



Tier II: Module 1B

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



Enhancing the 4 Elements





How do I “enhance” the 4 Elements?



Can you “enhance” my dinner?



Element 1

Survey & Inventory





The “Law”

CERCLA Section 128(a)(1)(A)(i) lists the four elements of a State or Indian Tribe response program:

Element 1: Timely survey and inventory of brownfield sites.

Congressional Record: "...a system or process to identify the universe of brownfield sites in their tribal lands."



Element 1: Survey & Inventory

Has your perspective changed on what is a “brownfield” on your tribal lands?

Have you revisited known sites or other other sources of information?

Have you researched ALL available information?



Sources of Brownfields Info.

- Field survey of tribal lands (go look again!)
- Review of existing inventories, reports or databases such as:
 - UST/LUST inventories
 - Open Dump Surveys (IHS, EPA)
 - Abandoned Mine Inventory (states/USGS)
- Insurance maps
- Old topographic and soil survey maps and aerial photos



Sources of Brownfield Info.

- RCRA treatment, storage & disposal facility lists (updated?)
- US EPA CERCLA/Superfund PA & RI/FS Reports (updated?)
- Oil & gas well inventories (BLM, USGS, State)
- State or near-by county/community brownfield inventories (104 Grants)
- EPCRA reports and notifications



Sources of Brownfield Info.

- Interviews of former workers and maintenance staff of potential brownfields buildings to obtain historical and maintenance information on specific sites.
- Reports from community members (verbal, web site, report form)
- Use of tribal GIS and mapping records.
- Tribal Land/Property office: newly abandoned properties (structures or bldgs.) or potential future acquisitions?



Interview elders & other community members



Snow-machines are a winter transportation means.



Two seater Super Cub on floats.

Inventory of Brownfields in remote areas



Skiffs are common transportation during ice free months.



Father and son dog musher at Koliganek.

Increase detail of site information: Detailed Site Inventory Checklist

(Based upon a Phase I Assessment Checklist)

(TRIBE) Environmental Department Brownfields & Tribal Response Program Site Inventory Information Sheet	
Date: Updated:	Site Name
Form completed by:	
Directions to site:	
Site Description:	
Address: (county/state):	
Lat/Long:	
Township/Range/Section:	
Parcel/Allotment Number(s):	
Current Property Status/Owner: Tribal <input type="checkbox"/> Trust <input type="checkbox"/> Fee <input type="checkbox"/> Federal <input type="checkbox"/> Other <input type="checkbox"/>	
Current Use of Property:	
Future Use of Property:	
Neighborhood: <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Rural <input type="checkbox"/> Other	
Site & Vicinity general characteristics: (terrain, elevation, general land use in area, vegetation, location to nearest town)	
Physical setting:	
Geologic Information: -geological formations/thickness -bedrock name/depth -faults/structural features -(within 4 miles)	
Hydraulic Information: -depth to groundwater -aquifers under site -hydraulic conductivity -confined/unconfined -recharge area -interconnections	
Hydrology: -surface water flow direction -annual mean discharge rate of surface water -drainage area up-gradient of site -floodplain information -wetlands or water bodies	
Historical Information:	
Property use Past/Present:	
Previous owner:	
Potential environmental threats:	



Kansas State University
Technical Assistance to Brownfields (TAB)
Brownfield Inventory Tool (BIT)
{available on-line or a PC version}

<http://tab-bit.org/>

PRIORTIZING BROWNFIELD SITES FOR FURTHER ACTION

Ranking Factor	1	2	3	4	5	Total Points
Human Exposure	Contamination pathways have no direct impact on any population.	Contamination pathways have potential to affect human recreational activities.	Contamination pathways have the potential to affect employee population.	Contamination pathways have the potential to affect a small residential population.	Contamination pathways have the potential to affect an entire residential population.	
Environmental Exposure	Site not located near environmentally sensitive areas.	Site located within a mile of an environmentally sensitive area.	Site located within a ½ mile of an environmentally sensitive area.	Site located within environmentally sensitive area.	Site located immediately in environmentally sensitive area (RECs)	
Ecological Exposure	No exposure to endangered or threatened species habitat areas.	Potential exposure to endangered or threatened species habitat areas.	Potential exposure to critical habitats of endangered or threatened species habitat areas.	Actual known releases of hazardous substances in endangered or threatened species habitat areas.	Actual known releases of hazardous substances in critical area of endangered or threatened species habitat areas.	
Cultural Sensitive Area	Potential area not located within a culturally significant area.	Potential area within a 5mile radius of a cultural significant area.	Potential area within a 1mile radius of a cultural significant area.	Potential area adjacent to a cultural significant area.	Potential area in immediate cultural significant area.	
Potential for Beneficial Site Redevelopment	No site development.	Low likelihood of site redevelopment.	Moderate potential for redevelopment.	High potential for site redevelopment.	Redevelopment plan ready, waiting for site to be re-mediated to begin redevelopment.	
Creation of Jobs	No increase of jobs.	1 to 5 new jobs created.	5 to 10 new jobs created.	10 to 20 new jobs created.	More than 20 jobs created.	
Land Ownership Status	Allotted Land	Fee Land within boundaries of Reservation (Tribal Land taken out of trust).	State Land (school sections)	Sub marginal Lands (purchased land outside of reservation boundaries)	Tribal Owned/Reserve (Held in trust for tribal Government)	

