spilled at FRP facilities relative to the annual average of 1.73 million gallons spilled from 2004-2008.
- Homeland Security: By 2014, achieve and maintain at least 75 percent of the maximum score on the Core NAR evaluation criteria.

Efficiency Measures:

- Removal: Human exposure avoided per million dollars spent on fund-lead removal actions (EPA FTE/Travel costs and extramural dollars spent).
- Removal: Human exposure avoided per million dollars spent on PRP-lead removal actions (EPA FTE/Travel Costs).
- Oil: Total gallons of oil storage capacity verified as safely stored at inspected FRP and SPCC facilities during the reporting period per one million program dollars spent annually on prevention and preparedness. (Please note this is one measure combining FRP and SPCC because some facilities are subject to both regulations.)

SUPPORTING CHEMICAL ACCIDENT PREVENTION, PREPAREDNESS, AND RESPONSE AT THE LOCAL AND STATE LEVELS

Goal 4: Healthy Communities and Ecosystems

Subobjective 4.1.2: Reduce Chemical Risks at Facilities and in Communities

The Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA, also known as Title III of the Superfund Amendments and Reauthorization Act), created requirements for state and local planning and preparedness for chemical emergencies, and for public access to information concerning potential chemical hazards. State Emergency Response Commissions (SERCs) establish Local Emergency Planning Committees (LEPCs) that use information about chemicals in the community to develop comprehensive emergency plans. In addition, tribes can establish Tribal Emergency Response Commissions (TERCs). There are more than 3,000 LEPCs nationwide. EPA has supported this program with guidance, technical assistance, and some limited grants. EPA also worked with the National Oceanic and Atmospheric Administration (NOAA) to develop and provide the Computer-Aided Management of Emergency Operations (CAMEO) software to these committees free of charge. According to the latest LEPC Survey conducted in 2008, LEPCs and SERCs are continuing to address their responsibilities under EPCRA and some have expanded their activities to address homeland security.

In 1990, section 112(r) of the amended Clean Air Act (CAA) established requirements regarding the prevention and detection of accidental releases of hazardous chemicals. The Risk Management program established under those requirements is an extension of the EPCRA planning and preparedness programs. Facilities that handle certain quantities of regulated substances must develop risk management plans (RMPs) and submit them to EPA. In turn, EPA makes RMPs available to state agencies, LEPCs, and the public. Facilities first submitted RMPs in 1999 and updates are required at least every 5 years and more frequently as changes are made at the facility.

RMPs must include the following: an assessment of potential off-site consequences of an accidental release from a facility, a history of releases that have occurred at the facility, a program to prevent accidental releases and an emergency response program that is coordinated with the LEPC in the area where the facility is located.

EPA, working with states, tribes, local communities, industry, and other Federal agencies, oversees these programs with the perspective that:

- Operators of facilities who have hazardous chemicals are primarily responsible for the safe handling of those chemicals; and,
- State, tribal and local governments (as well as the community) play a critical role in risk reduction as well as mitigating the effects of chemical accidents.

In order to continue to assist state, local and tribal governments and industry in reducing the risks from chemical accidents or mitigating the effects of those accidents should they occur, EPA will:

- Continue to provide guidance, tools, and technical assistance to states, tribes, local communities, and industry to better enable them to reduce risk;
- Analyze existing RMP data as well as data gathered from audits to understand potential chemical risks and the causes and effects of releases; and
- Assist states, tribes, local communities, and industry in understanding how these chemical risks could affect communities, and how to reduce risk and prepare to address and mitigate risks should a chemical accident occur.

The Clean Air Act requires EPA to establish a system to audit and inspect RMPs. The audit/inspection system is used to continuously assess the quality of risk management programs, gather information on chemical risks, and check compliance with the requirements. All of these elements of the audit/inspection system assist in improving RMPs and reducing chemical risks. In the past, EPA established numerical audit/inspection targets without regard to the level of facility risk. Recently, however, there have been a number of developments relating to high-risk hazardous chemical

facilities that warrant increased focus by the Agency on the implementation of accident prevention and emergency planning and response regulations at such facilities.

In March 2007, the U.S. Chemical Safety and Hazard Investigation Board (CSB) published its final report on the March 2005 accident at the BP America refinery in Texas City, Texas. This accident resulted in 15 deaths, 180 injuries, and over \$1.5 billion in financial losses. The CSB investigation report recommended among other things that the Occupational Safety and Health Administration (OSHA) implement a national emphasis program for all oil refineries to focus on factors that caused or contributed to the BP accident. In response, OSHA has committed to conduct comprehensive Process Safety Management (PSM) inspections at all PSM-regulated refineries in Federal OSHA states over the next two years and to encourage states that administer their own OSHA plan to implement a similar emphasis program.

In April 2007, DHS published the Chemical Facility Anti-Terrorism Standards (CFATS) in 6 CFR Part 27. In developing the CFATS regulations, DHS relied significantly on the data collected by EPA under the CAA Section 112(r) Risk Management Program and incorporated the RMP list of chemicals and threshold quantities in its criteria for determining high-risk facilities. EPA believes that having well-implemented risk management programs at such facilities will further the aims of both CAA Section 112(r) and the Homeland Security Appropriations Act.

In light of continuing concerns regarding public safety, and in response to a recent evaluation conducted by the Inspector General, headquarters has developed criteria for determining which facilities pose a greater risk to human health and the environment. Regions should consider the following factors in focusing their compliance monitoring and enforcement efforts. In some cases, a Region may wish to add or modify these criteria in order to address its individual priorities and concerns:

- Facilities whose reported RMP worst-case scenario population exceeds 100,000 people;
- Facilities that have had one or more significant accidental releases within the previous five years; and/or
- Any RMP facility with a hazard index greater than or equal to 25.

EPA also collects information on the number of RMP audits and/or facility inspections completed each year. The performance target for the number of RMP audits/inspections is 400 per year. In FY 2007, EPA and delegated states conducted 750 field audits/inspections and, in FY 2008, conducted 627 audits/inspections. Under GPRA, EPA has set the following two strategic targets for the RMP program:

Measures and Targets

Annual Output Measure and FY 2010 Targets:

- Number of risk management audits/inspections completed (target 400).

Long-Term Measure and Target:

- By 2014, conduct 2,400 inspections and audits at RMP facilities.

Useful websites:

Office of Emergency Management <http://www.epa.gov/oem>
National Response Team (NRT) <http://www.nrt.org>

Brownfields Cleanup and Land Revitalization Program

Goal 4: Healthy Communities and Ecosystems

Subjective 4.2.3: Assess and Clean Up Brownfields

EPA's Brownfields program will continue to facilitate the cleanup, redevelopment and restoration of brownfields properties. Under the Brownfields Law (Public Law 107-118, "Small Business Liability Relief and Brownfields Revitalization Act"¹³), brownfields are defined (with certain exclusions) as real properties, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. Brownfield properties include, for example, abandoned industrial sites, drug labs, mine-scarred land, or sites contaminated with petroleum or petroleum products. Through its Brownfields program, EPA will continue to provide for the assessment and cleanup of these properties, to leverage redevelopment opportunities, and to help preserve green space, offering combined benefits to local communities.

Strategic Targets:

Working with state, tribal, and local partners, promote the assessment, cleanup, and sustainable reuse of brownfields properties.

- EPA's proposed targets by 2014, conduct environmental assessments at 18,800 (cumulative) properties, make an additional 11,700 acres of brownfields ready for reuse from the 2007 baseline. By 2014, leverage \$17.7 billion (cumulative) in assessment, cleanup, and redevelopment funding at brownfields properties.

Performance Goals for FY 2010:

- Number of Brownfields properties assessed (target: 1,000).
- Number of Brownfields properties cleaned up using Brownfields funding (target: 60).
- Acres of Brownfields property made ready for reuse (target: 1,000).
- Number of jobs leveraged at Brownfields sites (target: 5,000).
- Billions of dollars of cleanup and redevelopment funds leveraged at Brownfields sites (target: \$0.9).
- Number of tribes supported by Brownfields cooperative agreements (no target).

Brownfields Assessment, Cleanup, Revolving Loan Fund, and Job Training Grants

EPA will continue to provide Assessment, Cleanup, Revolving Loan Fund, and Job Training grants to communities. Brownfields Assessment grants provide funding to inventory, characterize, assess, and conduct planning and community involvement activities related to brownfields sites. Brownfields Revolving Loan Fund grants provide

¹³ Signed in January 2002, for more information on Public Law 107-118 go to <http://www.epa.gov/swerosps/bf/sblbra.htm>.

funding for a grantee to capitalize a revolving loan and for a grantee to make subgrants to carry out cleanup activities at brownfield sites. Brownfields Cleanup grants will fund cleanup activities at brownfield sites owned by grant recipients. EPA also will provide funding to create local environmental job training programs to enhance the economic benefits, derived from brownfield revitalization efforts, to the community.

EPA will publish proposal guidelines, solicit proposals, conduct a national competition, announce, and award Assessment, Cleanup, Revolving Loan Fund, and Job Training grants. To ensure a fair selection process, evaluation panels consisting of EPA regional and headquarters staff and other Federal agency representatives will assess how well the proposals meet the selection criteria outlined in the statute and the proposal guidelines. Final selections will be made by EPA senior management after considering the ranking of proposals by the evaluation panels. The statute requires that funds be directed to the highest ranking proposals.

- Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund, Cleanup and Job Training Grants are available at:
<http://www.epa.gov/brownfields/applicat.htm>

Following award, EPA will assist grantees in achieving specific objectives as agreed upon in the project work plan. EPA will conduct post award monitoring activities to ensure the successful implementation of projects. Grant terms and conditions require grantees to complete Property Profile Forms or Job Training Forms. Using these forms, EPA will collect information on property acreage, assessment completion date, whether cleanup is necessary, cleanup completion date, status of institutional controls and engineering controls, leveraged jobs, and leveraged dollars.

- Reporting forms are available at:
<http://www.epa.gov/brownfields/pubs/rptforms.htm>

Recipients of Assessment, Cleanup, Revolving Loan Fund Grants, and Job Training Grants will be able to submit Property Profile Form and/or Job Training Reporting Form data electronically using the Assessment, Cleanup, and Redevelopment Exchange System (ACRES). EPA Regions will verify data submitted by grantees in the ACRES system. Grantees that do not have capability for electronic reporting will be able to submit paper forms.

Brownfields State and Tribal Response Programs Grants

EPA will continue to work in partnership with state and Tribal programs to address brownfield properties. The Agency will provide states and tribes with tools, information, and funding they can use to develop response programs that will address environmental assessment, cleanup, characterization, and redevelopment needs at sites contaminated with hazardous wastes and petroleum. The Agency will continue to encourage the empowerment of state, Tribal, and local environmental and economic development officials to oversee brownfield activities and the implementation of local solutions to

local problems. EPA will publish an annual guidance regarding the criteria for state funding.

- Grant Funding Guidance for State and Tribal Response programs (CERCLA) Section 128(a) is available at:
http://www.epa.gov/swerosps/bf/state_tribal.htm#grant

Following award, EPA will assist grantees in achieving specific objectives as agreed upon in the project work plan. EPA will conduct post-award monitoring activities to ensure the successful implementation of projects. Grantees will complete Property Profile Forms to document completion of site specific assessments and cleanups. Using these forms, EPA will collect information on property acreage, assessment completion date, whether cleanup is necessary, cleanup completion date, the status of institutional controls and engineering controls, jobs leveraged and dollars leveraged.

