BUILDING A TRIBAL HAZARDOUS WASTE MANAGEMENT PROGRAM
TRIBAL LANDS AND ENVIRONMENT FORUM 2018

Session 8-15, 1:30PM
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Waste Management Methods and Public Outreach
BACKGROUND AND PROBLEM

• Northeast Nebraska along the Missouri River
• ~116,000 acres
• Issues
  • Illegal Dumping/Littering
    • 33 dump sites
    • 3 Active
  • Poor Waste Management Practices
• No SW or HW Codes
PARTNERSHIPS
PARTNERING WITH EPA

- Contacted EPA R7 Air & Waste Division
  - Liz Blackburn, EPA Life Scientist
  - Resources
  - Phone calls
- Toured Dumpsites
  - November 2017
- Hazardous Waste Training
  - EPA & TSWAN
  - May 2018
- Reviewed and plan to update ISWMP
- Future Waste Characterization

Hazardous Waste Training - EPA & TSWAN
May 2018
Let’s Talk Trash

- November 2017-1st meeting w/ CEO, Utilities Department and OEP
- MOA
- GAP Funding
- Free Scheduled Pick-up
- Monthly Meetings
Allowable Solid Waste Activities
(under the FY 16 consolidated appropriations act)

- Collection, transportation, storage, backhaul, and disposal of solid waste and/or recovered resources (recyclables, compost, e-waste, bulk waste, construction debris, light bulbs, batteries, household hazardous waste, etc.) Equipment, vehicle and facility operations and maintenance (including fuel)
- Door to door collection
- Transporting materials to waste management and recovered materials processing facilities (tribal transfer station/recycling center)
- Transporting materials to disposal facilities (landfill or incinerator)
- Disposal fees
- Salaries and wages for drivers, operators and technicians
- $1200 monthly through the GAP program to assist with the costs
Results

8 Months of Free Scheduled Pick-ups

Total: 29,085 lbs.

Active Dumpsites:
Nov 17: 3
July 18: 1

April 2018: Largest month of collection at 7,192 lbs.
Resource Conservation & Recovery Act

RCRA’s Cradle-to-Grave Hazardous Waste Management System
Waste Management Program Development

Phase 1

• Develop Qualified Personnel
• Engage Tribal Leaders and the Community
• Develop a Hazardous Waste Plan
Phase 2

- Utilize iGAP Funding and Other Hazardous Waste Funding Sources
- Conduct Feasibility Studies and Facility Planning
- Develop Waste Enforcement Program
Hazardous Waste Plans

Developing a holistic hazardous waste management plan as a component to your ISWMP allows you to outline your tribe’s overall long-term approach for managing waste and serves as a roadmap for developing an effective waste management program.

This will allow you to better understand the hazardous waste compliance needs of your tribal operations, as well as to better plan for emergency and disaster.
Hazardous Waste Plans

Outline

• List of entities that generate hazardous waste
• Brief description of entity & activity that generates the waste
• Type of hazardous waste generated
• Amount of hazardous waste generated
• Overall management plan
• Financial planning
• Hazardous waste minimization goals
• Short-term goals
• Long-term goals
Article 5. Temporary Storage, Collection and Disposal of Hazardous and Toxic Waste

5.1 Hazardous Waste and Toxic Wastes shall be handled, collected, stored and disposed of in a manner that is safe and complies with all federal regulations involving handling and disposal of Hazardous Waste, including CERCLA and the “Cradle-to-Grave” rule established under Subtitle C of the Resource Conservation and Recovery Act (RCRA).

5.2 Hazardous Waste and Toxic Wastes shall be handled, collected, stored and disposed of in a manner that is safe and complies with all federal regulations involving handling and disposal of hazardous waste, including CERCLA and the “Cradle-to-Grave” rule established under Subtitle C of the Resource Conservation and Recovery Act (RCRA).

5.3 All Hazardous and Toxic Wastes shall be collected, transported, stored, processed and disposed of in a method that has been approved by the Tribal Council.

5.4 Facilities on the Reservation which plan to dispose of hazardous materials must obtain a Hazardous Waste Generator permit and identification number through the U.S. EPA.

5.5 A copy of the Hazardous Waste Generator permit must be provided to the Tribal EPA.
EPA’s Direct Implementation 
RCRA Enforcement

• RCRA enforcement in Indian country unless and until a tribe obtains program approval ("direct implementation")
• EPA “oversight” of a tribal waste program
• EPA generally does not approve state waste programs to cover Indian country
Investigation/Negotiations Phase

• Inspection Occurs
• EPA Policy on Tribally-owned or operated facility
• Case review/determination
• Proposed Penalty
• Pre-filing Notice Letter
• Informal negotiations period 60 days
  – Answer questions about facts
  – Ability to pay considerations

Settlement or Complaint Phase

• If a settlement is reached
  – Consent Agreement and Final Order
  – Penalty
  – Compliance action

• If a settlement is not reached
  – Formal Complaint may be filed
  – 30 days to respond to Complaint
  – Alternative Dispute Resolution
  – Administrative Hearing
Hold onto Tribal Sovereignty

- EPA is authorized to **fund** tribal law hazardous waste program development/capacity building
  - Congressional Act, PL 105-276
  - Tribal Program should not conflict or be inconsistent with federal RCRA Hazardous Waste Program
  - For example, tribal program may be similar to EPA’s Hazardous Waste Program Direct Implementation

- **Funding for Tribal Law Hazardous Waste Programs in Indian country**
  - GAP, DITCA, PPGs, and Tribal Hazardous Waste Program, EPA/OLEM
Hold onto Tribal Sovereignty

• Tribes exercise inherent authority over members and land
  – Tribal government decides to adopt tribal codes, resolutions, laws
  – Tribal law less complex than Federal Indian Law
  – Legal risk analysis is done by tribal legal counsel

• Tribal waste management laws can be
  – More stringent and
  – Broader than the federal RCRA program
  – But may not be inconsistent or in conflict with federal law

In the absence of justice, what is sovereignty but organized robbery?
~ St. Augustine
Take Home Message

Developing a strong solid waste program & hazardous waste program can improve tribal sovereignty, provide a platform for collaboration with partners, & save costs

• Take “baby steps” & build on current program
• Lean on partners & established methods for help
• Community & business involvement is critical
• EPA has Direct Implementation responsibilities
• Tribes may establish hazardous waste programs under tribal law provided the programs do not conflict with RCRA
• Review the Top Ten List for Tribal HWM Program
Resources

• Santee Sioux Nation’s Office of Environmental Protection Facebook page:
  https://www.facebook.com/ssnoep/

• EPA Region 7’s Tribal Hazardous Waste Website:
  https://wcms.epa.gov/ks/hazardous-waste-resources-tribal-nations-midwest

• EPA Funding Tribal Hazardous Waste Management Grant Program
  https://www.epa.gov/tribal-lands/hazardous-waste-management-grant-program-tribes

• EPA’s Enforcement in Indian Country Policies
  https://www.epa.gov/tribal/compliance-enforcement-indian-country
QUESTIONS OR COMMENTS?
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