Total Cumulative Points

Insert points for all factors that apply

Factors	Points
Potential Human Exposure to contaminant(s) – if residential (5-points)	
Potential Human Exposure to contaminant(s) – if worker (3-points)	
Potential Human Exposure to contaminant(s) – if recreational (3-points)	
Potential ecological exposure to contaminant(s) (5-points)	
High toxicity potential to humans (5-points)	
Medium toxicity potential to humans (4-points)	
Low toxicity potential to humans (3-points)	
High potential for reuse (5-points)	
Medium potential for reuse (3-points)	
Low potential for reuse (1-points)	
No potential for reuse (0-points)	
Reuse creates many jobs (5-points)	
Reuse creates some jobs (3-points)	
Reuse creates no jobs (0-points)	
Mitigation costs low (5-points)	
Mitigation costs medium (3-points)	
Mitigation costs high (1-points)	
Funding identified (5-points)	
Partial funding identified (3-points)	
Existing utilities (1-3 points)	
Cultural considerations (5-points)	
Reuse creates public amenities (5-points)	
Removes eyesore (1-point)	
Located near disadvantage community (1-point)	
Tribal Council/Administration designates site a high priority (5-points)	
Total Points	



Element 2

Oversight & Enforcement





Element 2

CERCLA 128(a) states: Indian tribes must include, or be taking reasonable steps to include, in their response programs:

- 1) Oversight and enforcement authorities or other mechanisms, and resources that are adequate to ensure that a response action will protect human health and the environment and be conducted in accordance with applicable federal and tribal law.



Element 2

and

2) Oversight and enforcement authorities or other mechanisms, and resources that are adequate to ensure that the necessary response activities are completed if the person conducting the response activities, including operation and maintenance or long-term monitoring activities, fails to complete the activity (such as enforcement, funding, or other programmatic resources, including staff).



Element 2: Tribal Response Role

This Element has two parts:

- 1) Development of oversight and enforcement authorities or other mechanisms and resources; and
- 2) Ensuring that response actions or cleanups conducted under this program are adequate and completed.



Tribal Response Enforcement

U.S. EPA: Eligible grant activities include, but are not limited to, development of rules, regulations, procedures, ordinances, guidance, etc. that would establish or enhance the administrative and legal structure of their response programs.



Tribal Civil Compliance

- Are there still gaps in the Tribal requirements, rules or policies or new issues to be addressed?
- Do you need more inspector/compliance and enforcement training?



Tribal Requirements

Tribal solid & hazard waste policies or rules (or “other mechanisms”) include all Tribal Response Program requirements such as:

- ✓ **Responses to releases**
- ✓ **Oversight of responses**
- ✓ **Conducting responses**
- ✓ **Cleanup Standards**
- ✓ **Verification & Certification**
- ✓ **Institutional Controls**
- ✓ **Public Participation**
- ✓ **Public Record**



New Rules?

- Are there new Federal or ADEC laws/regs. that need to be considered?
(e.g. EPA Lead Paint Rules)



Equipment Needs

In order to conduct effective oversight do you need:

- Communications equipment
- Camera or GPS
- Field gear/clothing
- Safety gear/clothing
- Computer equipment or software
- Technical guidance or manuals
- Sampling/testing equipment/capabilities
- Secure equipment cabinet



Tribal Cleanup Process

Has your Tribe developed a model cleanup process that meets your needs?

To include:

- ✓ Format & content requirements
- ✓ Technical & other information requirements
- ✓ Public notice/participation requirements
- ✓ Review steps and all parties/agencies involved

{Do you understand the EPA and/or ADEC process?}



QAPPs

Has your Tribe developed any model or generic Quality Assurance Project Plans? Some types of sites and contaminants are encountered repeatedly such as:

- ✓ Asbestos
- ✓ Lead paint
- ✓ Petroleum releases from USTs
- ✓ Other?

This can reduce time & costs in the future

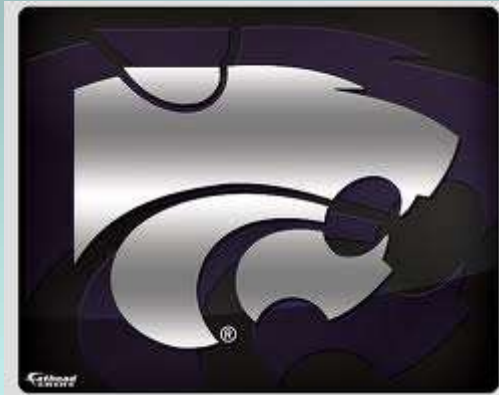


Data Mgt. and Quality

Has your Tribe developed a Data Quality Mgt. Plan? This can include:

- ✓ Tribal roles and responsibilities
- ✓ Data format & reporting requirements
- ✓ Technical & other information requirements
- ✓ Internal and external (EPA) review steps
- ✓ Filing and record keeping

NOTE: This NOT the QAPP!