- Reporting forms are available at:
<http://www.epa.gov/brownfields/pubs/rptforms.htm>

State and tribal response program grants contribute to the Brownfields program overall accomplishments. The Property Profile Forms submitted by state and tribal grantees for site-specific assessments and cleanups, conducted with CERCLA 128 funds, contribute to the "Properties Assessed" and "Properties Cleaned Up" measures. There are no separate state or tribal specific targets for the "Properties Assessed" and "Properties Cleaned Up" measures. Therefore, for the state grant measures in Attachment 2, the Brownfields National Program will report out the overall program accomplishments. Regions should not set state- or tribal-specific targets.

Brownfields and OMB's Program Assessment Rating Tool (PART)

The Brownfields program received a PART evaluation in 2003. At that time, the program received an "adequate" rating. The program then prepared and is currently implementing an improvement plan. The improvement plan addresses program performance and efficiency measures, information collection procedures, and program evaluation.

- Information on the Brownfields program's PART evaluation and improvement plan is available at:
<http://www.whitehouse.gov/omb/expectmore/summary/10001132.2003.html>
- Information on EPA's 2009-2014 Strategic Plan is available at:
http://www.epa.gov/ocfo/plan/pdfs/strategic_plan_change_document_9-30-08.pdf

Cross-Program Revitalization Measures

The Brownfields program has implemented the Cross-Program Revitalization Measures supporting OSWER's effort to promote and communicate cleanup- and revitalization-related accomplishments and associated benefits to society. The program is using Property Profile Form data to report on the Universe Indicator (properties and acres where assessment or cleanup reported complete for the first time under a Brownfields grant) and Types of Uses Indicator (Greenspace, Residential, Commercial, Industrial, and Mixed Use). The program is also using the Property Profile Form to collect information on the "Ready for Reuse" measure (based on status of cleanup and institutional controls (ICs)) which equates to both "Protective for People under Current Conditions" (PFP) and "Ready for Anticipated Use" (RAU) measures.

- Information concerning OSWER's Cross-Program Revitalization Measures may be found at: <http://www.epa.gov/swerrims/landrevitalization/docs/cprmguidance-10-20-06covermemo.pdf>

RCRA Waste Management Programs

Goal 3: Land Preservation and Restoration

Subobjective 3.1.1: Reduce Waste Generation and Increase Recycling

Goal 3: Land Preservation and Restoration

Subobjective 3.1.1: Reduce Waste Generation and Increase Recycling

The RCRA program will emphasize its strategy to conserve resources, reduce waste, reduce priority chemicals and reduce greenhouse gas emissions through effective materials management. The RCC, one of OSWER's Office of Resource Conservation and Recovery's (ORCR's) highest priorities, continues to be a principal mechanism for achieving these objectives. ORCR's specific commitments for the RCC are identified in the *Resource Conservation Challenge (RCC) OSW Workplan/ Deliverables for FY 2009*¹⁴. Many of the activities described in the workplan will continue into FY 2010. Regions will be expected to champion and support the four national RCC focus areas:

- Recycling of MSW;
- Green initiatives: electronics and green building;
- Reusing and recycling of industrial materials; and
- Reducing priority chemicals; (covered under sub-objective 5.2.1);

Recycling of MSW

Under EPA's 2006-2011 Strategic Plan, we maintained our goal of recycling 35% of municipal solid waste by 2008. ORCR and the Regions have identified a new long-term 2011 GPRA goal of 80 billion pounds, to replace the current 35% MSW recycling goal. This goal is composed of a recycling target of approximately 20 billion pounds annually over a four year period (2008-2011). This new, long-term goal will more directly reflect EPA's influence, resources, and contributions to the nation's goal of increasing municipal solid waste recycling.

The new MSW measure also reflects the intent to put forth goals which are reflective of MSW programs at both the national and the regional level. Regional commitments will be tracked in ACS under the measure, "Pounds of MSW reduced, reused or recycled."

EPA Regions and ORCR will continue to focus their primary MSW recycling efforts on the three targeted materials: paper, organics (food waste and green yard waste), and packaging/containers. EPA's MSW Recycling Implementation Plan includes specific activities each Region will commit to undertake and identifies approaches and tools to support these activities. Regions should also actively recruit new WasteWise partners. For FY 2010, ORCR is requesting that all Regions identify ACS commitments in the area of MSW recycling that contribute toward our national recycling and energy conservation and greenhouse gas reduction goals.

¹⁴ For more information concerning the RCC, please see <http://www.epa.gov/epawaste/rcc/index.htm>

EPA Regions should base their FY 2010 ACS MSW recycling commitments primarily on what they expect to accomplish through their Full Time Equivalents (FTEs) and extramural dollars. WasteWise partner accomplishments, as outlined in the WasteWise apportionment paper, also may be factored into ACS MSW recycling commitments. Regions should continue general outreach efforts to promote MSW recycling and implement the activities listed in the MSW Recycling Implementation Plan. Regions also should work closely with states to support and complement state and local efforts.

In these key areas, we have begun to identify measures and targets that will demonstrate the positive benefits of this program. OSWER will continue to track energy conservation and greenhouse gas reduction benefits associated with our efforts under the RCC. This measure is expressed in terms of British thermal units (BTUs) of energy conserved and metric tons of carbon dioxide equivalents (MTCO₂E) of green house gas emissions reduced by the RCC. EPA Regions and HQ will continue to work together to determine the best steps to take to conserve resources and divert more materials to reuse and recycling.

Green Initiatives

EPA has several approaches for promoting reuse and recycling of electronic equipment. *The Responsible Recycling Practices for Electronics Recyclers* are completed, and Regions should work with states and recyclers to make them familiar with the guidelines, providing information and encouraging their widespread use. Regions should also make recyclers aware of the requirements of the *Cathode Ray Tube (CRT) rule*, identifying a regional contact to receive the notices. Regions can help to advance the *PlugIn to eCycling* program through recruiting additional PlugIn partners and encouraging and supporting recycling events, and providing outreach on recycling televisions under the TV Challenge for the Digital transition, and the cell phone recycling campaign.

More states have been enacting and exploring *E-Waste Recycling Programs* and laws in recent years. We are working to track implementation, including exports and responsible recycling practices, as well as problems arising from the emerging patchwork of state laws. Under the Federal Electronics Challenge (FEC), EPA will work towards Gold achievement for its own facilities and provide assistance to other Federal agencies on meeting FEC goals. The Regions should continue to participate in national projects, including the Electronic Product Environmental Assessment Tool (EPEAT) and the Electronics Environmental Benefits Calculator and pilot projects with broad national implications, such as the State Electronics Challenge developed through a grant to the Northeast Waste Management Officials' Association (NEWMOA), as well as discussions on national program direction.

The development and implementation of the Agency's Green Building Strategy present opportunities for ORCR and the EPA Regions to promote materials management in building design, construction, operation, and end-of-life. To support the Agency's Green Building Strategy, in FY 2010, ORCR and EPA Regions will continue ongoing efforts to green commercial buildings, stadiums and other venues, and infrastructure projects

through various RCC programs and initiatives.

Industrial Materials Reuse and Recycling Program

ORCR, working with the Regions, has developed a draft Industrial Materials Recycling (IMR) 3-Year Strategy. EPA Regions will be working on the priority activities that build on that strategy throughout FY 2010. We also are working together to improve our construction and demolition materials data and measures. The industrial materials recycling program will continue its primary focus on coal combustion products (CCPs), construction and demolition (C&D) materials, and foundry sands, but will also look for opportunities to increase reuse of slags, scrap tires, pulp and paper manufacturing residuals, and other materials. Recycling these materials can conserve resources, reduce energy use, reduce greenhouse gas emissions, reduce costs, and enhance green construction. Regions should continue to develop effective working relationships with states in order to foster collaborative efforts to share information, enhance decision-making, and coordinate projects in these areas. EPA will continue to partner with the Association of State and Territorial Solid Waste Management Officials' Beneficial Use Task Force, other Federal agencies, such as the Federal Highway Administration, U.S. Department of Agriculture, and U.S. Department of Energy, and as appropriate, with stakeholders such as the Industrial Resources Council (IRC), and the Associated General Contractors of America.

Measuring and reporting on success is a critical component of any credible program. EPA established two FY 2011 GPRA goals in its strategic plan: increase the use of coal combustion products to 50%; and, increase the reuse and recycling of C&D materials to 65%. We will track progress for the CCP goal at the national level; however, Regions will play a role by fostering the use of CCPs in construction and agriculture applications. In FY 2009, we updated the construction and demolition materials characterization.

ORCR reviewed existing state data to determine whether it could be used to provide a national measurement. Given the lack of existing data on C&D materials generation, recycling, and disposal, ORCR and EPA Regions decided to remove the existing goal for C&D materials. ORCR and the Regions will continue to work with the state environmental agencies and industry to develop credible, annually-produced estimates of national C&D materials generation, recycling, and disposal.

During FY 2010, Regions should build on their prior successes by continuing to increase the reuse and recycling of industrial materials in an environmentally sound manner. EPA Regions with specific projects on foundry sands, slags, tires, and other industrial materials underway should continue to make progress in these areas. Regions should continue to recruit and support partners for the Coal Combustion Products Partnership (C2P2). Using the partnership program bundling approach and resources from the Construction Initiative, EPA Regions should encourage the reuse or recycling of industrial materials in building and transportation construction projects in conjunction with other Agency green building programs and priorities.

Goal 3: Land Preservation and Restoration

Subobjective 3.1.2: Manage Hazardous Wastes and Petroleum Products Properly

In FY 2010, the permitting program will collectively achieve 100 additional annual accomplishments for initial and updated approved controls. Since all but two states are authorized to issue permits, and because states receive grant funds to implement the RCRA hazardous waste program, Regions must work with states to:

- Update and implement multi-year strategies to meet the FY 2010 annual goal and the FY 2011 strategic goal.
- Update assessments of what is needed for each facility to achieve approved controls and update when each facility is projected to achieve approved controls.
- Consider risk in determining the prioritization of facilities to be addressed in the multi-year strategies.

During FY 2010, Regions should work with the states towards achieving the FY 2011 national strategic target of preventing releases at 500 RCRA hazardous waste management facilities by implementing initial approved controls or updated controls. This should result in getting at least 98% of the facilities on the permitting baseline under approved controls, and updating controls at additional facilities, for a total of 500 facilities between FY 2007 and FY 2011. ORCR, in partnership with the Regions and states, will be developing the next generation of strategic goals to demonstrate the magnitude of environmental benefits delivered by the program.

In 2004, OMB assessed the RCRA base program, permits and grants under the PART, which is used to determine the effectiveness of Federal programs. As an outcome of this assessment, a new efficiency measure was proposed based on: (1) number of facilities with new or updated controls and (2) permit costs and base program appropriations. Calculations for the baseline year 2007 were 2,484 facilities with new or updated controls at a cost of \$689.71 million (3.60 facilities per million dollars of program cost). The efficiency measure target for FY 2010 is 3.72 facilities per million dollars of program cost, a 1% increase over the FY 2009 target .

Regions are to work closely with states to ensure that environmental regulations, applicable Federal environmental justice policies, strategies, tools and training programs are used to adequately address environmental justice concerns. Progress towards RCRA GPRA goals in potential environmental justice communities should advance at least at the same pace as in other communities.

After substantial work by OECA, ORCR, and the RCRAInfo V4 Design Team, mandatory financial assurance data elements jointly decided by EPA and states as part of the WIN/Informed process are now being added to RCRAInfo and will become a part of our data system. This information (1) will allow states to coordinate their review of these instruments better, (2) will provide state and national information on the types of

instruments used and their providers, and (3) fulfills commitments the Agency has made to the Inspector General and the Government Accountability Office.

