



Tier 1 – Establishing a Tribal Response Program

Module 5: TRP Element 3 – Public Participation

Tribal mechanisms and resources to provide meaningful opportunities for public participation in the TRP to include access to information and opportunity to provide comments

TribalTAB.org



Click to play video, which will open in YouTube.

Video 5.1: Public Participation

Hans Bradley

TRP Coordinator, Standing Rock Sioux Tribe, ND/SD

TRP Element 3: The “Law”

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

- (i) public access to documents that the State, 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;



TRP 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).



U.S. 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.



U.S. 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.



U.S. 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.



U.S. 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, within/on Tribal lands.

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



A stylized graphic of a bridge arch, composed of a series of triangles, spanning the top of the slide.

Public Access

CERCLA Section 128(a) (2) (C)(i)

Public Access

Public access to remediation plans, 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;
- ❖ Keeping such documents up to date.





Click to play video, which will open in YouTube.

Video 5.2: Public Participation in Cleanup

Sherry Bishop

TRP Coordinator, Ft. Belknap Indian Community, MT

Public Access Can Include:

- ❖ Making such documents available for review at a public computer workstation;
- ❖ 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, provide copies for public review



Traditional Language

**Tribal Response Program/Brownfield
Three Affiliated Tribes
Environmental Division**

hunaanu' kUššINaseéNU ti-
raawaruuxti

šikaakatuúteeRI t atsú tiwaaraarux-
ti

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!





Click to play video, which will open in YouTube.

Video 5.3: Traditional Language in Public Outreach

Lyle Gwin

TRP Coordinator, Three Affiliated Tribes, Fort Berthold, ND

A stylized, light blue graphic of a bridge arch with triangular truss patterns, spanning the top of the slide.

Prior Notice

CERCLA Section 128(a) (2) (C)(ii)

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 by the community and the documents 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.

Note: The assessment or cleanup contractor could be tasked to assist with the meeting and/or provide information.



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 (and social media) 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.
- ❖ Contractors can be used to prepare and/or present information.





Request for an Assessment

CERCLA Section 128(a) (2) (C)(iii)

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 timely response to their request and be provided information on the status or condition of the site and what action may be initiated by whom.
- ❖ An Assessment conducted with EPA Grant funds or by EPA as a “Targeted Brownfield Assessment” (TBA) must be approved by EPA.



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 brownfields 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;
- ❖ if a site or potential release of contaminants is subject to other federal or state jurisdiction.



Request for Assessment

Such requests can be a [valuable source of information](#) and can lead to sites being added to the Brownfields Inventory and further assessment and cleanup actions by the TRP, the U.S. EPA, the state 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: The TRP found a shed full of abandoned RCRA 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 many 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 & Difficulties

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.
- ❖ Attendance at public meetings.



Tribal Issues & Difficulties

Assessment Requests

- ❖ Determining site land status and ownership in a timely manner
- ❖ Tribal jurisdiction to conduct an assessment
- ❖ Acquiring funding for an assessment
- ❖ Seeking a Targeted Brownfield Assessment (TBA) can be time consuming
- ❖ Tribal and/or contractor site access
- ❖ Establishing site priority for further action



Lessons Learned

- ❖ Do not put original/only copies out for public review.
- ❖ Make information and documents available as soon as possible.
- ❖ Some documents and reports need some explanation or clarification (too technical).
- ❖ Maps and photos are very helpful.



Lessons Learned

- ❖ Failure to provide the community or Tribal leadership timely and complete 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 **proactive outreach** to the community and Tribal government may be necessary. (attend other meetings)



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.
- ❖ Develop a standard operating procedure (SOP) on how to handle and respond to assessment requests.



Further Implementation

- ❖ Improve filing and/or database information management and access.
- ❖ 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 other agencies and programs
- ❖ Improved means of community access to information and knowledge of where it is located for review.



We Would Like to Hear From You

Questions about this Module or need other
brownfields assistance?

Contact the Tribal TAB team at
Tribal-TAB@ksu.edu



Scan this QR image to provide feedback on this TRP Module

TribalTAB.org

