



Tribal TAB Program

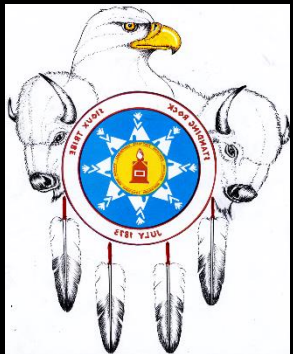
*Providing "Technical Assistance
to Brownfields" to all U.S.
Federally Recognized Tribes!*



Tribal TAB Program

*Element 3:
Public Participation*

Tier 1: Module 5



Hans Bradley – TRP Coordinator
Standing Rock Sioux Tribe, ND/SD

Element 3: The “Law”

SEC. 128(a)(2) (C) Mechanisms and resources to provide meaningful opportunities for public participation, including:

(i) public access to documents that the State, Indian tribe, or party conducting the cleanup is relying on or developing in making cleanup decisions or conducting site activities including input into site Prioritization.;

(ii) prior notice and opportunity for comment on proposed cleanup plans and site activities;

and

Element 3: The “Law” (cont.)

(iii) a mechanism by which—

- (I) a person that is or may be affected by a release or threatened release of a hazardous substance, pollutant, or contaminant at a brownfield site located in the community in which the person works or resides may request the conduct of a site assessment; and
- (II) an appropriate State or Tribal official shall consider and appropriately respond to a request under sub-clause (I).

US EPA Guidance

This element can apply to any response action (completed or planned) under the oversight or jurisdiction of the Tribal Response Program to include a response action (clean up) conducted by a third party.

US EPA Guidance

- Although it is not required for a response action conducted only under federal jurisdiction (i.e. Superfund, RCRA, LUST or DoD FUDS) the tribe would be strongly encouraged to provide public access to all relevant documents available through the TRP office.
- EPA will allow tribes to use TRP Grant funds to make information available to the public via the internet or other means.

US EPA Guidance

EPA strongly encourages tribes to seek public input regarding the priority of sites to be addressed and solicit input from local communities, especially:

- ✓ communities with a health risk related to exposure to hazardous waste or other public health concerns;
- ✓ economically disadvantaged or remote areas; and
- ✓ communities with limited experience working with government agencies.

US EPA Guidance

Summary:

- Minimum requirement = public notification and participation applies to all response actions taken/planned under the TRP
- Encouraged = Such activities can apply to all response actions taken/planned, regardless of jurisdiction, in Tribal lands.

Note: The Public Record could be the primary list of sites and actions that are subject to the requirements of this Element.

SEC. 128(a)(2) (C)(i)

Public Access

Public Access

Public access to remediation plans and reports and decision documents is important.



Without access to such documents the “rumor mill” tends to create more interesting information and mis-information that can create problems and unnecessary concerns.

(aka: “alternative facts”)

Public Access includes:

- Making copies of planning and decision documents available and accessible to the public, sometimes at multiple locations;
- Making documents available at a local tribal district office, library, school or other public office or building;
- Making such documents available for review on a tribal web site or other social media;



Sherry Bishop – TRP Coordinator
Ft. Belknap Indian Community, MT

Public Access includes:

- Making such documents available for review at a public computer work station;
- Making information available in a local traditional language(s); and
- Including additional information as part of or along with the Public Record.

{Note: keep original documents secured}

Traditional Language



Tribal Response Program/Brownfield Three Affiliated Tribes Environmental Division

hunaanu' kUššINAseéNU ti-

raawaaruuxtii

šikaakatuúteeRI t atsú tiwaaraarux-
tii

tuxtaaNA'o noohunaáčituú'

ti-NAhuná-sA wekaakIhuNAhAs

English Translation

1. This land of ours is sacred!
2. Even though the sacredness is not visible.
3. Have respect for everything
4. The earth is the only thing that lives for ever!



Lyle Gwin, TRP Coordinator – Three Affiliated Tribes, ND

SEC. 128(a)(2) (C)(ii)

Prior Notice

Prior Notice

- This requirement applies to **all planned response actions** conducted under the authority of the Tribal Response Program. This would include, at a minimum, all site specific response actions conducted utilizing TRP Grant funds.
- A reasonable amount of time should be provided for the review and comment of documents and they should be reasonably available for review.

Prior Notice

A general public meeting or forum should be conducted to answer questions and provide additional information as well as to receive verbal and/or written comments.