Details on the mandatory data elements and data entry were provided to the RCRAInfo users' community in the Consolidated High Level Design Document. These data elements will require states to input information on the financial assurance instruments that are being used by treatment, storage and disposal facilities. The modifications to the data system are expected to be complete in the second quarter of FY 2009. We are requesting that by the end of FY 2009 states will have input information on 40% of the covered facilities. Our current expectation is that data for the remaining facilities will be input by the end of FY 2010.

Tribal Programs

EPA has significant responsibilities related to the safe management of solid and hazardous waste in Indian country. Regions with Federally-recognized tribes should devote resources to assisting tribes, consistent with EPA's 2009-2014 Strategic Plan. Regions will be expected to achieve the following targets during FY 2010:

- Assist tribal governments to ensure that an additional 23 tribes are covered by an integrated waste management plan approved by an appropriate governing body;
- Assist tribal governments to ensure that an additional 22 open dumps in Indian country and on other Tribal lands are closed, cleaned up, or upgraded.

The Indian Health Service, in collaboration with EPA, customized the IHS Operation and Maintenance Data System (OMDS) database, a subset of the web Sanitation Tracking and Reporting System (w/STARS). The w/STARS database is the official repository for EPA to hold all data on open dumps on tribal lands. With the culmination of efforts to populate the database by the end of 2009, Regions should continue in 2010 to update the data and perform any necessary data clean up.

Furthermore, EPA has recently provided information regarding the elements of an integrated waste management plan which Regions should use when evaluating what plans should be reflected in the ACS for this performance measure.

Goal 3: Land Preservation and Restoration

Subobjective 3.2.2: Clean Up and Revitalize Contaminated Land

The 2020 Corrective Action Universe lists all 3,746 facilities that may need cleanup under the RCRA Corrective Action Program. This list, which can be found online at <http://www.epa.gov/epawaste/hazard/correctiveaction/facility/index.htm#2020>, will serve as the "RCRA Cleanup Baseline" for 2010. EPA's forthcoming 2009-2014 Strategic Plan will commit the program to reaching specific percentages for three key measures at these sites by 2014:

- Control all identified unacceptable human exposures from site contamination to

health-based levels for current land and/or groundwater use conditions (Human Exposures EI)

- Control the migration of contaminated groundwater (Groundwater EI)
- Complete construction of final remedies (Remedy Construction)

EPA envisions meeting all three goals at 95 percent of the 2020 Universe by the end of FY 2020.

Performance Goals for FY 2010:

EPA has set the following three national targets for 2010:

1. Human Exposures EI – 63 percent (2,360 facilities).
2. Groundwater EI – 55 percent (2,060 facilities).
3. Remedy Construction – 30 percent (1,124 facilities).

Almost 2,000 facilities were added to the “RCRA Cleanup Baseline” in 2009, and existing progress at these new facilities varied across Regions and states. As a result, expecting all Regions and states to finish 2010 at the national percentage is unrealistic. Regional targets that together add up to the national percentages will be set via the ACS in the last two quarters of FY 2009.

Further Information

All Regions should work with states to achieve the FY 2010 targets. Planning accomplishments for the year, as well as frequent discussions of progress with state partners, will be essential to meeting program goals. Beyond planned accomplishments for FY 2010, Regions should begin to lay the groundwork for future accomplishments. In particular, discussions of how to move the Region’s most difficult sites toward final remedies need to begin.

OECA encourages the Regions to use enforcement authorities and tools where appropriate to address the aforementioned program goals. In addition, the Superfund and RCRA Corrective Action enforcement program commitments for the financial assurance priority are included in OECA's portion of the annual commitment system.

Each Region should also work with their states to promote making RCRA Ready for Anticipated Use (RAU) determinations to support OSWER’s Cross-Program Revitalization measure. (See “Guidance for Documenting and Reporting RCRA Subtitle C Corrective Action Land Revitalization Indicators and Measures” at www.epa.gov/correctiveaction.) RAU determinations can now be recorded in RCRAInfo through the CA800 event code.

The annual target for increasing the efficiency of the RCRA Corrective Action program is three percent. Given cost projections, each Region should work with its states to increase the number of final remedy components constructed during FY 2010 by roughly

four percent over FY 2009 levels to help the program meet its efficiency target. The number of final remedy components constructed is measured by the total number of area-specific and facility-wide construction (CA550) events recorded in RCRAInfo each fiscal year.

Regions should support and work closely with states to ensure that environmental regulations, applicable Federal environmental justice (EJ) policies, strategies, tools and training programs are used to adequately address EJ concerns. Progress towards RCRA GPRA goals in potential EJ communities should advance at least at the same pace as in non EJ areas. Regions should work with their states to help develop and offer innovative approaches that will empower citizens' groups to ensure successful voluntary cleanups.

PCBs

In an effort to improve program and administrative efficiencies, the management of the PCB cleanup and disposal program was transferred from EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) to the Office of Solid Waste and Emergency Response (OSWER) in FY 2008. OPPTS is continuing to oversee PCB issues relating to use and manufacturing, and OSWER is managing the PCB cleanup and disposal program under the requirements of the Toxic Substances Control Act (TSCA) and its regulations. As a result, OSWER will now be issuing disposal approvals that are designated by regulation to be issued by EPA headquarters (e.g., for mobile PCB treatment units operating in more than one region). During FY 2010, Regions are expected to continue to issue approvals for PCB cleanup and disposal as required under 40 CFR Part 761. OSW is assessing the current ACS measures and will be working with the Regions to update for FY 2010.

Goal 5: Compliance and Environmental Stewardship

Subobjective 5.2.1: Prevent Pollution and Promote Environmental Stewardship

Reduction of Priority Chemicals and Chemicals of National Concern

The National Partnership for Environmental Priorities (NPEP) is the RCRA program focused on the waste minimization of potentially hazardous chemicals. NPEP is also a key component of the RCC. The strategic goal, as stated in the 2009 – 2014 EPA Strategic Plan, is: *by 2014, reduce 4 million pounds of priority chemicals and other chemicals of national concern from waste streams as measured by National Partnership for Environmental Priorities (NPEP) contributions, Supplemental Environmental Projects (SEPs), and EPA initiatives including Servicizing, the Mercury Challenge and industry agreements to achieve reductions priority chemicals and chemicals of national concern.*

In FY 2010, EPA will achieve NPEP *reductions of priority chemicals and chemicals of national concern* goals by identifying potential partners and individual facilities, and when possible multiple facilities, in industrial, manufacturing, Federal facilities, and municipal, and other sectors which are responsible for the highest volume of chemicals

and/or highest risk if released to the environment. Source reduction is the preferred means of chemical reduction, but recycling is an acceptable alternative when viable source reductions options have been eliminated. Contributions toward the GPRA goal can be achieved by recruiting several small generators as well as by targeting large volume generators.

Regional and state recruiters who enroll partners in NPEP will contribute to the national chemical goal and may contribute to additional regional or state specific chemical reduction goals. Decisions regarding chemicals (in addition to the 31 priority chemicals) selected for reduction are based on the chemical waste minimization potential, risk, and generation trends as well as volume of chemical released to the environment.

Information on the specific actions and means by which reductions are achieved is provided in the RCC Priority Chemical Action Plan. At this time there are no specific GPRA goals associated with the identification of other chemicals of national concern. However, the priority chemicals list is currently being reevaluated as part of the 2009-2014 strategic planning process.

The projected FY 2010 national goal is to reduce priority chemicals by 750,000 pounds. This may be adjusted, depending on FY 2009 partner commitments. Based on targeting information provided by ORCR, and other available information, Regions will establish specific annual regional reduction goals, identifying the number of pounds of reductions each Region will seek to achieve each year to reach the 2014 Priority Chemical GPRA goal. Regional annual priority chemical reduction targets will be entered into the ACS.

In addition, the RCRA program has committed to targeted cost efficiencies associated with reducing priority chemicals through its OMB efficiency measure, in which: *Efficiency is measured by the pounds of priority chemicals reduced from the environment per Federal government dollar spent. Federal spending consists of program implementation costs including, FTE and contract spending.*

The program continues its commitment to achieve 0.6 pounds of priority chemicals removed per dollar spent.

For further information, please see the following websites:

<http://www.epa.gov/npep>

<http://www.epa.gov/rcc/action-plan/act-p3.htm>

<http://www.epa.gov/epawaste/partnerships/npep/index.htm>

Schools Chemical Cleanout Campaign (SC3)

The Schools Chemical Cleanout Campaign (SC3), which is part of the RCC, strives to facilitate: (1) removal of legacy accumulations of dangerous chemicals from K-12 schools; (2) implementation of strong, sustainable chemical management in schools to prevent chemical accidents in the future; and, (3) understanding and awareness of the problem.

In FY 2008 and 2009, EPA made progress on building a national campaign that includes a public/private partner network to make responsible chemical management available to all schools across the nation. These partnerships will help us to create sustainable chemical management programs in schools that ultimately decrease the number of injuries and school days lost due to poor chemical management and chemical spills, which is likely to improve the learning environment in K-12 schools across the nation. While building these partnerships in FY 2010, EPA and its Federal partners will place their effort on the following goals and objectives:

- Gathering data and raising national awareness of the potential dangers of chemical accumulations in K-12 schools. EPA submitted an Information Collection Request to OMB at the end of FY 2008 to allow EPA to collect data on partner achievements and program management.
- Facilitate Chemical Cleanout and prevention of future chemical management problems: improve access to information resources (tools, manuals, and criteria) and provide technical assistance; institutionalize good chemical management practices, including training (including training for pre-service teachers), purchasing, and planning; and recognize successes through SC3 awards.

In FY 2010, EPA headquarters and the Regions will analyze data collected from the ICR, grow the partner network, and develop tools to educate pre-service teachers, schools and industry partners about the issues surrounding chemical management.

To bring this information, expertise, and resources to as many school districts as possible across the country, EPA headquarters and Regions will focus their efforts on developing and strengthening partnerships to build this national network. Regions will be the key to making this vision a reality. As we sign on partners who want to help schools, it will be the regional knowledge of the local landscape that will help match partners with school districts lending their expertise to grow the campaign and assure that it complements and embraces other Agency Healthy School Environments Initiatives. Regions will also take the lead in identifying and targeting local industries that have the ability to assist with the Campaign and schools that are in need of assistance. Success in FY 2010 will be measured by the number of partnership agreements established, schools affected, and sustainable practices established.

Underground Storage Tanks Program

Goal 3: Land Preservation and Restoration

Subobjective 3.1.2: Manage Hazardous Wastes and Petroleum Products Properly (UST)

Subobjective 3.2.2: Clean Up and Revitalize Contaminated Land (LUST)

Program Overview

The purpose of the Underground Storage Tank (UST) program is to protect communities living and working near UST sites as well as land and groundwater resources from contamination caused by releases of regulated substances (typically petroleum-based motor fuels and their additives) from leaking USTs.¹⁵ The program is designed to implement a dual approach for achievement of this goal: the first is to prevent and detect releases from UST systems, and the second is to clean up contamination from releases that occur from leaking USTs (sometimes referred to as “LUSTs”). Both of these program elements are part regulatory and part formula grant, and they work in concert with one another as an integrated whole. The Office of Underground Storage Tanks (OUST) was created in 1985 as the result of the Hazardous and Solid Waste Act Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA) of 1976. The HSWA added Subtitle I, which directs EPA to develop a comprehensive program for the regulation of UST systems “as may be necessary to protect human health and the environment.”

The Underground Storage Tanks program provides states¹⁶ and tribes with financial and technical assistance and assists with capacity building through training and state program approval. Only for the relatively few USTs on Indian country does EPA directly implement the program. Supported by grants and cooperative agreements, state agencies implement the program for the vast majority of USTs. Except for a small core of headquarters personnel, Federal UST program personnel are geographically dispersed to EPA's 10 regional offices and it is regional personnel who both directly implement and enforce the program at the local level (on tribal lands) and also provide technical, logistical, and administrative support to the state programs in their region.

