

US EPA ARCHIVE DOCUMENT

Chapter 3. Developing, Implementing, and Enforcing Solid Waste Codes, Laws, and Regulations

A number of tribes and Alaskan Native villages have adopted codes, laws, or regulations to address solid waste management issues. Some have well-established regulatory programs they are actively implementing and enforcing. The majority of tribes, however, currently have no, or very limited, formal solid waste regulations. Most tribes are aware of the value of solid waste management codes, laws, and regulations but have lacked the financial resources to develop and implement them. Today, many tribes are at the point of considering whether developing a solid waste regulatory program is a feasible or desirable approach for addressing their waste management needs.

Your tribe or village might want to develop solid waste management codes, ordinances, or regulations for a number of reasons. These might include promoting tribal waste management goals, protecting public health and the environment, or protecting natural resources. Solid waste codes are a formal legal method of promoting or preventing behaviors, such as recycling or open dumping respectively. One thing to consider when developing your codes is if voluntary waste management standards are sufficient to meet your tribe's needs, or if formal regulations are

necessary. Also, consider which waste management issues will always need a code, such as preventing open dumping, and which issues might change over time, such as recycling standards.

In contrast to many federal and state waste management programs, many tribes rely primarily on non-regulatory measures and use regulatory measures as a last resort. This chapter can help you determine whether a regulatory, non-regulatory, or combination approach will best meet your solid waste management needs. Because many tribes are still in the process of considering whether to develop solid waste codes and regulations, the emphasis of this chapter is on these early stages.

Establishing a tribal solid waste regulatory program typically involves three main steps: 1) code development, 2) implementation, and 3) enforcement. This chapter addresses each of these steps and suggests issues to consider at each stage.

Examples of language from several tribes' solid waste codes are interspersed throughout this chapter. Complete reference and ordering information for these and additional tribal codes, model code templates, and other guidance documents are included in the Resources section at the end of this chapter.

Developing a Solid Waste Management Code

When developing a solid waste management code, you might identify the need for a regulatory program, define the scope of regulations, and draft the regulations. Some tribes have the resources to develop a comprehensive solid waste code. If your tribe is limited by funding, staffing, or time and is unable to develop and adopt comprehensive solid waste regulations, developing codes or regulations that address a single priority issue, or a few select issues, might be a more viable approach. The number, complexity, and importance of waste management issues can differ significantly among tribes, and therefore the approach taken in developing a regulatory program will vary from tribe to tribe.

Identifying and Prioritizing Waste Management Issues

The first step in determining the type of regulatory approach that best meets your needs is identifying and prioritizing your tribe's waste management issues. The tribal community, staff, and governing body all can help identify and prioritize key issues. Government officials and residents in surrounding jurisdictions that share common waste management concerns also might be involved. Although specific issues and priorities are likely to differ among tribes and Alaskan Native villages, they share a number of waste management concerns, including:

- Open dumping
- Cleanup and closure of open dumps
- Open burning
- Abandoned vehicles and vehicle-related wastes
- Abandoned large appliances/white goods
- Construction and demolition waste
- Facility siting and permitting

Open Dumping

Open dumping refers to the depositing of solid waste anywhere (on land or in water) other than an approved solid waste facility. This practice is one of the most prevalent waste management concerns for tribes, and most tribal solid waste codes include a prohibition against open (or "wildcat") dumping.

Open dumps can leak hazardous leachate into the groundwater and streams, contaminating drinking water supplies or negatively affecting commercial or subsistence fishing. In areas with high amounts of rainfall, this leaching process can happen quickly. Also, open dumps attract scavenging wild animals and insects that spread disease.

To address the problem of open dumping on tribal lands, the Fallon Paiute-Shoshone Tribe of Nevada adopted an Open Dump Ordinance, with the following purpose:

"The tribe is enacting this ordinance to provide a process and standards for the prevention of open dumps within tribal lands or adjacent boundaries. The tribe is compelled to act because of the threat open dumps pose to the environment, health, safety, and economic security of the tribe and its members. In particular, open dumps present a significant threat to the quality of groundwater and surface water resources. In order to protect the tribe's limited natural resources, the tribe is required to address the threat posed by open dumps through the exercise of its inherent sovereign power and constitutional authority to protect and preserve the tribal health, safety, welfare, customs and traditions, lands and environment."