Kansas State University

Technical Assistance to Brownfields (TAB)

Brownfield Inventory Tool (BIT)

Includes Compliance & Enforcement tracking!

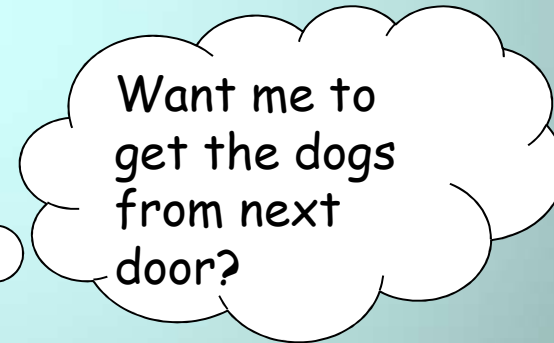
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“Other Mechanisms and Resources”

What other mechanisms and resources are available?





Other Mechanisms

“other mechanisms, and resources” may be other authorities or resources that could be brought to bear on a situation to ensure that a party meets their obligations. This could include the authority or resources of another tribal program or a state or federal agency.

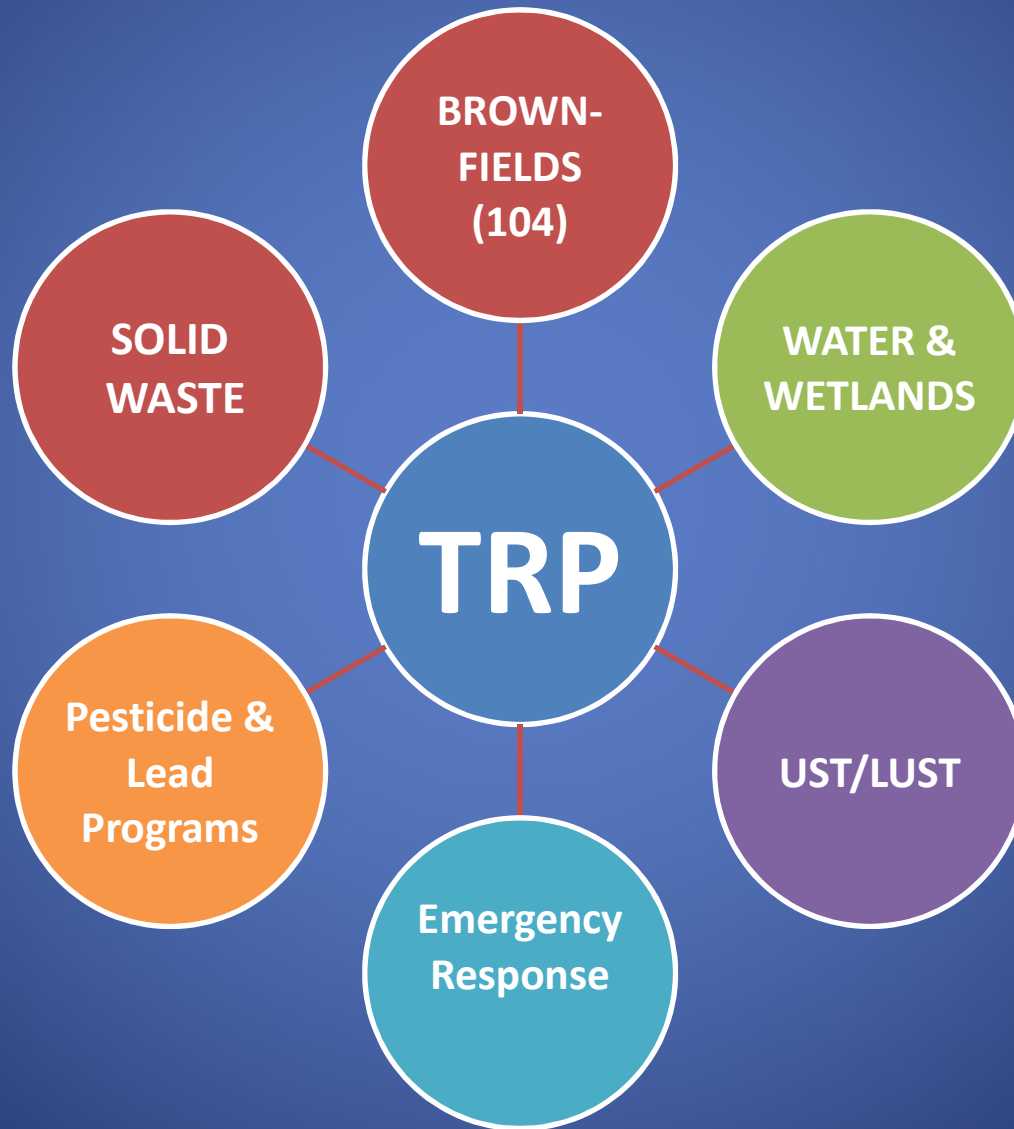


“Other Mechanisms”

What are some of the “other mechanisms and resources” that could be used to accomplish the goals of Element 2?