Regulatory Framework

Regulations promulgated by EPA in 1988 establish the regulatory framework for achieving the program's goal. Regulations at 40 CFR Part 280, “Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks”, include both technical standards and financial requirements for owners and operators of UST systems and are broken down into eight subparts:

¹⁵ Thirty-nine states identify leaking underground storage tanks as one of the top 10 sources of groundwater contamination. (EPA Office of Water 305(b) report, Figure 6-5, <http://www.epa.gov/owow/305b/>).

¹⁶ The term “states” as used in this guidance refers collectively to UST programs implemented by the individual states, territories, and the District of Columbia, see the definition of “State” in the Solid Waste Disposal Act (SWDA) of 1976 (42 U.S.C.A. 6903 at <http://uscode.house.gov/search/criteria.shtml>).

1. Program Scope and Interim Prohibition (Subpart A);
2. UST Systems: Design, Construction, Installation, and Notification (Subpart B);
3. General Operating Requirements (Subpart C);
4. Release Detection (Subpart D);
5. Release Reporting, Investigation, and Confirmation (Subpart E);
6. Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances (Subpart F);
7. Out-of-Service UST Systems and Closure (Subpart G); and
8. Financial Responsibility (Subpart H).

State programs, that have regulations that are no less stringent than Federal regulations, can be approved to operate in lieu of the Federal program. The procedures for approving such state programs are found at 40 CFR Part 281: “Approval of State Underground Storage Tank Programs”. These regulations are broken down into six subparts:

1. Purpose, General Requirements and Scope (Subpart A);
2. Components of a Program Application (Subpart B);
3. Criteria for No Less Stringent (Subpart C);
4. Adequate Enforcement of Compliance (Subpart D);
5. Approval Procedures (Subpart E);
6. Withdrawal of Approval of State Programs (Subpart F).

Thirty-six states, Puerto Rico, and the District of Columbia have received approval for their UST programs. The remaining 14 states and 4 territories implement UST programs under their own authorities in cooperation with EPA.

Program Funding

EPA provides funds to help states implement their programs through grants or cooperative agreements under the authorities and appropriations described below. Specific activities eligible for funding are determined through discussions between the states and tribes and the EPA regional offices based on national guidance¹⁷ issued by OUST.

In FY 1999, through PL 105-276, Congress gave EPA authority to provide assistance agreements to Federally-recognized tribes to develop and administer UST prevention programs and leaking UST cleanup programs. In general, such assistance agreements can be used for the same purposes for tribes as they are used for states, however, EPA does not have authority under RCRA to approve tribal programs to operate in lieu of the

¹⁷ Funding provided to states must be expended in accordance with grant guidelines (see http://www.epa.gov/swerust1/fedlaws/epact_05.htm) EPA issued to implement Title XV, Subtitle B of the EPA Act (see http://www.epa.gov/swerust1/fedlaws/publ_109-058.pdf), and the May 7, 2008 Program Guidance: Office of Underground Storage Tanks’ Prevention Assistance Agreements Awarded Under the Leaking Underground Storage Tank (LUST) Trust Fund Program.

Federal program. Examples of eligible projects that can be conducted under these grants include the development and administration of an UST or leaking UST program, conducting an unregistered tank survey, providing leak detection and installer training, and cleaning up releases.

In 2004, through PL 107-73, Congress gave EPA authority to award cooperative agreements to Federally-recognized tribes and eligible tribal consortia to assist EPA in implementing Federal environmental programs in the absence of an approved tribal program. These agreements are called Direct Implementation Tribal Cooperative Agreements (DITCA's) and they provide tribes with the flexibility and opportunity to hire and train environmental staff to effectively manage UST programs, promote compliance, and address specific tribal needs and priorities within EPA's authority for direct implementation.

UST State and Tribal Assistance Grants (STAG) Any STAG funding appropriated in FY 2010 for the UST leak prevention programs will be given as grants under the authorities of the Solid Waste Disposal Act (SWDA) of 1976, as amended by the Superfund Reauthorization Amendments of 1986 (Subtitle I), Section 2007(f), 42 U.S.C. 6916(f)(2), and Section 9011; and such additional authority as may be provided for in EPA's annual appropriations acts. For the Tribal Grants: P.L. 105-276. STAG funding is provided in grants and cooperative agreements to assist states, territories, Federally-recognized Indian tribes and Intertribal Consortia that meet the requirements at 40 CFR 35.504, in the development and implementation of UST programs and for leak prevention, compliance and other activities authorized by the EPAct and EPA's annual appropriations acts.

The UST State Grant program is implemented by regulations at 40 CFR 35.330. There is a 25-percent matching requirement for states under 40 CFR 35.335. There is no matching requirement for grants to tribes or Intertribal Consortia under Public Law 105-276.¹⁸ State matches may include in-kind contributions.

LUST Trust Fund Cooperative Agreements for UST Release Prevention Activities Any LUST funding appropriated in FY 2010 for the prevention program will be given as assistance agreements under the authorities of Section 9011 and other applicable provisions of Subtitle I of the Solid Waste Disposal Act (SWDA) of 1976. This funding will be used in assistance agreements to the states and tribes to carry out the EPAct provisions related to the prevention of UST releases. The assistance agreements will be for prevention and compliance assurance activities, such as inspections, as well as for enforcement activities related to release prevention. Priority will be given to providing funds to enable the states to meet their responsibilities under Title XV, Subtitle B of the EPAct. States that have entered into assistance agreements with EPA have the authority to inspect and take other compliance and related enforcement actions to prevent releases from USTs. EPA provides financial assistance to tribes to develop and implement programs to manage USTs. This financial assistance program is not eligible for inclusion

¹⁸ See Program Number 66.804 of the Catalog of Federal Domestic Assistance (CFDA) at http://www.cfda.gov/pls/portal30/CATALOG.PROGRAM_TEXT_RPT.show

in Performance Partnership Grants under 40 CFR 35.133. Assistance agreements are only available to states that have UST programs. Additionally, these assistance agreements are only available to Federally-recognized tribes and Intertribal Consortia that must meet the requirements, as described in the Federal Register Notice, Vol. 67, No. 213, pp. 67181-67183, “Update to EPA Policy on Certain Grants to Intertribal Consortia.”

LUST prevention funding is awarded under an allocation process developed by the Agency. The Agency distributes funds based on the number of Federally-regulated USTs in a State and other indices of State needs. States will provide a twenty-five (25) percent match for cooperative agreements awarded under Section 9011 and other applicable provisions of Subtitle I. There is no matching requirement for LUST prevention assistance agreements for tribes or Intertribal Consortia awarded pursuant to annual appropriation acts.

LUST Trust Fund Cooperative Agreements for Corrective Action Activities Any LUST funding appropriated in FY 2010 for the LUST cleanup program will be given as cooperative agreements under the authorities of Section 9003(h)(7) of the Solid Waste Disposal Act of 1976 (SWDA), as amended, and Public Law 105-276. Under Public Law 105-276, Congress authorized EPA to use LUST Trust Fund appropriations to award cooperative agreements to tribes for the same purposes as those set forth in Section 9003(h)(7). Policies and procedures applicable to EPA-State LUST Trust Fund cooperative agreements are presented in detail in OSWER Directive 9650.10A, issued May 24, 1994.¹⁹ LUST corrective action funding awarded under Section 9003(h)(7) of the Solid Waste Disposal Act is subject to an allocation process developed by the Agency. By guidance, the Agency has established a process for allocating funds to states under Section 9003(h)(7) based on the cumulative numbers of confirmed UST releases, cleanups initiated, cleanups completed, the percentage of the population using groundwater for drinking water, and the number of states with approved UST programs. This program allocates funding to tribes and Intertribal Consortia non-competitively based on their programmatic needs and national guidance. States must provide a 10-percent cost share for cooperative agreements awarded under Section 9003(h)(7). There is no matching requirement for corrective action cooperative agreements for tribes or Intertribal Consortia awarded pursuant to Public Law 105-276.

Headquarters and Regional Underground Storage Tanks Program Funds from OUST's Environmental Program and Management (EPM) and the LUST Trust Fund national program accounts, support activities, subject to funding availability, that promote the prevention, identification, corrective action, enforcement and management of releases from underground storage tank systems.

EPA's Regulatory Responsibilities for Monitoring Performance Under Assistance Agreements As a provider of Federal funds to state UST programs, EPA has a responsibility under 40 CFR Part 31 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) and Part 35 (State and Local Assistance) to monitor state performance and require performance reporting under

¹⁹ See <http://www.epa.gov/swerust1/directiv/d965010a.htm>

the funding sources listed above for each of the elements of 40 CFR 280 and 281 to ensure accurate and complete information on program performance and financial management.

Regions are also responsible for negotiating the terms and amounts of the assistance agreements listed below and also for monitoring performance and requiring performance reporting under these agreements:

1) STAG Appropriation to States, Territories and for Tribes for UST State Grants and Direct Implementation Tribal Cooperative Agreements: Solid Waste Disposal Act (SWDA) of 1976, as amended; Superfund Reauthorization Amendments of 1986, Subtitle I, Section 2007(f); Public Law 105-276.

2) LUST Appropriation to States, Territories and for Tribes:

a) Corrective Action: Solid Waste Disposal Act of 1976 (SWDA), as amended, Section 9003(h), Public Law 105-276.

b) Prevention: Section 9011 and other applicable provisions of Subtitle I of the SWDA as amended for States and Territories Energy Policy Act of 2005; 42 U.S.C. 6916(f)(2); EPAct, Title XV, Ethanol And Motor Fuels, Subtitle B, Sections 1521 - 1533, Public Law 109-58, 42 U.S.C. 15801; Public Law 105-276.

3) EPM and LUST Appropriations: Solid Waste Disposal Act of 1976, Section 8001(a) and (b) as amended by the Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616); P.L. 105-276

Performance Indicators

To monitor performance of the program in meeting its twin objectives (prevention and detection of releases, and cleaning up contamination from releases that do occur) OUST has established two primary performance objectives.

The first objective, prevention and detection of releases, has two measures: (1) significant operational compliance (SOC) and (2) number of confirmed releases.

(1) SOC. This measures the number of tanks that comply with both of the release prevention and release detection requirements, and that the tanks are operating and the systems are properly maintained. The implementation of EPA's traditional tools, supplemented by the new tools provided to the program through the EPAct, will over time work with state authorities to show a marked increase in the SOC rates across the country. These new tools include: conducting inspections of all active tanks every three years, prohibiting delivery to noncompliant tanks, and requiring either secondary containment for new tank systems or financial responsibility for manufacturers and installers.

(2) Number of confirmed releases. A primary goal of the UST program is to reduce the number of releases that occur annually to less than 9,000. It is critical that every release that occurs (whether the total is greater than or less than 9,000) be discovered, reported as expeditiously as possible, and appropriately addressed because costs for cleanup are sharply reduced the earlier a release is discovered. Inspections and compliance certifications can create incentives for owners and operators to properly operate and maintain their systems because well-maintained systems experience fewer leaks. With groundwater being the primary source of drinking water to nearly half of the country's population, leaks from USTs are a significant threat to human health and the environment. By decreasing the numbers of new releases, and continuing our focus on the cleanup program as described below, the underground storage tank program will make an important contribution to the nation's health.

Release Prevention and Detection Performance Goals for FY 2010:

- The annual goal is to increase the percentage of UST facilities that are in significant operational compliance with both release detection and release prevention requirements by 0.5% over the previous year's target. The FY 2010 target is 65.5%.
- The annual goal is to minimize the number of confirmed releases at UST facilities to 9,000 or fewer each year.

