

# IHS-EPA MOU: OPEN DUMPS ON TRIBAL LANDS

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US Environmental Protection Agency/Indian  
Health Service

November 3, 2022





# Topics

- P.L. 103-399; Indian Lands Open Dumps Cleanup Act of 1994
- Memorandum of Understanding (MOU) between EPA and HHS, represented by IHS, to Improve Open Dump Data, Solid Waste Projects and Programs in Indian Country
- Tribal Waste Program Assessment Form

# Public Law 103-399

- P.L. 103-399; Indian Lands Open Dumps Cleanup Act of 1994
  - Indian or Alaska Native lands as defined in Indian Lands Open Dump Cleanup Act
  - Site is not used by individual families on lands to which they hold beneficial title,
  - Site has never been operated for profit (based on best available information)
  - Site is not a privately owned facility where wastes from industrial processes are or have been routinely disposed of in compliance with applicable Federal laws
  - Contiguous surface area > 0.5 acres

# HHS (IHS) – EPA MOU

A. IHS commits to continued review and update of the open dump inventory data included in the Operation and Maintenance Data System (OMDS) with a goal of improving the accuracy and completeness of the data to better characterize the public health and environmental risks of open dumps.

B. IHS and EPA commit to collaborate on the development and delivery of open dump assessment training for IHS, EPA, and tribal staff to improve the skills of these staff in assessing open dumps and accurately entering data into OMDS.

C. EPA commits to regular assessments, evaluations and reporting on tribal government solid waste management programs, including effectiveness to reduce open dumping activities in Indian country.

- [Tribal Waste Program Assessment Form](#)
- [Tribal Solid Waste- Improving Open Dump Data](#)

# HHS (IHS) – EPA MOU

D. IHS commits to incorporate into the IHS Sanitation Deficiency System the results of EPA conducted evaluations and assessments of tribal government solid waste management programs to assist with identifying projects that are ready to be funded.

E. IHS and EPA commit to collaborate on the development and delivery of trainings and other technical assistance that will assist tribes in improving the effectiveness of tribal solid waste management programs.

F. IHS and EPA commit to continue to encourage tribal governments to take action on cleaning up and closing open dumps through tribally-directed initiatives.



# Tribal Waste Management Assessment Program Form for Evaluation of a Tribe's Solid Waste Management Capacity (Form)

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- **The September 2019 IHS Guide establishes that certifying that a solid waste project is “Ready to Fund” involves coordination with EPA.**
  - Section 8a: the Area SFC Director shall confirm that an ISWMP exists for the Tribe and shall coordinate with the regional EPA solid waste contact (and other responsible parties) to ensure that EPA has completed an evaluation of the Tribe's solid waste management capacity.
- EPA is responsible for regular assessments, evaluations, and reporting on tribal solid waste management programs, including analysis of their effectiveness in reducing open dumping activities.”
- For the purposes of this Form, the term Integrated Solid Waste Management Plan (ISWMP) as defined by IHS is equivalent and interchangeable with Integrated Waste Management Plan (IWMP) as defined by EPA.

# IHS-EPA MOU Implementation in Alaska

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- Instead of filling out this Form, the Alaska Department of Environmental Conservation (ADEC) takes the role of reviewing and recommending solid waste projects for addition onto IHS's SDS list.
- Project engineering assistance is completed by either ANTHC or ADEC's Village Safe Water (VSW) staff
  - Find out who your community contact is here: <https://dec.alaska.gov/water/village-safe-water/>

# Tribal Waste Management Assessment Program Form for Evaluation of a Tribe's Solid Waste Management Capacity

- [EPA Tribal Waste Assessment Form](#)
  - This form provides the basis for EPA's evaluation of a tribe's waste management program capacity and eligibility for IHS open dump closure assistance.

## Tribal Waste Management Assessment Program Form for Evaluation of a Tribe's Solid Waste Management Capacity

*EPA Office of Resource Conservation and Recovery  
Updated February 2021*

**Background:** The 2017 [Memorandum of Understanding](#) (MOU) between the Department of Health and Human Services and the U.S. Environmental Protection Agency (EPA) to Improve Open Dump, Solid Waste Projects and Programs in Indian Country identified core components that should be present to ensure the effectiveness and sustainability of an American Indian and Alaska Native (AI/AN) community waste management program. These components are reflected in the Tribal Waste Management Assessment Form (Form) (identified as Capacity Indicators E3.5 through E.3.18 in the May 15, 2013 [Indian Environmental General Assistance Program: Guidance on the Award and Management of General Assistance Agreements for Tribes and Intertribal Consortia](#)). These components provide the basis for EPA's evaluation of a tribe's waste management program capacity and eligibility for Indian Health Service (IHS) open dump closure assistance.

The MOU provides the guidelines on how the IHS will consult with EPA to address the closure of open dumps or inadequate solid waste facilities on tribal lands. The September 2019 IHS [Sanitation Deficiency System \(SDS\): A Guide for Reporting Sanitation Deficiency for American Indian and Alaska Native Homes and Communities](#) (Guide) establishes the process of implementation, from validating a tribe's solid waste management program to identifying and removing solid waste deficiencies through approved projects or other means.

The September 2019 IHS Guide establishes that certifying that a solid waste project is "Ready to Fund" involves coordination with EPA:

"As part of certifying that a solid waste project is "Ready to Fund" (see Section 8a), the Area SFC Director shall confirm that an ISWMP exists for the Tribe and shall coordinate with the regional EPA solid waste contact (and other responsible parties) to ensure that EPA has completed an evaluation of the Tribe's solid waste management capacity. EPA is responsible for regular assessments, evaluations, and reporting on tribal solid waste management programs, including analysis of their effectiveness in reducing open dumping activities."