Cleanup and Closure of Open Dumps

Even when a tribe eliminates open dumping, the wastes that remain at historic open dump sites can continue to adversely impact tribal health and resources. To prevent this, your tribe can develop a solid waste management regulation that addresses environmental

standards for cleaning up and closing an open dump site.

A Waste Management Ordinance adopted by the Metlakatla Indian Community in Alaska directed the community's Environmental Office to develop regulations for cleanup and closure of open dumps, illegal disposal sites, and other contaminated sites on the Annette Islands Reserve in Southeast Alaska. The Metlakatla Indian Community Council subsequently developed and approved these regulations, which serve as the basis for ongoing cleanups conducted by various federal agencies.

Open Burning

Open burning refers to the burning of solid wastes in a simple container or pile. In some areas, waste burning occurs at relatively large open dump sites, and in other areas it occurs on a much smaller scale, such as in backyard burn barrels. Some tribal codes include a prohibition on all open burning, while others allow open burning of specific wastes, such as yard trimmings, agricultural waste, or wood construction debris. Open burning of solid waste at municipal solid waste management facilities is prohibited by the Resource Conservation and Recovery Act (RCRA) (see 40 CFR Parts 258.24(b) and 257.3-1) except in limited cases. Many states and counties prohibit the burning of household trash on private property as well.

Open burning increases community exposure to pollutants that can have an adverse impact on human health and the environment. Smoke from open burning can exacerbate existing respiratory conditions, such as asthma and emphysema. Children, the elderly, and individuals with other preexisting respiratory conditions are especially vulnerable to these effects. Open burning also can spread toxins throughout the atmosphere, onto land and water and into the food chain. Hazardous pollutants released by open burn-



Before and after photographs of an illegal dump on the White Earth Band of Chippewa's land.

ing of waste include dioxins, particulate matter (fine particles), lead, mercury, sulfur dioxide, nitrous oxides, and hexachlorobenzene and other volatile organic compounds (VOCs) (many of which are known carcinogens). Because the remaining ash can contain dangerous levels of toxic metals such as mercury, lead, arsenic, and chromium, care should be taken in disposing of the ash.

The Walker River Paiute Tribe in Nevada drafted a Solid Waste Burning Prohibition



Backyard burning of household waste in burn barrels is a problem nationwide, not just in Indian country.

Ordinance to address the problem of burning solid waste in open dumps and at other sites within the exterior boundaries of the Walker River Indian Reservation. The tribe deemed development of this ordinance necessary “because of the particular threat the burning of solid waste poses to the environment, economic security, health, and welfare of the Walker River Paiute Tribe, its members, and all residents of the reservation,” and also because “burning solid waste in the open dumps and at other sites located on the reser-

vation presents a significant threat to the quality of the air resource on the reservation.”

Abandoned Vehicles and Vehicle-related Wastes

Abandoned vehicles and vehicle parts are such a prevalent waste management concern for many tribes that they are specifically included in the definition of solid waste in many tribal codes, as well as in some state and municipal codes. In addition to the vehicles themselves, vehicle-related wastes (including tires, batteries, used oil, and antifreeze) might be a concern.

Most of the health and environmental hazards related to tire disposal are caused by long-standing stockpiles of tires. Air pockets in tires provide convenient habitats for rodents. They also hold water, which provides an ideal breeding ground for mosquitoes that transmit infectious diseases. Stockpiled tires also pose fire hazards. Burning stockpiles are difficult to extinguish, because air pockets trap oxygen that feeds the flames. When they burn, tires emit a noxious black smoke. The remaining oils

Abandoned vehicle and parts in Kokhanok Village (Alaska).



and soot can run off and contaminate groundwater.

The Open Dump Ordinance adopted by the Fallon Paiute-Shoshone Tribe in Nevada expressly prohibits the dumping of “used motor vehicle tires, motor vehicle batteries, motor vehicle oils or fluids.” The Cheyenne River Sioux Tribe, located in South Dakota, has established specific service fees for collecting and disposing of automobiles, pickup trucks, utility trailers, and trucks according to a fee schedule in the tribe’s Solid Waste Ordinance.