The Tribal administrative requirements or policies should be consulted for the appropriate forum and process to be utilized.

Tribal Accomplishments

- Tribes have provided copies of documents in the tribal environmental office, the main tribal government offices and in some cases in local communities, district offices or schools/libraries.
- Tribal web sites have been used to provide information as well as copies of documents and reports.
- Some tribes have also provided translations of key information or summaries in the local traditional language(s).
- Many Tribes are using the “BIT” database to document and store site photos and reports.

SEC. 128(a)(2) (C)(iii)

*Request for an
Assessment*

Request for Assessment

This requirement states that a person may request an assessment of a brownfield site in the community in which the person works or resides. Therefore, such a person need not be an enrolled tribal member to make such a request.

{Note that in CERCLA a “person” is defined as: an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body.}

Request for Assessment

- There are many ways to provide a mechanism for a “person” to request that potentially contaminated sites in their community be evaluated and be addressed as appropriate by the proper agency.
- In return, they should expect to receive a response to their request and be provided information on the status or condition of the site and what action may be initiated by whom.

Request for Assessment

Upon request, any site can be investigated by the TRP to determine if:

- it should be included in the survey and inventory of Brownfield sites; or
- other actions should be taken to determine if any contaminant releases, past or present, should be assessed and possibly remediated or addressed in some way.

Request for Assessment

Such requests can be a valuable source of information and can lead to sites added to the Brownfield Inventory and further assessment and cleanup actions by the TRP, the U.S. EPA or other appropriate agency or party.

Such requests can lead to discovery of sources of contamination that otherwise would not have been discovered including illegal dumping.

Example “Requests”

- *Sisseton-Wahpeton Oyate, SD: The TRP found buried dynamite based upon a community member report and request.*
- *Three Affiliated Tribes, Fort Berthold, ND: TRP found shed full of abandoned hazardous waste and a building with abandoned hazardous chemicals due to a request.*
- *Many old and current landfills and dump sites are located due to requests to conduct assessments.*



Tribal Accomplishments

- Pow wows and other social events have provided opportunities for outreach and information booths.
- Tribes have conducted public/community meetings and provided information at tribal government meetings.
- Tribes have used local radio stations, social media and newspapers or newsletters to provide announcements and information on the site activities.



Tribal Issues: Access to Information

- Providing access to documents to the public in remote communities.*
- Providing access to documents during adverse weather periods/seasons.*
- TRP participation and coordination with response actions conducted by other programs or agencies.*

Tribal Issues: Assessment Requests

- *Determining site land status and ownership in a timely manner*
- *Tribal Jurisdiction to conduct an assessment*
- *Tribal site access*
- *Establishing site priority for further action*

Lessons Learned

- *Do not put original/only copies of documents out for public review.*
- *Make documents available as soon as possible.*
- *Some documents and reports need some explanation or clarification (too technical).*

Lessons Learned

- Failure to provide timely information can lead to problems and delays in the project.
- Just announcing a public meeting may not achieve the necessary goals of public input and participation. More **pro-active outreach** to the community and tribal government may be necessary.

Lessons Learned: Assessment Requests

- *Do not ignore any report or request.*
- *Determine timely ways to research property status, ownership and history.*
- *Provide timely feedback to person or organization that made request or report on status of action.*
- *Document requests and responses.*
- *Improved knowledge and coordination with other programs.*

Further Implementation

- *Improve GIS and mapping capabilities of sites.*
- *Improve means to timely research property status, ownership and history.*
- *Additional sources of funding to address site issues. (“other mechanisms and resources”)*
- *Generally improve outreach capabilities and information access.*

Further Implementation

- Improved coordination with other agencies and programs
- Improved means of community access to information and knowledge of where it is located for review.

Resources:

- ❖ Use the “Brownfield Forum” to seek answers to questions and advice of other tribes and/or KSU staff. The Tribal Brownfields Forum is an online platform for connecting brownfields and contaminated-sites staff and professionals from Tribal areas: www.tribalbrownfields.org
- ❖ KSU TAB Assistance to Tribes: No application process, just contact us!
<https://www.ksutab.org/services/ksu%20tribal%20tab%20program>
- ❖ Annual EPA 128(a) Program Guidance

Was this helpful to you in understanding the TRP?

Please let us know and also let us know if there are other topics you would like to have addressed!

*Please provide feedback to:
KSU-Tribal TAB at chsr@ksu.edu*



END

Public
Participation
Tier I
Module 1-5