- ✓ Other tribal programs
- ✓ Other Agencies (ADEC or EPA)
- ✓ Other laws or authorities
- ✓ Other parties (private or business)
- ✓ Other means of persuasion

Related Env. Tribal Programs



Other Tribal Programs



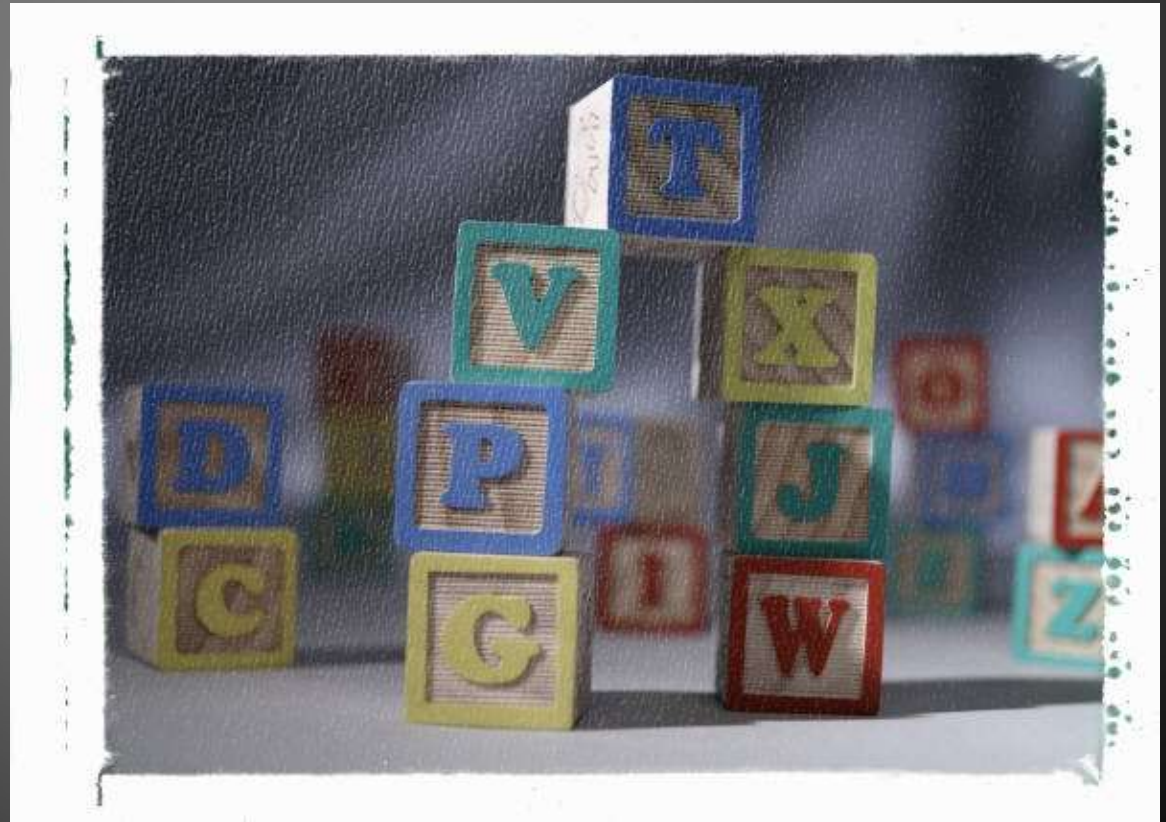
Other Agencies



Look thru your scope
and outside of your box



Know your Govt. Agency alphabet soup





EPA Guidance

The EPA Guidance includes goals of:

- ❖ TRP oversight of response actions conducted under their jurisdiction by other persons or parties; as well as
- ❖ coordination with other agencies and programs

Regional offices and tribes may agree that 128(a) funds may be used for developing better coordination and understanding of other response programs.

(i.e., ADEC and EPA: RCRA or CERCLA)



Tribal Jurisdiction

A tribe may need to coordinate with another agency if they do not have clear jurisdiction to conduct formal oversight and approval of remedial/cleanup actions on a case-by-case basis in consideration of several factors:

- Status and ownership of the site land and adjoining land (i.e. trust, tribally owned, etc.);
- Contents and application of the ANCSA;
- Status of tribal rules and requirements;
- Status and content of any agreements or MOA/MOUs;



Coordination could include:

- Ensuring a response action will protect human health and the environment and be conducted in accordance with applicable federal and/or state law; (Element 2)
- Ensuring the necessary response activities are completed if the person conducting the response activities fails to complete the necessary response activities (this includes operation and maintenance or long-term monitoring activities). (Element 2 & 4)



Eligible uses of 128(a) funds

Uses include, but are not limited to, oversight of site-specific activities conducted by other parties such as:

- oversight of a response action;
- technical assistance to federal brownfields cooperative agreement recipients (104(k) grants);
- review of site-specific cleanup plans and/or quality assurance project plans (QAPPs);
- auditing site cleanups to verify the completion of the cleanup; and
- meaningful local public participation