The second objective, cleaning up contamination from releases that do occur, has a single performance goal, which is increasing the number of cleanups that meet risk-based standards for human exposure and groundwater migration.

Over the history of the program, there have been approximately 480,000 confirmed releases. The EPA, states, and tribes have worked together to clean up over 377,000 of these, leaving a backlog of approximately 103,000 remaining to be completed.²⁰ Because there are thousands of new releases added to this backlog every year, reducing the backlog remains a challenge for the program.

EPA has efforts underway to continue to reach out to new partners and find new information and new tools to enhance the ability to address these cleanups. For example, EPA is working to better understand the nature of the cleanups remaining to be completed in the backlog. If EPA can better characterize these remaining cleanups, EPA plans to design targeted strategies that will increase the pace of addressing those sites. EPA is also working to monitor the financial mechanisms being used by states and private parties to finance cleanups, in order to assure there is, and will continue to be, sufficient funding available. EPA also is working to build on the success of the traditional Brownfields program by looking for opportunities to promote the cleanup and redevelopment of abandoned gas stations (more generally known as "Petroleum Brownfields"). Another important resource EPA provides to states and tribes is

²⁰ For the most current corrective action measures, see <http://www.epa.gov/swerust1/cat/camarchv.htm>

continuing research into the specific contaminants at leaking UST cleanup sites, the risk associated with them, and appropriate cleanup tools to address them.

LUST Clean Up Performance Goal for FY 2010:

- The annual goal is to complete 12,250 leaking UST cleanups that meet risk-based standards for human exposure and groundwater migration (this includes 30 cleanups in Indian country).

Underground Storage Tank Programs in Indian Country

EPA is responsible for directly implementing the UST program in Indian country. As part of this obligation, the Agency assists tribes in developing their capacity to administer UST programs and works to ensure that UST facilities in Indian country operate in compliance with regulations in order to prevent future leaks and to clean up existing leaks. Federal funding is provided to support prevention and remediation activities such as training for tribal environmental staff, education for owners and operators in Indian country about UST requirements, site assessments, cleaning up releases, and Indian country UST data collection and improvement efforts.

EPA's forward-looking strategy²¹ for the implementation of the UST program in Indian country was developed with the close collaboration of tribes and lays out priorities and objectives for the Agency to improve the UST tribal program. In particular, the strategy identifies steps that EPA and tribes are taking to further the cleanup and compliance of USTs. EPA continues to work with tribes towards meeting the objectives of the strategy which include strengthening relationships, communication, and collaboration; improving information sharing; implementing the provisions of the EPCRA; and implementing UST prevention and leaking UST cleanup activities.

EPA continues to work with its tribal partners to meet or exceed established goals to improve UST compliance and release cleanup in Indian country along with meeting the objectives laid out in the tribal strategy. EPA is also working with the tribes to meet the EPCRA requirement of conducting on-site inspections of all tanks in Indian country once every three years.

Cleanup Performance goal for FY 2010 in Indian country:

- The annual goal is to complete 30 leaking UST cleanups in Indian country that meet risk-based standards for human exposure and groundwater migration.

²¹ *Strategy for An EPA/Tribal Partnership To Implement Section 1529 Of The EPCRA Of 2005*, August 2006, EPA-510-F-06-005, http://www.epa.gov/OST/fedlaws/Tribal%20Strategy_080706r.pdf

Program Priorities and Initiatives

Implementing the EPAct The UST provisions of the EPAct significantly affect the program at both the Federal and state level. Among other things, it expands eligible uses of the LUST Trust Fund, and includes a number of provisions to strengthen program implementation. To implement EPAct, EPA and states and tribes are working closely with other Federal agencies, tank owners and operators, and other stakeholders to bring about the mandated changes affecting underground storage tank facilities.²² Key objectives of EPAct implementation include: (1) conducting more frequent inspections; (2) prohibiting delivery to noncompliant tanks; and (3) requiring either secondary containment for new tank systems or financial responsibility for manufacturers and installers.

Improving Compliance EPA recognizes that compliance with UST regulations offers the best prospects for preventing releases, detecting releases as soon after they occur as practicable, and cleaning up releases as early as possible to minimize harmful environmental impacts and protect human health. Key objectives of this initiative include: (1) providing assistance to states and tribes in implementing the UST program; (2) providing assistance and alternative mechanisms (e.g., conducting more frequent inspections, prohibiting delivery to noncompliant tanks, and requiring either secondary containment for tank systems or financial responsibility for manufacturers and installers) to states to help them meet their new responsibilities authorized under the EPAct²³; (3) conducting inspections of all tanks in Indian country once every three years; (4) encouraging owners and operators to properly operate and maintain their USTs; (5) ensuring owners and operators routinely and correctly monitor all regulated tanks and piping in accordance with the regulations; and (6) developing state programs with sufficient authority and enforcement capabilities to operate in lieu of the Federal program.

Reducing the Cleanup Backlog Achieving annual leaking underground storage tanks goals has become increasingly challenging to EPA and our state and tribal partners. Factors affecting this challenge include the increasing costs and complexity of cleanups, decreasing state budgets and increasing state workloads, and other factors.

EPA has initiated a project to collect more information on the existing backlog, and to engage states and Regions in developing national and state-specific strategies to reinvigorate cleanups. Key objectives of this initiative include: (1) achieving a better understanding of the current backlog of sites and remaining administrative legal and technical impediments to cleanup; (2) monitoring the soundness of state cleanup funds, a significant source of funding for addressing leaking UST cleanups; (3) promoting the continued use, reuse, and long-term management of leaking UST sites; (4) focusing on increasing the efficiency and effectiveness of leaking UST cleanups nationwide; (5)

²² For further information and final EPA grant guidance, see <http://www.epa.gov/swerust1/fedlaws/EPActUST.htm>.

²³ The Energy Policy Act imposed a number of conditions on states receiving funding. For details see <http://www.epa.gov/swerust1/fedlaws/EPActUST.htm>

addressing contaminants of concern and the impact of contaminants; (6) optimizing the use of cleanup technologies and the dissemination of green remediation approaches; and (7) streamlining cleanup decisions and processes.

Revitalizing Abandoned Gas Stations About 200,000 brownfield sites are estimated to be contaminated with petroleum products. Many of these sites are old, abandoned gas stations. In addition to the grant funds that EPA provides to communities to assess and clean up petroleum brownfield sites, OSWER has begun a much more aggressive effort to support the reuse and revitalization of those sites in order to help communities strengthen their local economies. To that end, in September 2008 OSWER released to the public a *Petroleum Brownfields Revitalization Action Plan*²⁴ that presents a comprehensive strategy for putting petroleum brownfields back into productive use. OUST asks regional and state UST and Brownfields programs to review the 17 action items in the Plan and consider those where they would like to get involved.

Evaluating Program Performance Key objectives of OUST's program measurement and evaluation include: (1) continuing to provide analytical reports that track national and regional program performance; (2) improving data quality; (3) examining viability and identifying ways to improve underground storage tank financial assurance mechanisms, including state cleanup funds, (4) conducting evaluations of specific state cleanup workloads to determine strategies for expediting and improving state cleanups programs; (5) developing methods to explicitly highlight the environmental and public health outcomes and benefits of completing leaking UST cleanups; (6) considering various options for performance measure efficiency and accounting for the impacts of the EPAct and (7) continued participation in advancing OSWER's Petroleum Brownfields and Revitalization work as well as other cross-media and cross task forces, such as long-term stewardship and identifying USTs and leaking USTs in source water areas.

Performance Monitoring and Reporting

Regional Coordination Regional planning meetings, regional Division Directors' meetings, and regularly scheduled monthly conference calls between OUST and the regional UST/leaking UST Program Managers provide opportunities for OUST and regional management to assess the strengths and weaknesses of Federal and state programs and decide where EPA's support is most needed and would be most productive. OUST holds additional Regional Program Manager (RPM) meetings, as needed.

Regional offices are expected to verify the accuracy and completeness of data provided by states. In order to avoid last minute reviews, verification must be an ongoing process each time states submit data to the regional offices. Regional offices must either develop their own verification processes or follow verification guidance provided by OUST; in general, such processes should involve sufficient interaction with states that the regional offices can be confident that the data submitted at the end of each reporting period are

²⁴ See <http://www.epa.gov/swerust1/rags/peobactionplan.pdf>.

complete, up-to-date, and accurate.²⁵ Each regional office should conduct reviews of state data. In addition, regional offices are held accountable for working with states to improve their data systems where appropriate.

State Reporting Requirements and Schedule States are required to submit performance information on a semi-annual basis. States must report mid-year performance data on or before April 5 of each year. Regional offices must report to OUST the states' mid-year performance data on or before April 10 of each year.

States must report to the regional offices estimated end-of-year performance data on or before September 7 of each year. Regional offices must report to OUST the estimated end-of-year performance data by September 14 of each year. States must report final end-of-year performance data on or before October 8 of each year. Regional offices must report to OUST final regional offices end-of-year performance data on or before October 15.

Specific directions for this data reporting will be provided to Regions via memoranda from the OUST Office Director.

²⁵ Reporting elements are specified in an annual memorandum from OUST's Office Director to Regional Division Directors, Regional Program Managers, and State program contacts.

Deliverable Dates for State and Regional Programs.

| Date | States | Regions |
|---------------|---|--|
| April 5 | Report mid-year numbers to regional offices. | |
| April 10 | | Report final mid-year numbers to headquarters |
| September 7 | Report estimates for end-of-year numbers to regional offices. | |
| September 14 | | Report estimates for end-of-year numbers to headquarters |
| October 1 – 7 | Report final end-of-year numbers to regional offices. | |
| October 15 | | Report final end-of-year numbers to headquarters |

This page intentionally left blank

Synopsis of OSWER's Feedback Process

Upon receiving the draft 2010 guidances from the National Program Managers (NPMs), the Office of the Chief Financial Officer (OCFO) will post them on its internet site and notify its counterparts in the EPA Regional offices. OCFO also will notify the Environmental Council of the States and EPA tribal planning contacts. The review period lasts approximately one month.

OSWER program office contacts (listed at the end of the guidance's executive summary) work closely with Regional program implementers and will relay any concerns to OSWER's Office of Program Management (OPM). EPA's state and tribal co-implementers and stakeholders may send their comments directly to OSWER's Assistant Administrator or to OCFO management. Regional and stakeholder comments and suggestions will be considered by OSWER for the final draft of the guidance to be released in late-April.

OSWER NATIONAL PROGRAM MANAGER GUIDANCE GRANTS MANAGEMENT GUIDELINES FOR FY 2010

EPA believes that consistent and quantifiable reporting of state results is critical toward achieving national goals and results. In concert with this belief, OMB's FY 2007 Budget passback instructed EPA to "develop a standardized template for States to use in reporting results achieved under grant agreements with EPA". In early FY 2008, a workgroup was created to identify lessons learned in EPA's State Grant Template Measures (SGTM) approach and provided recommendations for FY 2009 and beyond. The workgroup found that the SGTM approach by itself is inadequate to fulfill the objectives of accurately characterizing, delineating, and communicating results under state grants relative to EPA's mission. As a result, EPA and ECOS are seeking alternative approaches to discuss with OMB on how best to achieve accountability for state grant performance for FY 2011.

For FY 2010, Regions and States will continue to report performance results against the set of State grant measures into Measures Central. Further guidance will be issued shortly from OGD/OCFO/OCIR detailing the alternatives for FY 2010 in ensuring that grant workplans contain the required elements. In the meantime, ORBIT reports will continue to be available to report results by state and by grant.

