

EPA Native American Network



A RCRA Information Exchange

Welcome to Native American Network

By Sylvia K. Lowrance
Director, Office of Solid Waste



Welcome to the first issue of **Native American Network!**

Developing this publication presented us with a real challenge. We know that you have very specific and unique needs; we know that while you have a strong interest in solid waste management issues, you still have a need to know what's going on in other RCRA programs. We hope to provide these needs in the **Native American Network** as well as use it as a forum to exchange experiences and ideas among Tribes and to enhance working relationships among Tribal governments, EPA, other Federal agencies, and State and local governments.

EPA places a high priority on establishing effective information exchange with Tribal governments. It is our hope that **Native American Network** will provide the diverse array of information you need. We have already added the Native Americans to our hazardous and solid waste mailing lists. Also, we will routinely include Tribes in our communications strategies, which means that you will automatically receive environmental fact sheets and other rulemaking notifications. If we don't have the information you need, we'll tell you where you can obtain it.

Native American Network was designed to encourage the exchange of information. Please tell us how we can use it to inform and help you effectively implement RCRA on Indian lands.

INSIDE OSW

Municipal Waste Wrap-Up: The Solid Waste Dilemma: Solutions for the '90s

The challenges posed by municipal solid waste are national in scope, affecting all sectors of society. Some of these challenges will require changes in our decision-making processes and lifestyles; others require less radical changes but need a firm commitment from all levels of government, industry, and the public.

In February 1989, EPA published **The Solid Waste Dilemma: An Agenda for Action** which established a national goal of 25 percent source reduction and recycling by 1992. This is not a goal for EPA alone; each of us has a role in achieving it.

Recently, EPA distributed for review and comment a draft of an update to the **Agenda for Action, The Solid Waste Dilemma: Solutions for the '90s**. Among other things, the update presents additional national goals and a series of challenges for all sectors of society, including Tribes, for meeting these goals.

HIGHLIGHTS IN THIS ISSUE:

- Welcome to Native American Network
- Citizen Suit Provisions
- Hot Off the Hotline

Goal	Challenge
Reduce per capita waste generation and reduce toxicity.	Each individual, government, business and industry should reduce waste generation by 10 percent by the year 2000.
Enhance markets for secondary materials.	All levels of government should increase their purchases of products containing recycled materials; governments can promote the economic development aspects of new markets for secondary materials.
Increase supply and quality of recovered materials for secondary markets.	Achieve a national recycling goal of 40 percent by 1996.
Ensure environmentally sound waste management.	Governments should adopt and implement programs that aggressively ensure compliance with the municipal solid waste landfill criteria.
Foster integrated solutions to solid waste problems.	Governments should start immediately to plan and implement regional, integrated solutions.
Instill an environmental ethic.	Individuals, government, business and industry should consider environmental impacts in daily decisions.

EPA has already undertaken a number of activities, in cooperation with Tribes, to enhance these themes and promote progress in achieving these challenges.

These activities include:

- Developing a solid waste management plan and ordinance for the Rincon Reservation; assisting the Tribe in obtaining GSA surplus equipment; and providing technical assistance and employee training.

- Assisting the Northern Cheyenne Tribe of Montana in developing a system that processes and converts waste into a variety of products. The project also includes a training component which covers integrated waste management, financing alternatives, and compliance with Federal regulations.

- Assessing the existing solid waste management practices on the Pyramid Lake Paiute Reservation, evaluating alternatives, and recommending a solid waste management system.

- Funding interregional projects (EPA Regions VIII, IX, and X) to provide assistance to Tribal governments in their efforts to comply with the revised Federal criteria for municipal solid waste landfills. The project also will evaluate existing practices and recommend alternatives. EPA will facilitate several model agreements to incorporate Tribes as part of regional solid waste management planning.

- Funding solid waste management training through the National Congress of American Indians (NCAI).

In addition to the above activities which directly relate to Tribes, EPA also has a number of projects which may benefit or affect Tribes, which include:

- Publication of **Profiles in Planning: State and Tribal Strategies for Municipal Solid Waste Management**. This report summarizes a review of nine current State plans and one current Tribal solid waste management plan.