U.S. EPA Programs

U.S. EPA Programs that may relate to or overlap the TRP can include:

- the CERCLA Superfund program to include remedial actions, removals and emergency response;
- the RCRA hazardous waste regulatory program to include corrective action for past contamination at treatment, storage and disposal facilities and the mismanagement of hazardous waste;
- the RCRA Underground Storage Tank (UST) program to include investigation and remediation of Leaking USTs (LUST);



U.S. EPA Programs

Cont:

- the Asbestos, PCB, Lead and refrigerant regulations and programs under the Toxic Substances Control Act (TSCA) and Clean Air Act (CAA); or
- and other EPA program that regulates hazardous substances, pollutants or contaminants as well as medical/biological waste, petroleum, mining operations or lands or controlled substances.



Oversight: one step removed

Indirect oversight could include the review and comment on another agency's proposed plans and reports as well as the verification and certification of the cleanup/remediation.

Federal and ADEC programs have their own requirements to seek community comment and input on their decision making and activities.



Oversight Costs

Costs Incurred for Activities at “Non-brownfields” Sites

Such oversight costs may be grant eligible and allowable if such activities are included in the tribe's work plan in advance.

{What would be a “non-brownfield site” ?}



DOD Activities

The Department of Defense (DoD) Defense Environmental Restoration Program (DERP): funds cleanups and investigations that are managed by their respective military component; Army, Navy, Air Force, Army Corps of Engineers (USACE) and Defense Energy Support Center (DESC).

The Installation Restoration Program (IRP) and the Military Munitions Response Program (MMRP) address cleanup activities at DoD installations and formerly used defense sites (FUDS).



USACE Activities

The Army Corps of Engineers also implements the programs to address:

- Formerly Used Defense Sites (DERP-FUDS); and
- The Department of Defense Native American Lands Environmental Mitigation Program (NALEMP).



USACE “Other Mechanism”

The **Native American Lands Environmental Mitigation Program (NALEMP)** was developed in 1996 by the Department of Defense (DoD) to address environmental issues from past DoD activities on Indian lands and Native allotments. The program provides a unique opportunity for Native communities to not only address impacts from past DoD activities on their lands, but also to develop their own environmental programs and expertise.



Other Agencies

Other federal agencies in Indian country that may be funding or involved in the assessment and/or cleanup of a contaminated site can include, but is not limited to:

- The Bureau of Indian Affairs (BIA)
- The Bureau of Land Management (BLM)
- The Army COE- Wetlands program (USACE)
- U.S. Coast Guard (coastal/marine environments)
- Federal Emergency Management Agency (FEMA)



Coordination with the State

The ADEC also has a response program that receives funding under CERCLA 128(a) and are required to meet the same requirements as the TRP.

Since contaminants do not usually respect political or property boundaries there is a lot of potential for mutual benefit by the coordination of the state and tribal response programs and the sharing of information.

The redevelopment or reuse of some brownfield sites may benefit from coordination of the programs as well.



ADEC Coordination

ALASKA-DEC has initiated the following:

- Conducting the STRP Annual Workshop with tribes and native villages;
- Sharing the DEC TRP Handbook;
- Providing the DEC Brownfield Training to the TRPs, and other tribal organizations;
- Providing access to the DEC Brownfield Assessment (DBA) program (DEC staff will assist the TRPs to apply on behalf of their member tribes or villages);
- Coordination with TRPs during conferences, including AFE, ATCEM, and the national brownfield conference;
- Direct assistance with questions and concerns;
- DEC participation in tribal trainings;



ADEC Coordination

ALASKA-DEC has initiated the following:

- Coordination on articles for the EPA Region 10 *Brownfields Update for the Pacific Northwest* newsletter;
- STRP grant assistance –assisting the consortia apply for TRP grants and developing templates;
- Assisting the TRPs implement their grants, review and assistance with forms;
- Assisting with approaches to site work; and
- Connecting TRP staff with others in DEC and elsewhere as resources, such as project managers for sites in their lands or villages.



Local Govt.

The local burrough and town governments typically implement functions or programs that could benefit from coordination with the TRP. These can include:

- Redevelopment and reuse of Brownfields;
- EPA 104(k) Brownfield assessment or cleanup grants;
- Solid Waste Management & Disposal (often an important part of a site cleanup);
- Cleanup and prevention of illegal dumping; and
- Emergency Management and Response.



EPA Funding Approval

Coordination of these program requirements, activities and resources could be of benefit to all parties involved.

However, such activities may not be fundable under the 128(a) grant unless approved by the EPA regional office in advance.



Learning Opportunities

Have you taken advantage of learning from others?

- Assisting U.S. EPA or ADEC staff in planning and conducting cleanups under RCRA, CERCLA and LUST.
- Review and comment on cleanup plans developed by other federal and state agencies. (e. g. Army COE, DOD and DOE)
- Accompany and/or oversee a contractor that is conducting an assessment or a cleanup



Learning Opportunities

Have you taken advantage of learning from others?

