





UNIVERSITY



CERCLA 128(a): Tribal Response Program (TRP)

> Element 3: Public Participation

CONSORTIUM

Tier I: Module 5







UNIVERSITY



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

CONSORTIUM



UNIVERSITY



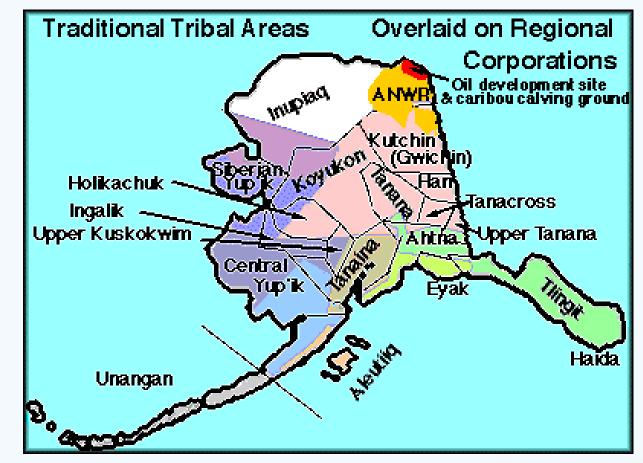
Tribal TAB in Alaska

In Partnership with: the Division of Community Health Services Alaska Native Tribal Health Consortium





ALASKA NATIVE **TRIBAL HEALTH** CONSORTIUM









ANTHC TRP Role:

- Leading development of online Tribal Brownfields Forum
 - Forum using similar framework to LEO Network
- Act as ongoing technical assistance hub for Alaska tribes



UNIVERSITY



Element 3: The "Law"

<u>SEC. 128(a)(2) (C) Mechanisms and resources to provide</u> <u>meaningful opportunities for public participation</u>, 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;
- (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 <u>may request the</u> <u>conduct of a site assessment</u>; and
- (II) an appropriate State (Tribal) official shall consider and <u>appropriately respond</u> to a request under sub-clause (I).



NIVERSITY





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



UNIVERSITY



US EPA Guidance

- Although it is <u>not required</u> 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.



UNIVERSITY



US EPA Guidance

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

✓ <u>communities with a health risk related to exposure to hazardous</u> <u>waste or other public health concerns</u>;

✓ economically disadvantaged or remote areas; and

communities with limited experience working with government agencies.



UNIVERSITY



US EPA Guidance

Summary:

- <u>Minimum requirement</u> = public notification and participation applies to all response actions taken/planned under the TRP
- <u>Encouraged</u> = 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.



UNIVERSITY

e







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 <u>available</u> and <u>accessible</u> to the public, sometimes at multiple locations;
- Making documents available at a local tribal office, library, school or other public office or building;
- Making such documents available for review on a tribal web site;







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}







Use of Traditional Language

(Mandan)

Tribal Response Program/Brownfield Three Affiliated Tribes Environmental Division

hunaanu' kUšiNAseéNU tiraawaaruuxtii

šikaakatuúteeRIt atsú tiwaaraaruxtii

tuxtaaNA'o noohunaačituú'

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!



UNIVERSITY

0







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 <u>minimum</u>, 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 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.



UNIVERSITY







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

Request for an Assessment







Request for Assessment

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

{Note that in CERCLA a "<u>person</u>" 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 <u>response</u> 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

In 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, AK-DEC 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.









Tribal Accomplishments

 Pot Latch 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.

ALASKA NATIVE

CONSORTIUM

TRIBAL

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



INIVERSITY





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



INIVERSITY





Lessons Learned

- Do not put original/only copies 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 <u>feedback</u> 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 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 AK-DEC and 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: <u>www.tribalbrownfields.org</u>

ANTHC & KSU TAB Assistance to Tribes: <u>No application process</u>, just contact us! <u>www.ksutab.org</u>

Annual EPA 128(a) Program Guidance



INIVERSITY





TAB Assistance to Alaska Tribes: Contacts

Joy Britt ANTHC TRP Program Manager jdbritt@anthc.org or (907) 729-5630

Bailey Richards ANTHC TRP Program Assistant <u>bkrichards@anthc.org</u> or (907) 729-4008







The End Element 3 Public

ALASKA NATIVE

TRIBAL HEALTH

CONSORTIUM

Public Participation