Abandoned Large Appliances/White Goods

Your tribe might find it needs codes or regulations to address disposal of large appliances and white goods. If not disposed of properly, large appliances can easily become eyesores in your community. The Stockbridge-Munsee Nation of the Mohican Band in Wisconsin has a Tribal Solid Waste Management Ordinance that specifically states that discarded appliances are not accepted for collecting, and their disposal is the responsibility of the owners. Other tribes, such as the Eastern Band of Cherokee Indians and Jicarilla Apache Nation accept white goods at their transfer stations for scrap metal recycling.

Construction and Demolition Debris

Several tribes have experienced difficulties in managing construction and demolition (C&D) debris. The size and weight of these wastes makes their disposal with normal household waste very expensive. Since C&D debris typically contains inert materials such as concrete, brick, asphalt, and non-hazardous materials such as wood, sheetrock, or plaster, it can be disposed in special C&D, or inert waste, landfills. Since these landfills typically do not need to be lined, tipping fees are much lower than at a Subtitle D-



White goods recycling pile at the Kokhanok Village (Alaska) landfill.

compliant landfill. Several tribes have established management standards, either formally through codes or informally through other policy mechanisms, to manage C&D debris separately.

The Assiniboine and Sioux Nations of the Fort Peck Reservation in Montana, for example, were having troubles with private contractors filling up roll-off containers at their five household waste drop-off sites. Fort Peck’s Operations and Maintenance (O&M) Department was stuck paying high tipping fees at a municipal landfill to dispose of this C&D debris. Going through its Public Works Committee Board, O&M received authorization to manage C&D debris separately in designated containers and request that contractors rent dumpsters directly from O&M. Separating its C&D debris from its municipal waste allowed O&M to ship the C&D debris to a C&D landfill with much lower tipping fees.

Facility Siting and Permitting

Some tribes choose to locate solid waste facilities, such as landfills or transfer stations, on tribal lands. When appropriate, tribal regulations might include criteria for siting, permitting, and operating these facilities. An

ordinance adopted by the Cheyenne River Sioux Tribe in South Dakota designates the Cheyenne River Sanitary Landfill for temporary or permanent disposal of garbage and waste materials in the community of Eagle Butte. Additionally, the Rosebud Sioux Tribe of South Dakota has adopted landfill location, design, and operation standards as part of its Solid Waste Code.

After you have identified and prioritized the important waste management issues for your tribe, you will need to decide whether you want to address any or all of these issues through codes or regulations. Involving tribal members at this stage is critical to ensuring that the issues identified as needing some form of regulation are truly the issues important to the tribe.

Public involvement at this step also will help you understand how a regulatory program will potentially affect and benefit tribal members. Tribal members are much more likely to respect and follow tribal ordinances when the tribe has gone through an open and fair adoption process. Tribal members' involvement at this stage also will help staff draft regulations that are consistent with and promote tribal cultural values and traditions.

Ensuring Consistency and Coordination with Federal Regulatory Programs

Tribal governments, as well as the federal government, are responsible for regulating the environment and protecting the health, welfare, and resources of tribal members on reservations and other tribal lands. In carrying out these responsibilities, some tribes have developed waste management regulations as a part of their inherent sovereign authority. Once you identify and prioritize your tribe's waste management issues, you can identify what federal regulatory programs are already in effect to address your tribe's waste management concerns and how developing tribal regulations can build upon those existing programs.

The primary federal law governing solid waste is the Resource Conservation and Recovery Act (RCRA). Enacted by Congress in 1976, RCRA's main goals are to protect human health and the environment from the potential hazards of waste disposal, conserve energy and natural resources, reduce the amount of waste generated, and ensure that wastes are managed in an environmentally sound manner. One approach to developing your solid waste regulations is to write them in a manner that is consistent and coordinates with federal regulations. The Lac du Flambeau Tribe of Wisconsin, for example, uses compliance with the federal RCRA regulations as a requirement for issuance of a solid waste facility permit under its Solid Waste Code.

Another approach to developing your solid waste codes and regulations is to write them so that they are consistent with your tribe's culture. The St. Regis Mohawk Tribe in New York wrote its solid waste codes from the tribe's cultural perspective to help tribal members better understand and relate to the issues. For example, the St. Regis Mohawk Tribe's Solid Waste Management Code uses education as its first and primary enforcement tool, resorting to fines or penalties only as a last recourse.