- Assisting U.S. EPA staff in planning and conducting cleanups under RCRA, CERCLA and LUST.
- Review and comment on cleanup plans developed by other federal and state agencies. (e. g. Army COE and DOD)
- Accompany and/or oversee a contractor that is conducting an assessment or a cleanup
- Attend workshops, training and conferences that are relevant (Tribal, EPA, ITEP, etc.)



Other EPA Resources

- There may be federal grants available from other EPA programs that could contribute to the enhancement of the TRP or contribute to the funding of specific activities or actions that may not be fundable under the 128(a) grant and/or budget.
- These other programs also have training that may contribute to the knowledge and capacity of the TRP staff.



Other EPA Funding

The EPA has multiple grant opportunities @ year for such things as:

- Community hazardous waste collection events
- School hazardous waste inventory and removals
- “Green” cleanups
- Emergency Response capacity building

{consult your EPA project mgr. or [grants.gov](https://www.grants.gov) for more details}



Other Funding

The Administration for Native Americans (ANA) awards funds through grants to Native Americans. These grants are awarded to eligible Tribes and Native non-profits that successfully apply for discretionary funds for the development of environmental laws, regulations and related policies and procedures and legal support.

{consult the ANA or [grants.gov](https://www.grants.gov) for more details}



Other Funding

The **Native American Lands Environmental Mitigation Program (NALEMP)** was developed in 1996 by the Department of Defense (DoD) to address environmental issues from past DoD activities on Indian lands and Native allotments. The program provides a unique opportunity for Native communities to not only address impacts from past DoD activities on their lands, but also to develop their own environmental programs and expertise.



Tribal Accomplishments

The Tribal 128(a) program has increased the coordination between tribes and other related federal, state and local programs. Some of the first steps most tribes have taken in coordinating with other programs are:

- Direct meetings with other programs and agencies
- Oversight of actions by other agencies
- Technical assistance to the Tribal program
- Joint participation in work groups and planning meetings
- Joint participation in EPA & ADEC workshops and conferences
- Attending training provided by other agencies and programs
- Networking to establish contacts and working relationships



Tribal Issues

- Limited funding for travel to attend meetings, workshops and other functions that may foster improved coordination and cooperation across government and/or program lines.
- Limited funding for travel to spend time on-site with peers and share experience and knowledge.
- Coordination between multiple government agencies can be difficult and time consuming for everyone.



Lessons Learned

- Cooperation can be is productive.
- Cooperation maximizes the use of everyone's resources.
- Cooperation results in meeting mutual goals easier and faster.
- A lot of misunderstanding between agencies and programs is the result of miscommunication and/or a lack of communication.
- There is more than enough "turf" to go around.
- Field staff are often better at cooperation and coordination of program efforts than higher levels of government.



Further Implementation

- Development of MOU/MOAs with other federal, state and local government agencies to foster coordination and maximize resources.
- Development of ways to work with other agencies and programs to facilitate improvements in public participation and outreach.
- Seek ways to have TRP assist other programs and agencies in accomplishing their mission and meet mutual goals.
- Coordination in implementing Institutional Controls.



Element 3

Public Participation





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



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 official shall consider and appropriately respond to a request under sub-clause (I).



3 key parts:

Mechanisms and resources to provide meaningful opportunities for public participation, including:

- public access to documents;
- prior notice and opportunity for comment on proposed cleanup plans and site activities;
- and
- a mechanism by which a person may request the conduct of a site assessment



Public Access

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



- Can you increase the public knowledge about the access to information?
- Have you checked the documents lately?
- Can you conduct site visits or tours? (safely)
- Do you need translations?

Three Affiliated Tribes TRP/Brownfields Brochure

Tribal Response Program/Brownfield Three Affiliated Tribes Environmental Division

English Translation

hunaanú' kUššINAseéNU ti-
raawaaruuxtii
šikaakatuúteeRIIt atsú tiwaaraarux-
tii
tuxtaaNA'o noohunaáčituú'
ti-NAhuná-sA wekaakIhuNAhAs

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!**



Public Participation

The TRP Public Record and the TRP public outreach and participation program (Element 3) may, at the discretion of the tribe, also be of assistance to the U.S. EPA or other federal or ADEC programs in:

- informing the tribal/reservation community of proposed or completed activities or actions by other agencies; and/or
- conducting outreach to rural or remote areas as well as to communities with limited experience working with federal agencies.



Assist Other Agencies?

The tribe is strongly encouraged to provide public access to all relevant documents for a response action conducted only under federal jurisdiction (i.e. Superfund, RCRA, LUST or DoD/USACE FUDS) or by ADEC through the TRP office.

Also, assist tribal members in understanding what is in the documents



Eligible uses of 128(a) funds

Uses could include, but not be limited to, meaningful local public participation in response activities conducted by other parties.



Public Meetings

Having problems getting the community to attend your public meetings?