For the purposes of this form, the term Integrated Solid Waste Management Plan (ISWMP) as defined by IHS is equivalent and interchangeable with Integrated Waste Management Plan (IWMP) as defined by EPA.

**Instructions:** The Form will be circulated to several parties. The process is outlined below.

1. The Tribe will complete the Capacity Indicators section on Pages 2-4 of the Form and submit it to their EPA Regional office for review.
2. The EPA Region makes a determination on Page 4 and sends the document to EPA Headquarters (ORCR) for concurrence.
3. ORCR makes a determination and sends the document back to the EPA Region.
4. EPA Region sends the completed document to the tribe.
5. EPA Region sends the completed document to IHS.



# Tribal Waste Management Program Assessment Form

| Capacity Indicators  | Component Evaluation   | Status  |
|--|--|---|
| <p><b>E.3.5</b><br/>Tribe is conducting community education and outreach activities to enhance community knowledge and interest in source reduction, alternatives for managing household hazardous waste, recycling, composting, and the use of green materials in tribal construction and to promote the use of such integrated solid waste management systems.</p> | <div style="background-color: #e6f2ff; height: 300px; width: 100%;"></div> | <p>Highlight which stage best describes the component currently, and a reasonably forecasted date for completion /full implementation if not yet fully implemented</p> <p><i>Early Planning</i> <input type="checkbox"/></p> <p><i>In Development</i> <input type="checkbox"/></p> <p><i>Waiting for Approval</i> <input type="checkbox"/></p> <p><i>Partially Implemented</i> <input type="checkbox"/></p> <p><i>Fully Implemented</i> <input type="checkbox"/></p> <p>Date: <input style="width: 100%;" type="text"/></p> <p><i>Each of the Capacity Indicators must reach Fully Implemented prior to final closure operations.</i></p> |

# Tribal Waste Management Program Assessment Form

## Capacity Indicator E.3.5

- Tribe is conducting community education and outreach activities to enhance community knowledge and interest in source reduction, alternatives for managing household hazardous waste, recycling, composting, and the use of green materials in tribal construction and to promote the use of such integrated solid waste management systems.

## Capacity Indicator E.3.6

- Tribe has completed a waste assessment (e.g., a waste stream composition study; characterization of the solid and hazardous waste management practices, facilities, and issues in the community; evaluation of current waste management system(s) effectiveness; waste collection, transportation and disposal options and associated costs).

# Tribal Waste Management Program Assessment Form

## Capacity Indicator E.3.7

- Tribe has a tribally approved Integrated Waste Management Plan (IWMP).

## Capacity Indicator E.3.8

- Tribe has established a program to provide waste minimization, recycling, household hazardous waste collection, used oil collection, junk vehicle removal, bulk waste/appliance/electronic waste collection, and/or composting.

# Tribal Waste Management Program Assessment Form

## Capacity Indicator E.3.17

- Tribe has enacted waste management laws, codes, and/or regulations with effective compliance assurance and enforcement mechanisms (including anti-littering provisions and protocols to address small-scale dumping/burning activities).

## Capacity Indicator E.3.18

- Tribe has established and implemented a compliance monitoring and enforcement strategy for the tribe's solid and hazardous waste management laws, codes, and/or regulations.

|   |                   |                          |
|---|-------------------|--------------------------|
| <b>EPA Recommendation:</b>                    | <b>Approve</b>    | <input type="checkbox"/> |
| <b>Date:</b>                                  | <b>Disapprove</b> | <input type="checkbox"/> |
| Reason for Approval/Disapproval               |                   |                          |
| EPA Regional Office<br>RCRA Staff Concurrence | Name:             | Date                     |
| EPA HQ's Office<br>RCRA Staff Concurrence     | Name:             | Date                     |

## Tribal Waste Management Program Assessment Form: EPA Recommendation Section



Date: [REDACTED]

To: Indian Health Service [REDACTED] Area Office

Attention, IHS Staff Contact: [REDACTED]

RE: Verification of Tribal Solid Waste Management Program Assessment for [REDACTED]

In accordance with the requirements of the *Sanitation Deficiency System (SDS), A Guide for Reporting Sanitation Deficiencies for American Indian and Alaska Native Homes and Communities*, this memorandum attests that EPA has verified that the Tribal Waste Program Assessment Form for the [REDACTED] Tribe has been completed. Please note the following:

- The Tribe [REDACTED] a tribally approved Integrated Waste Management Plan (IWMP) as of this date: [REDACTED].
- We have evaluated the solid waste management program and have determined that measures [REDACTED] been taken that will be effective in reducing open dumping activities.

From: EPA Region and Branch [REDACTED]

Name of EPA Regional Staff: [REDACTED]

## Verification of Tribal Solid Waste Management Program Assessment



## One Form For All!

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- ✓ The tribe may file the Tribal Waste Program Assessment Form to support future IHS or federal agency projects requiring documentation or reporting on tribal solid waste management programs.

# How to Make Your Project Ready to Fund

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- In addition to other requirements to be Ready to Fund, a solid waste project must meet the following:
  - IHS Sanitation Facilities Construction (SFC) Director must confirm an **Integrated Solid Waste Management Plan (ISWMP)** exists for Tribe
  - SFC Director must coordinate with EPA to confirm they **completed the Assessment Form**
  - The Sanitation Deficiency System (SDS) project must document
    - An alternative for future solid waste disposal once the site is cleaned up
    - Proper on-site burial or removal and disposal of existing solid waste at the site
    - Contributions to cover “ineligible” project costs must be documented
- The presence of hazardous waste at an open dump site does not mean that the site cannot be addressed through SFC process, but the hazardous waste must first be remediated through an EPA-approved process.

Refer to the 2019 SDS guide-Final for requirements: <https://www.ihs.gov/dsfc/>

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