OSWER places a high priority on accountability and effective grants management in the solicitation, selection, award, and administration of assistance agreements in support of OSWER's mission. The following key areas will be emphasized as we implement our grant programs:

1. Standardizing the timing of issuance of grants guidance for categorical grants (i.e., by April of the fiscal year prior to the year in which the guidance applies);
2. Ensuring effective management through emphasis on training and accountability standards for Project Officers and their managers; and
3. Utilizing new state grant measures to link grants performance to the achievement of environmental results as detailed in the Agency's Strategic Plan and the OSWER National Program Manager Guidance.

The Office of Grants and Debarment (OGD), in its efforts to strengthen the management and oversight of Agency assistance agreements, issued a "*Grants Management Plan for 2009-2013*." The plan is designed to help ensure grant programs meet the highest management and fiduciary standards and further the Agency's mission of protecting human health and the environment. The plan highlights five grants management goals:

1. Demonstrate the achievement of environmental results;
2. Foster a high-quality grants management workforce;
3. Enhance the management process for grants policies and procedures;
4. Standardize and streamline the grants business process; and
5. Leverage technology to strengthen decision making and increase public awareness.

OSWER continues to promote these goals and to work closely with OGD.

Timing of Guidance Issued for Categorical Grants

One of OSWER's objectives is to organize and coordinate the issuance of draft and final guidance documents, including grants guidance, to coincide as much as possible with State, tribal, and regional planning processes. As a result, all guidance packages for categorical grant programs are to be issued by April of the year in advance of the fiscal year of availability of funds if at all possible (i.e., guidance for fiscal year 2008 appropriated funds needs to be issued by April 2007). Not all categorical grant programs issue annual guidance. These programs may simply indicate that they are continuing to use their current guidance.

Effective Grants Management

OSWER's Acquisition and Resources Management Staff (ARMS) serves as liaison to OGD and the first resource for Project Officers and their managers in disseminating, implementing, and ensuring compliance with EPA new and existing grants management policies and procedures. ARMS also serves as the point of contact in consultations with our regional offices and Grant Coordinators Workgroup.

ARMS central coordinating role serves to ensure consistent implementation and compliance with Agency grants management policies and procedures throughout OSWER Headquarters and regional program offices. This enables OSWER project officers to focus on how best to properly manage assistance agreements to meet program goals and objectives.

ARMS provides training, on an as-needed basis, and strongly encourages OSWER Grant Coordinators, Project Officers, and their managers to participate in training which addresses the core competency areas identified in the Agency's *Long-Term Grants Management Training Plan*.

Promoting Competition

OSWER places great importance on assuring that, to the maximum extent possible, all discretionary funding opportunities are awarded in a fair and open competitive environment and that no applicant receives an unfair advantage. OSWER Project Officers must ensure that these actions are fully compliant with EPA Order 5700.5A1,

Policy for Competition of Assistance Agreements in the solicitation, selection, and award of assistance agreements.

The competition policy, effective January 15, 2005, applies to:

1. competitive announcements issued, released, or posted after January 14, 2005;
2. assistance agreement competitions, awards, and disputes based on competitive announcements issued, released, or posted after January 14, 2005;
3. non-competitive awards resulting from non-competitive funding recommendations submitted to a Grants Management Office after January 14, 2005; and
4. assistance agreement amendments issued after January 14, 2005.

For each competitive funding opportunity announcement, OSWER's Senior Resource Official certifies that the expected outcomes from the awards are appropriate and in support of program goals and, that the announcement is written in a manner to promote competition to the maximum extent practicable.

In accordance with Agency policy, all OSWER competitive funding opportunity announcements are advertised by posting to Grants.gov, the central Federal electronic portal for applying for grant opportunities.

Ensuring Effective Oversight of Assistance Agreements

Consistent with guidance from the Grants Administration Division, OSWER develops a *Post-Award Management Plan* which presents our strategy for ensuring proper oversight and management of assistance agreements, specifically, grants and cooperative agreements. The plan, developed in accordance with EPA Order 5700.6 A1, "*Policy on Compliance, Review and Monitoring*," establishes baseline monitoring requirements for all OSWER grants and cooperative agreements and defines the responsibilities of OSWER managers for post-award monitoring of assistance agreements. The plan does not apply to OSWER regional grants or cooperative agreements, nor does it include requirements for Interagency Acquisitions (IA).

Monitoring activities ensure satisfaction of five core areas:

1. Compliance with all programmatic terms and conditions;
2. Correlation of the recipient's work plan/application and actual progress under the award;
3. Availability of funds to complete the project;
4. Proper management of and accounting for equipment purchased under the award; and
5. Compliance with all statutory and regulatory requirements of the program.

Baseline monitoring activities are conducted by Project Officers on every assistance agreement award issued through OSWER program offices. Project Officers are

responsible for conducting baseline monitoring on an ongoing basis throughout the life of each agreement. The objective is to keep track of progress on the assistance agreement, ensuring that each recipient maintains compliance with all terms and conditions of the award, including financial and programmatic conditions.

Annually, OSWER conducts Advanced Monitoring Activities (including both on-site and off-site evaluative reviews) on a minimum of 10 percent of our assistance agreement recipients. The reviews are conducted using the “Desk and Off-site Review Protocol” and “On-Site Review Protocol” guidance offered in EPA Order 5700.6 A1. Project Officers are required to submit reports of the reviews, in the “Required Format for Writing a Programmatic Review Report for On-site and Off-site Evaluative Reviews,” within 60 calendar days of completion of the evaluation.

OSWER continually stresses the importance of Project Officer’s timely submission of evaluative reviews into the Grantee Compliance Database. Implementation of EPA Order 5700.8, *“EPA Policy on Assessing Capabilities of Non-Profit Applicants for Managing Assistance Awards,”* effective March 31, 2005, further highlights the necessity of timely submission. Under the Order, Project Officers are required to assess the programmatic capability of the non-profit applicant, taking into account pertinent information from the Grantee Compliance Database and the grant application. Project Officers are required to provide an assurance in the funding recommendation/funding package that the applicant possesses, or will possess, the necessary programmatic capability.

All competitive grant announcements, under which non-profit organizations can compete, must contain a programmatic capability ranking factor(s). Non-profit applicants and other applicants that compete will be evaluated under this factor. Non-profit applicants selected for funding will be subject to a review for administrative capability similar to that for non-competitive awards.

Project Officer Performance Standards

OSWER supports the requirement that all employees involved in grants management should have their grants management responsibilities appropriately addressed in their performance agreements. On January 5, 2007, OGD issued a memorandum entitled “Assessing 2007 Grants Management Performance under the Performance Appraisal and Recognition System (PARS).” The memorandum implements recommendations resulting from a cross-Agency Performance Measures Workgroup that developed several performance measures for assessing the grants management performance of project officers, supervisors and managers.

OSWER's Senior Resource Official has mandated the inclusion of factors that address grants management responsibilities in the performance standards of our Project Officers. To assist in this effort, OSWER has disseminated the guidance provided by OGD's January 5, 2007 memorandum to all of our Project Officers, Managers, and Grant

Coordinators. The guidance, as applicable, has been used in 2008 mid-year and end-of-year performance reviews and in the development of 2009 PARS agreements.

Environmental Results of Grants and Link to *Strategic Plan*

On January 1, 2005, EPA issued the Environmental Results Order (5700.7). Under the Order, Program Offices are required to identify and link environmental results from proposed assistance agreements to the Agency's Strategic Plan/GPRA architecture. Further, the Order requires that the linkage to the Strategic Plan, as well as anticipated outputs and outcomes are identified and addressed in assistance agreement competitive funding announcements, work plans, and performance reports submitted to Grants Management Offices after January 1, 2005.

In compliance with the Environmental Results Order, OSWER requires that Project Officers identify the linkage to the Agency Strategic Plan, including goals, objectives, and sub-objectives, and anticipated outcomes and outputs in all competitive funding announcements, prior to obtaining AA certification. Additionally, OSWER has identified environmental results as a "key topic" area in reviewing and approving funding packages for award, prior to submission to GAD.

Goals 3, 4 and 5 of EPA's 2006-2011 Strategic Plan present specific OSWER objectives, sub-objectives and strategic targets that define, in measurable terms, the change in public health or environmental conditions to be accomplished by 2011. EPA's 2006-2011 Strategic Plan is available at <http://www.epa.gov/ocfo/plan/plan.htm>.

**ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE
FY2010 NPM GUIDANCE MEASURES APPENDIX**

| G/O/S | Measures Central Code | Measure Text | Non-Commitment Indicator | State Grant Measure (Y/N) | Nat. Target |
|--------------|------------------------------|--|---------------------------------|----------------------------------|------------------------|
| 3.1.1 | MW9 | Pounds of municipal solid waste reduced, reused or recycled. | N | N | 20.5 B |
| 3.1.1 | RCC1 | Number of major projects/efforts that support the implementation and/or development of programmatic components of the national and regional RCC efforts to address Municipal Solid Waste (MSW) recycling, industrial materials (IM) recycling, toxics reduction, or green initiatives. | N | N | N/A |
| 3.1.2 | HW0 | Number of hazardous waste facilities with new or updated controls (PART). | N | Y | 100 |
| 3.1.2 | ST1 | Minimize the number of confirmed releases at UST facilities to 9,000 or fewer each year (PART). | Y | N | < 9,000 (UST releases) |
| 3.1.2 | ST6 | Increase the percentage of UST facilities that are in significant operational compliance with both release detection and release prevention requirements by 0.5% over the previous year's target (PART). | Y | Y | 65.5% |
| 3.1.2 | TR1 | Number of tribes covered by an integrated waste management plan . | N | N | 23 |
| 3.1.2 | TR2 | Number of closed, cleaned up or upgraded open dumps in Indian Country or other tribal lands. | N | N | 22 |
| 3.2.1 | 132 | Number of Superfund-lead removal actions completed (PART). | N | N | 170 |
| 3.2.1 | 133 | Number of PRP removal completions (including voluntary, AOC, and UAO actions) overseen by EPA. | N | N | 170 |
| 3.2.1 | 327A | Percent of all FRP facilities found to be non-compliant will be brought into compliance (PART). | Y | N | 15% |
| 3.2.1 | 328A | Percent of all SPCC facilities found to be non-compliant will be brought into compliance (PART). | Y | N | 15% |
| 3.2.1 | C1 | Score on Core NAR evaluation. | Y | N | 55% |
| 3.2.2 | 112 | Number of LUST cleanups completed that meet risk-based standards for human exposure and groundwater migration (PART). | N | Y | 12,250 |

**ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE
FY2010 NPM GUIDANCE MEASURES APPENDIX**

| G/O/S | Measures Central Code | Measure Text | Non- Commit- ment Indicator | State Grant Measure (Y/N) | Nat. Target |
|--------------|--------------------------------------|--|--|--|------------------------|
| 3.2.2 | 113 | Number of LUST cleanups completed that meet risk-based standards for human exposure and groundwater migration in Indian Country (PART). | N | Y | 30 |
| 3.2.2 | 121 | Number of Superfund final site assessment decisions (PART). | N | N | 330 |
| 3.2.2 | 141 | Number of Superfund construction completions (PART). | N | N | 22 |
| 3.2.2 | 151 | Number of Superfund sites with human exposures under control (PART). | N | N | 10 |
| 3.2.2 | 152 | Number of Superfund sites with contaminated groundwater migration under control (PART). | N | N | 10 |
| 3.2.2 | CA1 | Number of RCRA facilities with human exposures under control (PART). | N | Y | 125 |
| 3.2.2 | CA2 | Number of RCRA facilities with migration of contaminated groundwater under control (PART). | N | N | 107 |
| 3.2.2 | CA5 | Number of RCRA facilities with final remedies constructed. | N | Y | 126 |
| 3.2.2 | S10 | Number of Superfund sites ready for anticipated use site-wide. | N | N | 65 |
| 3.2.3 | OSRE-01 | Each year through 2011, reach a settlement or take an enforcement action before the start of a remedial action at 95 percent of Superfund sites having viable, liable responsible parties other than the federal government. | N | N | 95% |

**ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE
FY2010 NPM GUIDANCE MEASURES APPENDIX**

| G/O/S | Measures Central Code | Measure Text | Non-Commitment Indicator | State Grant Measure (Y/N) | Nat. Target |
|--------------|------------------------------|--|---------------------------------|----------------------------------|--------------------|
| 3.2.3 | OSRE-02 | Each year through 2011, address all Statute of Limitations cases for Superfund sites with unaddressed total past costs equal to or greater than \$200,000. | N | N | 100% |
| 4.1.2 | CH2 | Number of risk management plan audits and inspections completed. | N | N | 400 |
| 4.1.3 | PC1 | Number of sites receiving 40 CFR 761.61(a) or (c) approvals. | N | N | 40 |
| 4.1.3 | PC2 | Number of acres to be remediated under 40 CFR 761.61(a) or (c) approvals. | N | N | 100 |
| 4.2 | CARE-1 | Number of Community Action for Renewed Environment (CARE) cooperative agreement projects managed in order to obtain toxic reductions at the local level. | Y | N | N/A |
| 4.2.3 | B29 | Number of Brownfields properties assessed (PART). | N | Y | 1,000 |
| 4.2.3 | B32 | Properties cleaned up using Brownfields funding. | N | Y | 60 |
| 4.2.3 | B33 | Acres of Brownfields property made ready for reuse (PART). | Y | N | 1,000 |
| 4.2.3 | B34 | Jobs leveraged from Brownfields activities. | Y | N | 5,000 |
| 4.2.3 | B37 | Billions of dollars of cleanup and redevelopment funds leveraged at Brownfields sites (PART). | Y | N | 0.9 |
| 4.2.3 | B38 | Number of tribes supported by Brownfields cooperative agreements. | Y | N | N/A |
| 5.2.1 | PB8 | Number of pounds reduced (in millions) of priority chemicals as reported by National Partnership for Environmental Priorities members (PART). | N | N | 0.75 |

ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE
FY 2010 STATE GRANT MEASURES APPENDIX

| Type of Categorical Grant | G/O/S | ACS Code | Measure Text | Nat. Target |
|---------------------------|-------|----------|---|-------------|
| RCRA | 3.1.2 | HW0 | Number of hazardous waste facilities with new or updated controls. | 100 |
| UST | 3.1.2 | ST1 | Minimize the number of confirmed releases at UST facilities to 9,000 or fewer each year | 9,000 |
| UST | 3.1.2 | ST6 | Increase the percentage of UST facilities that are in significant operational compliance (SOC) with both release detection and release prevention requirements by 0.5% over the previous year's target. rate of significant operational compliance by 1% over the previous year's target. | 65.5% |
| LUST | 3.2.2 | 112 | Number of LUST cleanups completed that meet risk-based standards for human exposure and groundwater migration | 12,250 |
| LUST | 3.2.2 | 113 | Number of LUST cleanups completed that meet risk-based standards for human exposure and groundwater migration in Indian Country. | 30 |
| RCRA | 3.2.2 | CA1 | Number of RCRA facilities with human exposures under control. | 125 |
| RCRA | 3.2.2 | CA5 | Number of RCRA facilities with final remedies constructed. | 126 |
| Brownfields | 4.2.3 | B29 | Number of Brownfields properties assessed. | 1,000 |
| Brownfields | 4.2.3 | B32 | Properties cleaned up using Brownfields funding. | 60 |

| OSWER ARRA Measures | |
|---------------------|--|
| Brownfields | Number of properties assessed |
| Brownfields | Number of properties cleaned |
| Brownfields | Amount of dollars leveraged |
| Brownfields | Number of jobs leveraged |
| Brownfields | Acres ready for reuse |
| Brownfields | Percentage of participants obtaining employment from Job Training Grants |
| Brownfields | Number of Assessment Starts |
| Brownfields | Number of Assessments completed with Recovery Funds |
| Brownfields | Number of Cleanup Starts |
| Brownfields | Number of loans and/or subgrants made by Revolving Loan Fund Grant Recipients |
| Superfund | Total number of sites in receipt of Recovery Act funding |
| Superfund | Total number of projects in receipt of Recovery Act funding |
| Superfund | Number of sites with new construction in receipt of Recovery Act funding |
| Superfund | Number of projects with new construction in receipt of Recovery Act funding |
| Superfund | Percentage of available Recovery Act funding obligated to projects |
| Superfund | Number of sites achieving construction completed with Recovery Act funding |
| Superfund | Number of sites achieving human exposure under control with Recovery Act funding |
| LUST | Direct Site Assessments Initiated |
| LUST | Indirect Site Assessments Initiated |
| LUST | Direct Site Assessments Completed |
| LUST | Indirect Site Assessments Completed |
| LUST | Direct Cleanups Initiated |
| LUST | Indirect Cleanups Initiated |
| LUST | Direct Cleanups Completed |
| LUST | Indirect Cleanups Completed |

Note: ARRA measures are subject to change.

Attachment 4

**Comments and Response to Comments Summary
on OSWER's FY 2010 Draft NPM Guidance**

| Comment from regions, state, tribe, or other stakeholder | Commenter (s) | Location in Draft Guidance | NPM Response | Action Taken in Final Guidance |
|--|-------------------------------------|----------------------------|----------------|--|
| Issue Area: Program Priorities | | | | |
| <p>The first priority listed is Revitalization, which mentions cleaning up Superfund sites in passing, rather than the priority being our core mission to clean up sites, with revitalization as an implementation strategy and beneficial outcome of the cleanup. The priority paragraph doesn't mention anything at all about protecting human health and the environment. It also doesn't mention using enforcement to hold responsible parties accountable for performing or paying for cleanups, but rather uses the term "accommodate" with regards to getting cleanups done. As one branch chief worded it, this is worded as if "the tail is wagging the dog." The word "accommodate" should be deleted and the emphasis should be place more on the three points mentioned above.</p> | <p>Region 5, Superfund Division</p> | <p>Page 1, Section III</p> | <p>Agreed.</p> | <p>We agree with these comments and will revise page 1 of the executive summary accordingly.</p> |
| Issue Area: OSWER Implementation Strategies | | | | |
| <p>There is a typo in the first sentence: should be National "Priorities" List</p> | <p>Region 5, Superfund Division</p> | <p>Page 5, Section VII</p> | <p>Agreed.</p> | <p>Corrected typo on page 5 of the final guidance.</p> |

Attachment 4

| Comment from regions, state, tribe, or other stakeholder | Commenter (s) | Location in Draft Guidance | NPM Response | Action Taken in Final Guidance |
|---|------------------------------|---|---|--|
| In the last sentence of the second paragraph, the phrase “and some BRAC sites” is a bit confusing or awkward. If what this is meant to say is that we only work at some BRAC sites, this might be better worded as “at NPL sites and those BRAC sites with active EPA involvement” or something such as that. | Region 5, Superfund Division | Page 5, Section VII | Agreed. | We will revise the text, as suggested. |
| Issue Area: Brownfields | | | | |
| Continue Brownfields Funding: We look forward to continued strong support from EPA, and see Brownfields projects as having excellent potential under the federal economic stimulus package. | New England Commissioners | Page 21, Brownfield and Land Revitalization | EPA looks forward to working with the New England Commissioners to help assess and cleanup Brownfield sites. | No change to document. |
| Issue Area: Waste Management and Minimization | | | | |
| Recycling & Materials Management: We seek federal support and incentives to enhance regional recycling and processing capacity. EPA can be particularly helpful in setting standards, providing guidance, and identifying particular waste-to-recycling streams. | New England Commissioners | Page 25, RCRA Waste Management | OSWER is currently working with American National Standards Institute National Accreditation Board (ANAB) to establish a certification program for responsible recycling (R2) best management practices (bmp). R2 BMPs were developed in October 2008. Guidance and other information on a broad range of recycling topics, including waste streams appropriate for recycling can be accessed from our homepage: www.epa.gov/epawaste/index.htm We will continue to work with the EPA regional offices and states as we further implement the Resource Conservation | No change to document. |

Attachment 4

| Comment from regions, state, tribe, or other stakeholder | Commenter (s) | Location in Draft Guidance | NPM Response | Action Taken in Final Guidance |
|---|--------------------|------------------------------------|--|--------------------------------|
| | | | Challenge. | |
| When evaluating Integrated Solid Waste Management Plans, regions should also consider that the plans are living documents and should best reflect the needs and issues of the tribe the plan is intended to serve. | Santa Clara Pueblo | Page 30, RCRA Waste Management | OSWER agrees that an Integrated Solid Waste Management Plan must reflect the needs and issues of the tribe by evaluating local tribal needs and conditions, and then selecting and combining the most appropriate waste management activities for those conditions. We encourage tribes to revise their plans to respond to changing conditions and priorities. | No change to document. |
| School Chemical Cleanout is another effort that will have beneficial impacts upon communities and encourages initial interaction with youth and EPA | Santa Clara Pueblo | Page 33, RCRA Waste Management | The Schools Chemical Cleanout Campaign (SC3) aims to ensure that all schools are free from hazards associated with mismanaged chemicals. SC3 gives K-12 schools information and tools to responsibly manage chemicals. | No change to document. |
| Issue Area: PCB cleanup and disposal program | | | | |
| When OSWER assumed responsibility for the PCB cleanup and disposal program in FY-08, it also assumed responsibility for the commercial storage and treatment of PCBs. OSWER's decision-making responsibility for storage and treatment of PCBs is not reflected in the narrative found on pages 31 and 32 nor in the measures found in Attachment #1. | Region 4 | Pages 31-32, RCRA Waste Management | <p>Transfer of the cleanup and disposal program from OPPTS to OSWER also included commercial storage and treatment of PCBs.</p> <p>The current measures associated with this program are for cleanup sites. These measures were in place with EPA's Office of Pollution Prevention and Toxics have not been changed since the program was transferred. Since we can not anticipate when a facility will apply for storage or disposal approval, it is hard to target these actions. The same is true for targeting cleanups, but there consistently are more sites in need of cleanup approvals than</p> | No change to document. |

Attachment 4

| Comment from regions, state, tribe, or other stakeholder | Commenter (s) | Location in Draft Guidance | NPM Response | Action Taken in Final Guidance |
|--|---------------|--------------------------------|--|--------------------------------|
| <p>The narrative text of the draft NPM at the top of page 35 states: "During FY 2010, Regions are expected to continue to issue approvals for PCB cleanup and disposal as required under 40 CFR Part 761. OSW is assessing the current ACS measures and will be working with the Regions to update for FY 2010."</p> <p>Attachment 1 under Measures Central Codes PC1 and PC2 lists the following:</p> <p>PC1 Number of sites receiving 40 CFR 761.61(a) or (c) approvals</p> <p>PC2 Number of acres to be remediated under 40 CFR 761.61(a) or (c) approvals</p> <p>There is a disconnect between the narrative and Attachment 1 in that "disposal" approvals encompass several other parts of Part 761 in addition to 761.61(c). Further, PC1 is worded incorrectly insofar as there is no such thing as a 761.61(a) approval.</p> | Region 4 | Page 35, RCRA Waste Management | <p>disposal/storage approvals.</p> <p>The narrative is reiterating that regions should continue to issue both cleanup and disposal approvals. However, the ACS measures only cover cleanups.</p> <p>761(a) is not an approval like 761(c) is an approval, but the regulations specify in 761.61(a)(3)(E)(ii) that the EPA Regional Administrator will respond in writing to approve the self-implementing cleanup, to disapprove of the self-implementing cleanup, or to require additional information.</p> | No change to document. |
| As in 2008 and 2009, the focus of | Region 4 | Attachment | We are aware that there is a significant | No change to document. |