Combining Efforts

Combine public meetings or forums with other agencies and/or programs:

- Other Tribal programs
- Local community or civic groups
- Local events or conferences
- EPA or other Federal agency meetings
- ADEC meetings



Combining Efforts

Combine public meetings or forums with other agencies and/or programs:

- Other Tribal programs
- Local community or civic groups
- Local events or conferences
- EPA meetings for Superfund, UST/LUST
- Other Federal agencies (DoD, Army COE)



Outreach WEB Site?

- ❖ How old is your web site?
- ❖ Is it up to date?
- ❖ Is it “user friendly”?
- ❖ How difficult is it to add or remove information?
- ❖ Can you receive feedback?
- ❖ Is it too complex? (slow)



Prioritization

- Do you have a prioritization process for site work?
- Does it need to be reviewed, updated or revised?
- Is the community involved in that process?
- Does it reflect new or changing issues or concerns?
- Have you included All parts of the community?



Tribal Officials

- Do you have a process to keep elected officials informed?
- Do you have a process in place to brief and inform newly elected officials?
- Do you need to develop a briefing package or presentation on what the program has accomplished and is planning?



Make it Understandable

- Does your contract include having the contractor attending public meetings?
- Can you provide a “layman’s” version or summary of a technical report?
- Need assistance with development of power points, pictures or graphics for public presentations or brochures?



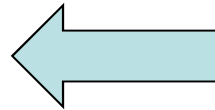
Requests for Assessments

- Are you getting any requests?
- If not, why not?
- Did a request result in a new site in your inventory and/or an assessment or cleanup?
- If a request has resulted in an assessment and/or a cleanup does the requestor/community know it?

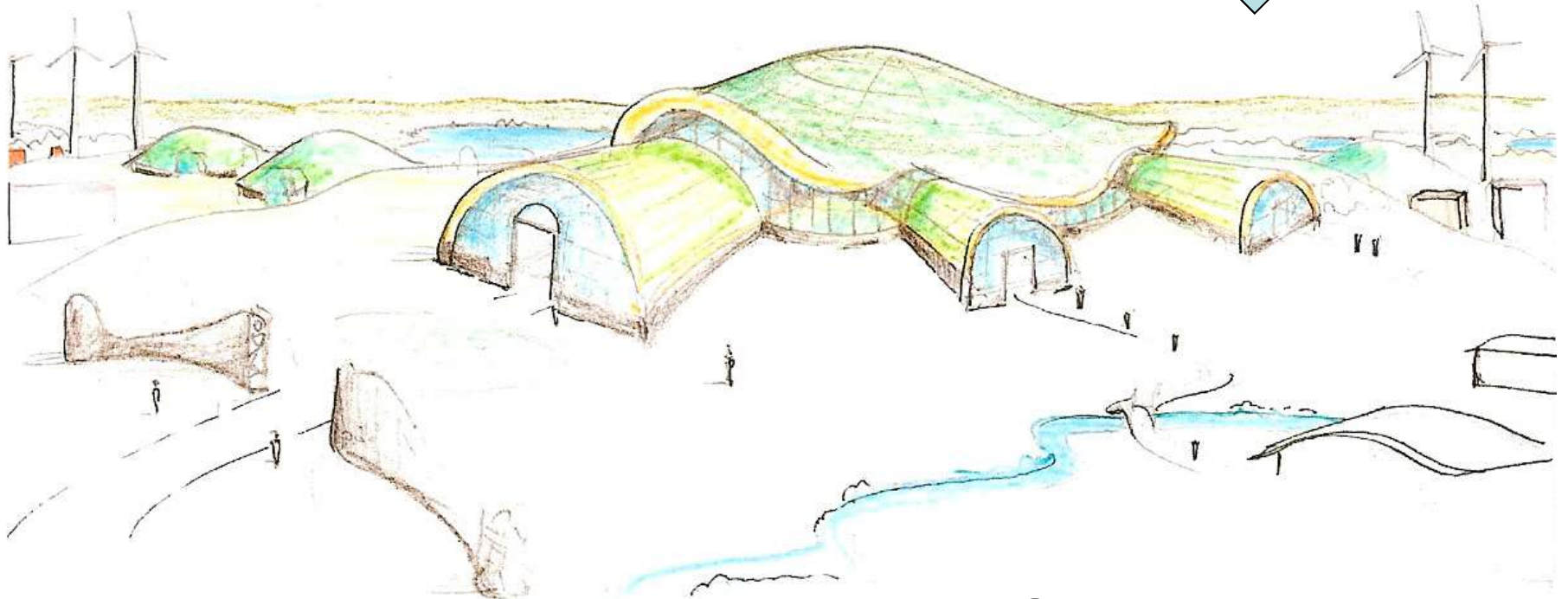
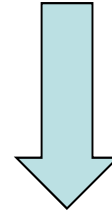
Increase Community Involvement



COMMUNITY VISIONING MEETING



FROM THIS – TO THIS



Tribal Vision: Wellness Center



Element 4

Approval, Verification and Certification of Cleanup





The “Law”

SEC. 128.(a)(2) (D) Mechanisms for approval of a cleanup plan, and a requirement for verification by and certification or similar documentation from the State, an Indian tribe, or a licensed site professional to the person conducting a response action indicating that the response is complete.