Waste management practices that directly or indirectly impact groundwater, surface water, and air resources on tribal lands also can be subject to federal regulatory requirements. In addition to a tribe's inherent regulatory authority, certain federal regulatory programs, including the Clean Water Act, the Clean Air Act, and the Safe Drinking Water Act also are applicable to tribes. Until tribes apply for and are authorized to operate a regulatory program under these statutes, EPA is responsible for implementing federal regulations on tribal lands. Whether or not your tribe pursues authorization under any of these regulatory programs, opportunities exist for your tribe to receive financial assistance, technical

Descriptions of major federal environmental regulations can be found in the glossary of this guide.

assistance, or cooperative enforcement that can help you in your efforts to address impacts from waste management. For more information on financing your waste management program, refer to Chapter 7.

Drafting Tribal Codes

Although tribal regulations differ significantly from one another in their scope and complexity, they generally include the following elements:

- **Purpose and Scope**
The purpose and scope of the codes typically discuss why the tribe developed the regulations, who is subject to the regulations, where the regulations apply, and what activities are covered by the regulations.
- **Definitions**
This section of the code will define terms that are important in understanding, implementing, and enforcing the regulations.
- **Program Requirements, Procedures, or Standards**
Program requirements, procedures, and standards typically describe how the tribe will carry out regulations and might include waste management procedures, permitting and operating requirements, and prohibitions.
- **Enforcement**
The enforcement section typically includes a schedule of fees or penalties for violating the requirements contained in the regulations and might include other enforcement mechanisms and authorities.

- **Administration**

This element typically identifies the responsibilities and procedures for implementing, revising, and/or updating the regulations.

The Rosebud Sioux Tribe of South Dakota adopted a Solid Waste Code with the following statement of purpose:

1. *Provide environmental and health standards for the collection and disposal of solid waste;*
2. *Prohibit future open dumping and littering of waste on the reservation and eliminate unhealthy, unsightly, and indiscriminate disposal or placement of solid waste; and*
3. *Inform and educate persons living on the reservation of the need to participate fully in efforts to manage solid waste generation, transportation, and disposal on the reservation.*

The Fort McDowell Yavapai Community of Arizona adopted a Waste Ordinance as part of its Environmental Code for the following purposes:

1. *Promote the health and safety of tribal members and all other persons within the exterior boundaries of the nation and other lands within the jurisdiction of the tribe;*
2. *Promote the cultural, social and economic stability of residential, agricultural, commercial, industrial, forest, riparian, and environmentally sensitive lands within the nation and other lands within the jurisdiction of the tribe;*
3. *Contribute to the protection of the historical and cultural values and traditions of the tribe, the nation as a permanent tribal homeland, and the aboriginal character of the nation;*
4. *Minimize air, water and land impacts from solid and hazardous waste pollution, including contamination of the tribe's aquifers,*

groundwater, surface waters, drinking water supplies, and all other natural resources;

5. *Enhance standard of living, quality of life, welfare and well being of all persons within the exterior boundaries of the nation and other lands within the jurisdiction of the tribe;*
6. *Provide and promote tribal environmental protection and services within the nation, and to regulate environmental activities under principles of tribal sovereignty; and*
7. *Implement, regulate, and enforce environmental standards and criteria, orders and permit conditions, and laws and regulations under the ordinance, for the sanitary storage, collection, transportation, and disposal of all solid waste within the exterior boundaries of the nation and other lands within the jurisdiction of the tribe.*

Implementing a Solid Waste Management Code

Once your tribe drafts and adopts codes or regulations, your next step is to implement them. To effectively implement a regulatory program, tribal members will need to understand the specific requirements of the regulations, as well as why it is important to follow the regulations. They should understand the benefits of compliance and the consequences of non-compliance. For more information on developing a tribal solid waste management education and outreach strategy, refer to Chapter 6.

The two areas of regulatory program implementation discussed in this section are:

- Supporting and sustaining the regulatory program.
- Coordinating the regulatory program with other, non-regulatory waste management efforts

Supporting and Sustaining a Regulatory Program

Developing, implementing, and sustaining a successful regulatory program requires not only financial and technical resources, but also might require approval from tribal members. Coordination with local or state governments often is important as well.

Financial Support

Determining how to adequately fund a long-term regulatory program can be a major challenge for tribes. You might need to determine if you will fund the program through internal sources, such as by charging user fees at solid waste facilities or by assessing penalties for violating solid waste regulations. Additionally, outside funding sources might support and sustain the costs of program development. You might use some combination of funding sources to set up a regulatory program that meets your tribe's needs and goals over the long term.