- Development of a planning framework that will help identify the steps necessary to prepare a comprehensive plan, evaluate management alternatives, and select appropriate components for the plan.

- Publication of the **Decision-Makers Guide to Solid Waste Management (Volume 1)**.

- Participation in various workshops, such as the integrated waste management workshop and the procurement workshop.

- Promulgation of the revised municipal solid waste landfill criteria, which will be effective on Indian lands. Various outreach efforts, such as brochures, training workshops, and technical assistance, will be available to support implementation of these criteria.

From the Editor...

Our years of working with the States have shown us that we learn best from others. More often than not, an issue that surfaced in one part of the country has surfaced somewhere else, and someone has already figured out ways to deal with it. Sharing this information saves not only valuable time and resources, but also promotes environmental awareness throughout the nation.

Although we want to ensure that you know what's going on here in the Agency and how the complex web of environmental regulations affects you, we really want to know what you are doing, what problems you are facing, and how you are dealing with them. The **Native American**

Network will be published as needed in order to bring you the very latest information we receive from you.

We want you to be an integral part of this environmental communication network. Solid waste management is — and undoubtedly will continue to be for many years — a significant environmental issue on Indian lands. Mastering the complexity and dynamics of RCRA takes time; but by taking advantage of other people's knowledge, skills, and experiences, we can often confront the issues faster and more efficiently. While our focus is on RCRA issues, we recognize that Native Americans

encounter many other environmentally related problems. We will share information on these issues as it becomes available and when it pertains specifically to Tribes.

So ... will you join us? Together, we can make the **Native American Network** an important link in our efforts to ensure — in what I know is a common goal — the protection of human health and environment throughout our land. We look forward to hearing from you.

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AROUND THE REGIONS

The Role of the Regional Indian Coordinator

Each EPA Regional Office, which has Federally recognized Indian Tribes within its geographic area of responsibility, has an identified staff member who functions as the Region's Indian Coordinator. The Indian Coordinator is the Regional Administrator's designated representative/spokesperson on EPA's Indian Program.

For Tribes unfamiliar with EPA programs or having difficulty working through the bureaucracy of a Federal agency, the Regional Indian Coordinator is the "doorway into EPA" and a means of understanding the complex web of the Federal environmental programs and their impact on Tribal lands.

A Coordinator's responsibilities include:

- Participating in the National Indian workgroup. This workgroup was originally formed to identify impediments to working directly with Tribes on reservation problems; assist in developing guidance for overcoming such impediments; recommend appropriate programs or pilot projects; and perform other services in support of Agency managers in implementing the Indian Policy. This group consists of Indian Coordinators from each of the Regional Offices and EPA Headquarters staff (Office of Federal Activities, Office of General Counsel, as well as each media program office). It meets twice annually and holds conference calls twice a month to share information regarding the Agency's Indian Program;
- Coordinating with Regional program staff on environmental issues affecting Tribal lands;
- Providing guidance and assistance regarding the Indian Program in general and information on the Tribal groups located within the Region;
- Ensuring that Regional activities and decisions affecting Tribes/Tribal lands are conducted in a manner consistent with the EPA Indian Policy;
- Coordinating EPA activities with other Federal agencies with responsibilities for working with Tribes (i.e., Bureau of Indian Affairs (BIA), Indian Health Service (IHS), and Housing and Urban Development (HUD));
- Representing the Region with regard to policy and program responsibilities on Indian lands with internal and external parties and groups;

—Development of a number of outreach projects, including the **Solid Waste Information Clearinghouse (SWICH)**, designed to facilitate the sharing of information on solid waste management throughout the country.

Contact: *Lillian Bagus, OSW Municipal Solid Waste Program, (202) 245-4058*

Subtitle C Update: Hazardous Waste Regulation on Indian Lands

While EPA is responsible for oversight and implementation of the RCRA hazardous waste management program (Subtitle C) on Indian lands, Tribes may develop their own programs and capabilities and are encouraged to do so. Increased Tribal awareness and involvement in these programs will enhance development of EPA's own program priorities and implementation strategies.