Element 4 Part 1

Approval of a Cleanup Plan





Tribal Cleanup Plan

Do you understand the EPA or ADEC requirements?

Have you developed a model tribal cleanup plan or outline?

Do you have an example of what your tribe(s) expects?



Know who can do what?

Who will review a cleanup plan?

- Trained and qualified Tribal staff
- Qualified Tribal contractor – (contract in place?)
- US EPA and/or ADEC environmental staff TA
- Other qualified government staff (BIA, IHS, BLM, etc.)
- Qualified local government staff



Other Agency Actions

Review & comment on other relevant ADEC or federal agency cleanup plans:

- Cleanups on tribal lands
- Cleanups occurring near tribal lands or communities
- Cleanups that may impact resources utilized by the tribe or tribal members.



Need to Hire an Expert?

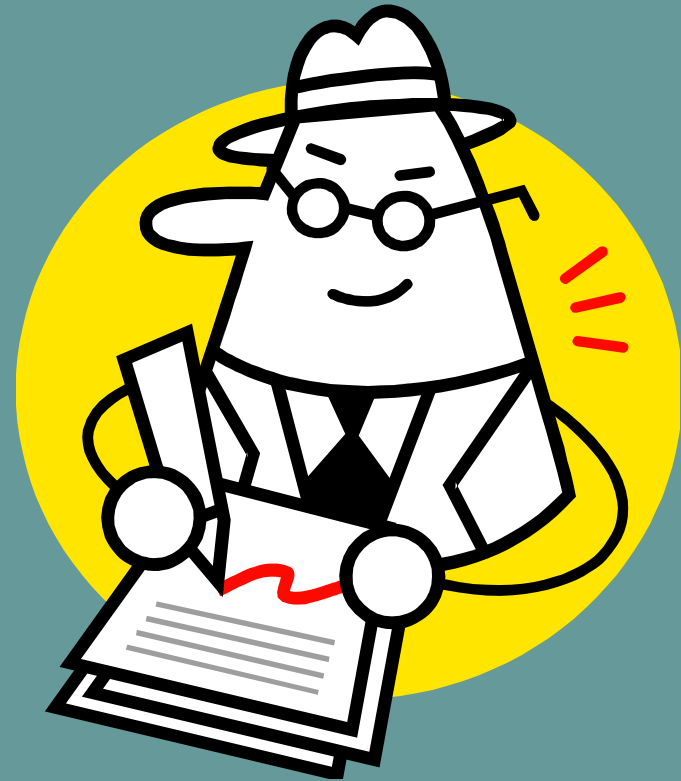
Hiring a consultant or other expert (i.e. engineer, chemist, toxicologist, attorney) to assist with the review of cleanup plans and other relevant documents can be a grant fundable cost under 128(a) subject to the approval of the EPA Regional grant manager.

Anticipate your support needs and work with Tribe and EPA on how to access and fund them.



Element 4 Part 2

Verification and Certification of a Cleanup





Got the Tools?

Do you have all the necessary response program mechanisms in place to verify that response actions are complete?

Mechanisms can include:

- ✓ Authority via Tribal policy or Council Resolution
- ✓ Technical resources & expertise



Know who can do what?

Arrangements in place for Verification to be conducted by:

- Trained and qualified Tribal staff
- “Licensed site professional”
- Qualified Tribal contractor(s) (contract in place?)
- US EPA and/or ADEC environmental staff TA
- Other qualified government staff (BIA, IHS, BLM, etc.)
- Qualified local government staff



Certification of Completion

Has a model “Certification of Completion” been developed?

- *Tribal officials informed?*
- *Signatures & sign-offs needed determined?*
- *Legal review and support in place?*
- *Filing and record system in place?*
- *Know who needs a copy?*
- *Any other approvals needed?*
- *What follow up may be needed?*



Other Certificates

Have you developed a model for circumstances under which the Tribe might issue a qualified certification to include a:

- Conditional Certificate of Completion;
- Partial Certificate of Completion;
- No Further Action” (NFA) determination; or
- “Comfort Letter”.

(Tribal legal counsel should be consulted for the appropriate document to be used for a specific situation by the Tribe in accordance with Tribal laws and codes.)



Other Agency Actions

- Provide oversight services of a cleanup to another agency (ADEC, DoD or USACE)?
- Contract services to another agency?
- Use 128(a) funds to verify a past or current cleanup by another party or agency on tribal lands?



Tribal Accomplishments

- **Tribes have gained some experience with the development and approval of a cleanup plan through:**
 - ✓ **Review and/or oversight of cleanup actions by other agencies;**
 - and/or**
 - ✓ **Contracting to the DoD to conduct a cleanup.**



Tribal Accomplishments

- Tribes have also assisted the U.S. EPA staff in planning and conducting cleanups on their lands under RCRA, CERCLA and LUST, etc.
- Tribes have also reviewed and commented on cleanup plans developed by ADEC.
- A Tribe has used 128(a) funds to verify a DoD cleanup

THE END