Unfortunately, lack of adequate funding often is the primary limiting factor in a tribe's ability to develop and implement regulatory, as well as non-regulatory, waste management programs. Your tribe can consider the anticipated cost of developing and implementing regulations, and its ability to support those costs, when determining the best regulatory approach. Your tribe also will need to consider the costs associated with building or using a landfill, transfer station, or other facility. For more information on funding a solid waste management program, refer to Chapter 7.

Technical Support

In addition to financial support, technical support—including access to regulatory, technological, and economic guidance—will help your tribe develop, implement, and sustain its regulatory program. Technical resources are available via the Internet or

other electronic formats (such as CD-ROM), in hard copy, or through access to technical assistance and expertise. Other potential sources of technical support include federal, state, or local agency staff; other tribes; tribal organizations; consultants; or other waste management organizations.

Tribes wanting to start up an integrated waste management program should consider three important elements of success: 1) recognizing their solid waste problems, 2) obtaining public support, and 3) being open to technical assistance from outside sources. The Bois Forte Band of Chippewa in Minnesota has successfully partnered with local, state, and federal government agencies, along with a nonprofit organization and a local university, to restore and preserve the tribal environment. In the early 1990s, EPA released regulations requiring that tribes and municipalities close all open dumps. The Bois Forte Band of Chippewa, IHS, and BIA set up a task force to determine the next steps. Working with IHS and BIA, and with money from a 3-year grant from EPA, the Bois Forte Band developed and implemented an aggressive solid waste management plan that called for the closure of existing dumps, development of waste management infrastructure, and significant reductions in the volume of the solid waste stream. To date, the Boise Forte Band has built two transfer stations and a demolition landfill and is planning a composting facility.

Public Support

The ability to successfully develop and implement waste management regulations depends on the willing compliance of tribal members. Even a well-funded regulatory program might not be successful if it does not receive support and approval from tribal members. For this reason, you might consider involving tribal members in all of the development and implementation phases of the regulatory program. Regulations are more

likely to have tribal support when their development process is open and inclusive and when everyone understands that their purpose is to promote tribal goals and values and to protect the health and resources of the tribe.

As a part of its public outreach efforts, the Solid Waste Department of the White Mountain Apache Tribe of Arizona produced a brochure that includes excerpts from the tribe's solid waste code, the curbside pickup schedule, a hotline number for reporting illegal dumping, a picture of an illegal dump site, and a reminder list for proper waste disposal. The department distributed a copy to each resident through the reservation's post offices.

Intergovernmental Support

Waste management issues often are regional, and successfully implementing a new tribal regulation might require coordinating tribal regulatory programs with other local, state, or regional regulatory programs.

Coordinating a Regulatory Program with Other Non-Regulatory Programs

Successful waste management efforts can include both regulatory and non-regulatory programs. Non-regulatory programs are based on the idea that if tribal members understand how to manage their waste and the health and environmental impacts of improper disposal, and if affordable options are widely available, then they will manage solid waste in a manner that protects tribal health and resources.

Focused regulatory measures are important tools that can help tribes when non-regulatory measures alone are not effective. To be most effective and efficient, your tribe can coordinate regulatory measures with non-regulatory measures to the maximum extent possible. Codes and regulations might focus on identifying actions or practices that your

tribe wants to strictly regulate or prohibit, such as open dumping, open burning, or disposal of hazardous wastes. Non-regulatory programs can provide the means, incentives, and options for meeting those requirements.

When developing codes and regulations, consider how regulatory and non-regulatory programs can complement each other. The following examples illustrate how tribes can set up complementary regulatory and non-regulatory programs.

Recycling

You can coordinate waste management regulations with a recycling program by mandating certain practices, such as: separating recyclables from waste to facilitate recycling efforts; prohibiting disposal of certain recyclable materials; requiring businesses and institutions to prepare recycling plans; encouraging recycling through regulatory initiatives such as buy recycled initiatives; or setting a voluntary goals to reach a certain recycling rate.

Composting

You can coordinate waste management regulations with various voluntary composting options. You can set prohibitions or limitations on the disposal of certain waste materials, such as yard trimmings, that can be composted in available facilities.