Tribal concern about hazardous waste management is increasing in response to the recent interest of industry in siting hazardous waste incinerators and hazardous waste landfills on reservations. This interest in siting on Indian lands may be a direct response to the difficulties industry is facing in meeting hazardous waste management requirements which are more stringent than the current Federal standards applicable to Indian lands. Public opposition to siting (the Not in My Backyard or NIMBY syndrome) has also stopped these projects.

Recently, EPA Assistant Administrator Don Clay, working with Region V, decided to initiate a pilot project with the Menominee Indians in Wisconsin that would result in authorizing the Tribe as a State so that it may implement the hazardous waste program. The Agency is committed to clarifying the "treatment as a State" provision under RCRA and will be working with Congress on this issue. Additionally, OSW is developing regulations to meet this goal. OSW recently held a rulemaking workgroup meeting in Denver, in which several EPA Regional Indian Coordinators and Tribal representatives participated.

EPA realizes, though, that treatment as a State and delegation of the RCRA hazardous waste program may be beyond a Tribe's requirements and resources. We are encouraging the use of Memoranda of Agreement and Cooperative Agreements between the Tribes and the Regional Offices and cooperating States. Some Tribes (for example, the Menominee and the Puyallup Tribes in Washington) have already begun to develop their own hazardous waste programs and their capability to run those programs under such agreements. We are also actively searching for creative and alternative ways to provide for Tribal participation in the hazardous waste programs and welcome any suggestions you may have.

Contact: *Karen Morley, OSW State Programs Branch, (202) 382-2210*

EPA Native American Network



A RCRA Information Exchange

INFORMATION RESOURCES

HOTLINES: Provide information to the public in interpreting regulations and policies. Operates during normal business hours (Eastern Standard Time).

RCRA/CERCLA: (800)424-9346
Emergency Planning & Community Right-To-Know:
(800)535-0202
Drinking Water: (800)426-4791
Toxics & Asbestos: (202)554-1404
Pesticides: (703)557-7090
Asbestos & Small Business Ombudsman: (800)368-5888
Radon: (202)475-8470

DOCKETS: Maintain legal rulemaking files, including background documents and public comments.
Clean Air Act: (202)382-7548
Safe Drinking Water Act: (202)382-3027
Toxic Substances Control Act: (202)382-3587
Federal Insecticide, Fungicide, and Rodenticide Act:
(202)557-2805

INFORMATION CENTERS: In addition to docket services, the RCRA and Superfund Information Centers provide publications upon request.
RCRA Information Center: (202)475-9327
Superfund Docket and Information Center: (202)382-3046

Public Information Center: Maintains a broad spectrum of EPA program publications. (202)382-2080.

National Response Center: Emergency hotline for reporting chemical and oil spills.
(800)424-8802; (202)426-2675

PEOPLE YOU SHOULD KNOW/HEADQUARTERS:
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REFERENCE MATERIALS

A Catalog of Hazardous and Solid Waste Publications

Describes most frequently requested documents and where they are available. EPA/530-SW-90-052.

Catalog of Superfund Program Publications

Describes the most recent policy, procedural and technical documents. EPA/540-8-89-008.

Solid Waste Dilemma: An Agenda for Action

The final report of the Municipal Solid Waste Task Force which was created in 1988 in response to the need for national leadership in facing solid waste management challenges. OSW/530-SW-89-019.

Decision-Maker's Guide to Solid Waste Management (Volume I)

A guidebook designed to help local and State decision-makers understand and evaluate their current waste management problems. EPA/530-SW-89-072.

Recycling Works!

A booklet describing 14 successful State and local recycling programs in the United States. EPA/530-SW-89-014.

Recycle

A concise citizen's brochure on recycling and its role in solid waste management. EPA/530-SW-88-050.

Methods to Manage and Control Plastic Wastes-Executive Summary

An overview of a report exploring the environmental, technical, and policy issues related to plastic waste disposal. EPA/530-SW-89-051A.

America's War on Waste

An environmental fact sheet describing EPA's completed publications, current activities, and future activities related to municipal solid waste management. EPA/530-SW-90-002.