Attachment 4

| Comment from regions, state, tribe, or other stakeholder | Commenter (s) | Location in Draft Guidance | NPM Response | Action Taken in Final Guidance |
|--|---------------|----------------------------|--|--------------------------------|
| <p>the PCB program in the NPM is clearly remediation oriented. As we know by now, there is a tremendous amount of work to be done on the storage and disposal (our) side of the PCB house. The types of PCB approvals we deal with are:</p> <ul style="list-style-type: none"> • 761.65(d) • 761.62(c) • 761.75(c) • 761.60(e) • 761.79(h) • 761.70(d) <p>Essentially, Attachment 1 fails to recognize at least half (and probably more) of the PCB work load here in our Region and across the country. I'm perfectly happy operating without any ACS commitments. However, since this is OSWER's 3rd NPM since receiving the gift of the PCB program (a non-delegable federal program with statutory authority), I would say it's about time the "programs" folks got some credit (and funding) for the work they are doing.</p> | | I, Measures Appendix | <p>amount of PCB work being done throughout the country that is not covered in the ACS measures. It is difficult to develop measures that allow for the inconsistent and unpredictable aspects of incoming approval applications (how many, what kind, level of difficulty). Regional insight and input will be important in developing measures that accurately represent the work being done. HQ will continue to work with the Regions to develop appropriate new measures for the PCB program.</p> | |
| Issue Area: Priority Chemical Reduction Activities | | | | |
| Recommend two additional | Region 4 | Page 32, | We believe that your suggestions go | No change to document. |

Attachment 4

| Comment from regions, state, tribe, or other stakeholder | Commenter (s) | Location in Draft Guidance | NPM Response | Action Taken in Final Guidance |
|---|----------------------|---|---|---|
| <p>activities be placed on Page 32, under Priority Chemical Reduction Activities: Support Priority Chemical Reduction activities through State sponsored (and EPA assisted) School Chemical Cleanout Campaign initiatives, which an emphasis in removing mercury from schools; and Collection of vehicle mercury switches under the End of Life Vehicle Solutions (ELVS) and National Vehicle Mercury Switch Recovery Program (NVMSRP) are reportable under Priority Chemicals of the RCC if they come from automobile salvage yards unaffiliated with Automobile Recyclers Association. To date, other States have reported pounds collected ranging from 60 to 90 lbs of mercury.</p> | | <p>RCRA Waste Management</p> | <p>beyond the level of specificity that this guidance is intended to convey and may be better addressed in your RCC Action Plan. We look forward to working with you as you further develop your suggestions.</p> | |
| <p>Issue Area: Emergency Preparedness and Response</p> | | | | |
| <p>The criteria for facilities who reported RMP worst-case scenario population exceeding 500,000 people is incorrect. The correct number is 100,000.</p> | <p>EPA Region 10</p> | <p>Page 19, Emergency Response and Prevention</p> | <p>Agreed.</p> | <p>Guidance will use 100,000.</p> |
| <p>The last sentence before the Measure and Targets incorrectly refers to three targets (rather than two).</p> | <p>EPA Region 10</p> | <p>Page 20, Emergency Response and</p> | <p>Agreed.</p> | <p>Will revise page 20 to read 'two' strategic targets.</p> |

Attachment 4

| Comment from regions, state, tribe, or other stakeholder | Commenter (s) | Location in Draft Guidance | NPM Response | Action Taken in Final Guidance |
|--|--------------------|--|--|---|
| | | Prevention | | |
| OSWER-OEM drafted a (2-4-09) Strategic Direction document for CEPP (FY09-FY14) that includes a long-term measure and target of 2,000 inspections by 2014. The draft OSWER NPM Guidance includes a target of 2,400 inspections by 2014. These values should be consistent. | EPA Region 10 | Page 20, Emergency Response and Prevention | The correct number is 2,400. The Strategic Direction document should be updated. | Strategic Direction document will be revised to reflect our goal of 2,400 inspections. No change to the NPM Guidance narrative. |
| Regions should work with tribal consortia to provide compliance assistance in reducing risks from chemical accidents. | Santa Clara Pueblo | Page18, Emergency Response and Prevention | OSWER works with tribal governments as co-regulators, including inter-tribal consortia that meet our definition. We will continue to support working with inter-tribal consortia, as appropriate. We will share this comment with our regional programs as part of this support. | No change to document. |
| Please clarify the second bullet under Long-term Output Measures so that it's clear that the removal action is a completion. | EPA, Region 10 | Page 17, Emergency Response and Prevention | We believe that the measure is clearly stated as, "By 2014, complete an additional 850 Superfund-lead hazardous substance removals." | No change to document. |
| The criteria for identifying high risk RMP facilities subject to inspection should be verified – the Guidance defines high risk facilities as those that have reported a worst-case scenario population exceeding 500,000 people. The OECA NPM Guidance provides the same criteria, but revised the population number to 100,000 people. | EPA, Region 3 | Page 19, Emergency Response and Prevention | Agreed. | Will revise page 19 of the narrative to read '100,000' people. |
| Response to incidents involving | Santa Clara | Page 15, | Comment acknowledged. | No change to document. |

Attachment 4

| Comment from regions, state, tribe, or other stakeholder | Commenter (s) | Location in Draft Guidance | NPM Response | Action Taken in Final Guidance |
|--|--------------------|---|---|---|
| harmful substances is a big component in how the general public perceives EPA. Effective response guided by science and protection of human health and the environment can leave long lasting positive impressions of the EPA by affected communities | Pueblo | Superfund Remedial and Federal Facilities Response Programs | | |
| Issue Area: Oil Spill Prevention | | | | |
| The Guidance does not specify the timeframe for achieving compliance – whether at the time of the inspection or within the reporting period. There is added confusion with respect to the long term output measure that requires that by 2014, 60 % of all facilities found to be non-compliant between 2010-2014 will be brought into compliance. | EPA, Region 3 | Page 16, Emergency Response and Prevention | In OSWER’s FY 2010 NPM Guidance, the timeframe for achieving targets is the end of the fiscal year (i.e., September 30, 2010). In FY 2010, OSWER’s OEM expects 15 percent of non-compliant facilities are to be brought into compliance. This is a progressive measure that will build up to 60 percent of noncompliant facilities being brought into compliance by 2014. | No change to document. |
| The Guidance is not clear about what is to be reported – oil storage capacity or volume of oil on hand at one specific point in time (during an inspection). The Region also questions the value of this measure. | EPA, Region 3 | Page 17, Emergency Response and Prevention | OSWER’s OEM is focusing on storage capacity for this measure. We believe this is a valuable measure because the information collected can be used to communicate with the public the value of the program. | We will update page 17 of the Guidance to reflect oil storage capacity. |
| The strategies listed under the Superfund Removal and Oil programs are relatively low cost – non technical efforts that will generate useful data to make real changes in chemical material management. | Santa Clara Pueblo | Page 5, Implementation Strategies | Comment acknowledged. | No change to document. |

Attachment 4

| Comment from regions, state, tribe, or other stakeholder | Commenter (s) | Location in Draft Guidance | NPM Response | Action Taken in Final Guidance |
|--|---------------------------|---|--|--------------------------------|
| Issue Area: Land Restoration | | | | |
| <p>Institutional Controls should be seen as the least desirable method of protection/remediation. The fact that ICs have not been implemented where required demonstrates their ineffectiveness in Superfund site remediation.</p> | <p>Santa Clara Pueblo</p> | <p>Page 14, Superfund Remedial and Federal Facilities Response Programs</p> | <p>CERCLA section 121 states Congress' preference for treatment and permanent remedies as opposed to simply preventing exposure through legal controls. However, when sites cannot be restored within the remedy selection criteria of the NCP, institutional controls can be an effective supplement to engineered remedies at cleanup sites that are not available for unrestricted use and unlimited exposure. The fact that ICs have not always been implemented where required demonstrates the complexity in implementing, monitoring and enforcing ICs rather than their ineffectiveness.</p> | <p>No change to document.</p> |
| Issue Area: Additional Areas of Interest | | | | |
| <p>It should be noted EPA/OSWER support of Tribal Program Development is also a result of the EPA Trust Responsibility has for tribes in the US</p> | <p>Santa Clara Pueblo</p> | <p>Page. 3 Section V</p> | <p>The NPM guidance describes the areas OSWER will focus activities to improve tribal program development. Implementing the OSWER Tribal Strategy is a primary focus. In the opening paragraph of the OSWER Tribal Strategy, EPA states, "EPA's OSWER is committed to protecting human health and the environment in Indian country while supporting tribes' self government, acting consistent with the federal trust responsibility, and strengthening the government-to-government relationships between tribes and EPA."</p> | <p>No change to document.</p> |
| <p>Continued education by regions on CARE initiatives would encourage</p> | <p>Santa Clara Pueblo</p> | <p>Page 4, Section. IV</p> | <p>We agree and intend to follow through on this important work, and will share this</p> | <p>No change to document.</p> |

Attachment 4

| Comment from regions, state, tribe, or other stakeholder | Commenter (s) | Location in Draft Guidance | NPM Response | Action Taken in Final Guidance |
|--|---|----------------------------|---|--------------------------------|
| increased participation by local communities and tribes | | | comment with appropriate EPA program staff to help inform them. | |
| Will Abandoned UST efforts be a part of the priorities? | Santa Clara Pueblo | Page 6 Section. VII | OSWER lists as a priority, “Revitalizing Abandoned Gas Stations” as part of the national program guidance. Many of the estimated 200,000 brownfield sites that are thought to be contaminated with petroleum products are old, abandoned gas stations. In addition to the grant funds that EPA provides to communities to assess and clean up petroleum brownfield sites, OSWER has begun a much more aggressive effort to support the reuse and revitalization of those sites in order to help communities strengthen their local economies. To that end, in September 2008, OSWER released to the public a Petroleum Brownfields Revitalization Action Plan that presents a comprehensive strategy for putting petroleum brownfields back into productive use. For more information, please see http://www.epa.gov/swerust1/rags/petrobfactionplan.pdf | No change to document. |
| Exchange Network participation can be enhanced by working with tribal consortia to demonstrate benefits of network | Santa Clara Pueblo | Page 6, Section VII | Agreed. We will continue to support inter-tribal consortia in this area, as appropriate. | No change to document. |
| OIR recommends that each NPM guidance specifically articulate strong support for and | EPA Office of Intergovernmental Relations | General comment | OSWER strongly encourages the Regions to continue their efforts to work closely with the States and | No change to document |

Attachment 4

| Comment from regions, state, tribe, or other stakeholder | Commenter (s) | Location in Draft Guidance | NPM Response | Action Taken in Final Guidance |
|---|----------------------|-----------------------------------|---|---------------------------------------|
| <p>encourage our Regional Offices to work very closely with the States to identify opportunities for enhanced work sharing, resource flexibility, and phased implementation of program requirements. We already have two important tools available to address workload—Performance Partnership Agreements and Performance Partnership Grants. Any additional tools the program may have available should also be highlighted.</p> | | | <p>agrees that it is important to encourage resource flexibility and enhanced work sharing. The Superfund program will continue to work with Regions to improve long-term planning construction estimates and funding strategies and will also continue to emphasize the importance of community involvement throughout the cleanup process. Our RCRA program provides guidance that Regions should support and work closely with states to ensure that environmental regulations, applicable Federal environmental justice (EJ) policies, strategies, tools and training programs are used to adequately address EJ concerns. Finally, our LUST/UST program promotes regional coordination with states in collection and verification of performance information and offers extensive tools and implementation toward realizing that coordination.</p> | |