Source Reduction

Some tribes have coordinated waste management regulations with existing tribal solid waste source reduction efforts. The Campo Band of Mission Indians of California recognized in the Campo Indian Reservation Solid Waste Management Code of 1990 that:

“Methods of solid waste management emphasizing source reduction, recovery, and recycling of all solid waste are essential to the long-range preservation of the health,

safety, and well being of the public, to the economic productivity of the Campo Band and the state of California, to the environmental quality of the reservation and the state of California, and to the conservation of natural resources.”

Public information can support source reduction efforts. These might focus on tribal government procurement and purchasing requirements, promoting the use of recycled paper or double-sided copying, or goals for reducing generation of solid waste by a particular year.

Household Hazardous Waste Collection

You can coordinate regulations with non-regulatory efforts to remove household hazardous waste—including paint, batteries, used oil, pesticides, and cleaning products—from the waste stream.

The Metlakatla Indian Community of the Annette Islands Reserve in Alaska adopted a Waste Management Ordinance in 1999 that requires safe disposal of household hazardous waste. In conjunction with its regulatory efforts, the community held a household hazardous waste collection event designed to attract as many residents as possible, to make them aware of the new regulations, provide advice on safe household hazardous waste characterization and handling procedures, identify non-hazardous substitutes for com-

Household hazardous waste collection at the Pueblo of Santa Clara’s transfer station.



mon hazardous household products, and remove as much existing household hazardous waste as possible from the waste stream.

The implementation provisions of many existing tribal regulations include prohibitions on certain activities, such as open dumping or open burning of solid waste. They also might include planning requirements, performance standards, design criteria, identification of acceptable waste management practices, and numerous other provisions for implementing regulatory programs. Though implementation provisions can vary significantly depending on the scope, complexity, and number of issues addressed, prohibitions are among the most common methods for implementing tribal regulations.

The Campo Band of Mission Indians of California adopted a Solid Waste Management Code in 1990 that includes the following language prohibiting open dumping:

“In order to protect the limited land, air, and water resources of the reservation from irremediable hazardous pollution and to protect the health, safety, and welfare of all residents of the reservations and surrounding communities, disposal of solid waste in any open

dump is expressly prohibited within the exterior boundaries of the reservation.”

The Solid Waste Disposal Ordinance of the Manzanita Tribe of Kumeyaay Indians in California contains the following prohibitions:

- a. *No person shall dispose, release, discharge, or conduct open dumping or open burning of any solid waste on the Manzanita Indian Reservation except as provided in this ordinance.*
- b. *No person shall generate, store, transfer, transport, treat, discharge, release or dispose of a hazardous waste through the conduct of any business on the Manzanita Indian Reservation, except as permitted under RCRA and/or this ordinance.*
- c. *No operator, owner, agent, or employee of any business, industry or facility within the exterior boundaries of the Manzanita Indian Reservation shall dispose, or cause to be disposed, any solid waste in the waste receptacles of any other business, industry, facility or residential premises.*

The Open Dump Ordinance adopted by the Fallon Paiute-Shoshone Tribe in Nevada includes the following prohibition:

“No person shall dump on any public reservation lands the following, which includes, but is not limited to, any rubbish, swill, refuse, cans, bottles, paper, vegetable matter, carcass of any dead animal, trash, used motor vehicle tires, motor vehicle batteries, motor vehicle oils or fluids, sewage,

Pueblo of Santa Clara’s hazardous waste storage area at its transfer station.



sludge, garbage or other toxic and hazardous wastes.”

Enforcing a Solid Waste Management Code

Once you have developed and adopted codes or regulations and implemented the regulatory program, you will need to enforce your requirements. To be most effective, regulatory enforcement should focus on the highest priority issues. Identifying these issues will be most effective if the public is involved.

Enforcement provisions in existing tribal regulations vary widely. Following are a few examples of these provisions.

The Gila River Indian Community (GRIC) in Arizona designed an illegal dumping enforcement program that combines partnerships with continual publicity to achieve results. The community’s Solid Waste Ordinance allows law enforcement officials to confiscate vehicles involved in illegal dumping incidents and assess a fine. Vehicle impoundment increases the chance that an illegal dumper, whether or not he/she resides on the reservation, will appear in court later. Police, prosecutors, and judges established a system to make the impoundment process run smoothly. The community uses an outside company to impound vehicles.