Sites for Our Solid Waste: A Guidebook for Effective Public Involvement

A guidebook for developing a municipal solid waste facility siting strategy that involves the community. EPA/530-SW-90-019.

Bibliography of Municipal Solid Waste Management Alternatives

A listing of approximately 200 publications available from industry, government, and environmental groups. EPA/530-SW-89-055.

Household Hazardous Waste

A bibliography of useful references and list of State experts. EPA/530-SW-88-014.

How To Set Up A Local Used Oil Recycling Program

An easy-to-follow manual for local decision-makers, environmental groups, and community organizations. EPA/530-SW-89-039A.


Reusable News


A quarterly newsletter featuring information on solid waste management. Contains news on solid waste activities, conferences, Capitol Hill, and success stories from around the nation. To be placed on the mailing list, call the RCRA Hotline.


Publications are available at no charge from the EPA RCRA Hotline: 800-424-9346.

Bulletin Board

Dateline RCRA ... Update on Significant OSW/RCRA Rulemakings

 *March 29, 1990 (55 FR 11798):* This rule modifies and replaces the Extraction Procedure (EP) Toxicity Characteristic with the Toxicity Characteristic (TC). In this rule, the Extraction Procedure (EP) leach test is replaced by the Toxicity Characteristic Leaching Procedure (TCLP). TCLP is a more accurate test for identifying organic chemicals in wastes that may seep (or "leach") into ground water and cause environmental or health damage. EPA estimates that the rule will bring a significant volume of "new" waste waters, solid waste, sludge and a large number of waste generators under RCRA regulation for the first time. Many treatment, storage and disposal facilities will require new or modified permits to manage these TC wastes.

 *June 1, 1990 (55 FR 22520):* This (the so-called "third third" rule) is the last major rule in a series of rules that restrict the land disposal of wastes that were identified or listed as hazardous as of November 8, 1984, the date of enactment of the Hazardous and Solid Waste Amendments (HSWA) to RCRA. It also sets land disposal restrictions for all the characteristic wastes. The effect of the rule is to prohibit the land disposal of untreated hazardous wastes. It sets forth levels or methods of treatment that diminish waste toxicity or substantially reduce the migration of hazardous constituents from the waste into the environment.

 *July 27, 1990 (55 FR 30798):* This proposed corrective action rule lays the framework for conducting clean-up activities under the RCRA permitting program. The clean-up steps established in the rule are patterned after those in the Superfund program.

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(202) 475-9857

- Assisting Tribes by providing information regarding EPA programs, responding to requests and assuming an advocacy role for Tribes within the Regional Office; and
- Raising Tribal concerns within the Regional and Headquarters Offices regarding the implementation of environmental programs in Indian Country.

Names, addresses, and telephone numbers of the Regional Indian Coordinators are included in an insert to this issue of the **Native American Network**.

Contact: Roccena Lawatch, Indian Coordinator, Region IX (415) 556-5072

Now You Know...

The United States generates 180 million tons of solid waste each year—enough to fill a convoy of trucks that would stretch halfway to the moon.

Tribes in Arizona Meet to Discuss Solid and Hazardous Waste Issues

The Inter-Tribal Council of Arizona, Inc. (ITCA) is an organization of 19 Tribes in the State of Arizona. ITCA provides technical assistance to its member Tribes in developing the capability to provide safe drinking water and to manage waste water and solid waste. ITCA also works with Tribes in Arizona developing and administering pesticide regulatory programs through a Cooperative Agreement with ITCA.

Earlier this year, ITCA, EPA Region IX, and the Indian Health Service's (IHS) Office of Environmental Health, Phoenix Area, co-sponsored a workshop on the management of solid and hazardous waste and underground storage tanks. Following is a brief recap of the meeting.

Steve Dodge, representing EPA Region V, noted that EPA has dealt with Tribes as "municipalities" under RCRA. This policy has limited the ability of Tribes to participate in RCRA waste management programs in the past. Dodge indicated that currently there is little information available on Tribes' solid and hazardous waste needs. It is clear, however, that there is a significant need for funds, training, and technical assistance.

Apesanahkwat, former Tribal Chairman of the Menominee (Wisconsin), described the development of the Tribe's RCRA program. Like Menominee, many Tribes may not have treatment, storage, and disposal facilities (TSDFs), but may have problems with transport of hazardous waste through reservation land. Menominee has developed a partial RCRA program to regulate hazardous waste transportation across reservation lands. The program includes Tribal regulations and administrative procedures that provide for the participation of non-Indians.

Vernon Seukteoma, representing the IHS, discussed the development of the Hopi Tribal solid waste plan. He stressed the importance of working with the community in the planning process and presented a step-by-step process for community participation. Rod Lewis, representing the Gila River Indian Community, said that the community responded to 12 hazardous waste incidents, including illegal dumping, in 1989. The Tribe initially had difficulty in getting assistance from EPA, IHS, and BIA, as well as the State of Arizona in dealing with the cleanup of hazardous waste incidents. Lewis emphasized the need for Tribes, EPA, and the State to work out generic protocols for responding to hazardous waste incidents.

After presentations from EPA staff on RCRA programs in Region IX, meeting participants agreed that Tribes must participate fully in RCRA programs. To meet this goal, Tribes need to develop solid waste and hazardous waste management programs and appropriate training.

Contact: *Inter-Tribal Council of Arizona, Inc., Phoenix, AZ (602) 248-0071*

LEGAL NOTES

Use of the Citizen Suit Provision Of RCRA

Section 7002 of RCRA allows anyone, including a Native American individual or Tribe, to file a civil law suit in Federal district court against anyone else, including a corporation, who is alleged to be in violation of any requirement of RCRA. This means that even a Tribe without a RCRA program delegated from U.S. EPA can "enforce" RCRA requirements for solid and hazardous waste, such as the prohibition against open dumping, by filing a law suit in Federal court and asking the court to order compliance with the Act.

When the alleged violation concerns hazardous waste and takes place within reservation boundaries (whether trust or fee lands), on other land under the Tribe's jurisdiction, or within a State without an authorized RCRA program, or concerns open dumping of solid waste, the Tribe can seek enforcement of Federal standards contained in RCRA itself



RCRA Q's and A's. . . . The Native American Network answers the questions most frequently asked of EPA's RCRA Hotline.

Q. Can small quantity generators establish satellite accumulation areas according to 40 CFR 262.34(c) for their hazardous waste?

A. Yes. Small quantity generators or SQGs (generators of 100-1000 kilograms of hazardous waste per month) may accumulate nonacute hazardous waste in satellite areas without having to comply with the storage requirements of 40 CFR 262.34(d). A satellite area is defined as a place where waste is generated in an industrial process or lab and is initially accumulated prior to removal to a central area.

However, SQGs must comply with the provisions of 40 CFR 262.34(c). These provisions include labelling and use and management requirements for containers. (51 FR 10146, March 24, 1986)

Q. A used oil exhibits the characteristic of EP Toxicity. Is the use of the used oil for dust suppression or road treatment prohibited?

A. Yes. Used oil applied to or placed on land which is contaminated with hazardous waste is prohibited from use as a dust suppressant. In this situation, EPA considers used oil a recyclable material that is used in a manner constituting disposal (see 40 CFR 266.23(b)). It is important to note that ignitable used oil does not fall under this prohibition.

Note: Fact sheets on RCRA regulations are available from the RCRA Hotline, (800) 424-9346.

Contact: *Susan Jones, OSW State Programs Branch, (202) 475-9857*

or in the regulations in 40 CFR Parts 240 to 299. If the alleged hazardous waste rule violation occurs on land subject to the jurisdiction of an authorized State, the Tribe can seek enforcement of the State rules. Any citizen suit (even to enforce authorized State standards) is brought in the Federal district court for the district in which the alleged violation occurs.

A party bringing a suit to enforce hazardous waste requirements can seek civil penalties payable to the United States of up to \$25,000 per day per RCRA violation. It is important to know that a citizen suit normally requires 60 days prior notice to the U.S. EPA, the alleged violator, and the State (if within State jurisdiction).

Contact: *Marc M. Radell, Associate Regional Counsel for American Indian Affairs, Region V (312) 886-7948*