GRIC’s Department of Environmental Quality (DEQ) supplied tribal rangers and police officers with a map of dump sites to target patrolling efforts. Gila River rangers do their best to patrol reservation borders and illegal dumping hot spots. They perform routine patrols, conduct stakeouts at night, and respond to illegal dumping reports from residents. As a result, the community is having more success catching and prosecuting illegal dumpers. In one case, a waste material pumper truck driver was caught discharging waste into an irrigation canal next to the Gila River. The driver received a citation for trespassing on community land, and the

company received an illegal dumping citation. The company, DEQ, and the tribal prosecutor reached a settlement in tribal court under which the company had to clean the contaminated soil and pay an \$8,302 penalty to the community. DEQ developed a press release on the case and distributed it to local newspapers.

The Hannahville Indian Community in Michigan has rules and regulations for solid waste disposal that provide the following enforcement provisions:

- a. *Under the direction of the Tribal Council and the Health Board, the Solid Waste Administrator (Health Administrator) and all tribal law enforcement and conservation enforcement personnel are empowered to enforce these rules and regulations.*
- b. *Actions for violations may be heard in tribal court by conservation citation, summons and complaint, or criminal warrant.*
- c. *Violation of any provision of these rules and regulations may be punished or remedied by a civil fine or forfeiture not to exceed \$1,000. Each day of any continuing violation may be charged as a separate violation.*

The Open Dump Ordinance adopted by the Fallon Paiute-Shoshone Tribe in Nevada includes the following provision for violations of tribal requirements:

If found guilty of any violations of this Ordinance the Civil Penalties will be as follows:

Accidental and Unintentional Acts:

A fine not to exceed \$10,000 per day, plus the costs of clean up to restore the site to its near original state.

Intentional Acts:

First Offense:

A fine not to exceed \$25,000 per day, plus the costs of clean up to restore the site to its near original state.

Second Offense:

A fine not to exceed \$50,000 per day, plus the cost of clean-up to restore the site to its near original state, plus imprisonment for a minimum 1-year term.

Chapter Highlights

- Develop and tailor a regulatory approach to solid waste that meets your tribe or village's specific needs.
- Identify which portions of your solid waste program require codes and what the scope of these codes should be (i.e., comprehensive versus targeted).
- Educate community members on the purpose and meaning of your solid waste codes. Understanding leads to acceptance and compliance.
- Enforce your codes consistently and equitably. Regulations are only as effective as their enforcement.
- Adequately fund enforcement.

Resources

The full titles of codes cited in this chapter, as well as additional tribal codes, are provided below. Some codes are not currently available on the Web. To request a copy of these codes, refer to Appendix B for the tribe's contact information.

Issue-Based Codes

- Campo Band of Mission Indians (California) Solid Waste Management Code of 1990. This code focuses primarily on the issues of open dumping and open burning. Download a Word Perfect version from this Web site: <www.epa.gov/epaoswer/non-hw/tribal/thirds/regmsw.htm>.
- Fallon Paiute-Shoshone Tribe (Nevada) Open Dump Ordinance. This code focuses on the issue of open dumping.

- Manzanita Tribe of Kumeyaay Indians (California) Solid Waste Disposal Ordinance. This code focuses primarily on the issues of open dumping, open burning, and hazardous waste. Download a Word Perfect version from this Web site: <www.epa.gov/epaoswer/non-hw/tribal/thirds/regmsw.htm>.
- Walker River Paiute Tribe (Nevada) Draft Solid Waste Burning Prohibition Ordinance. This code focuses on the issue of open burning of solid waste.
- Metlakatla Indian Community (Alaska) Cleanup and Closure Guidelines for Open Dumps. These regulations focus on the standards and procedures for the cleanup of open dumps.
- Cheyenne River Sioux Tribe (South Dakota) Solid Waste Ordinance #33. This ordinance is focused on the siting of a sanitary landfill facility.

Comprehensive Codes

- Rules And Regulations Providing Standards For Solid Waste Disposal for the Hannahville Indian Community's (Michigan) Solid Waste Management Plan.
- Lac Du Flambeau Tribal (Wisconsin) Solid Waste Code. WordPerfect file accessible at <www.epa.gov/epaoswer/non-hw/tribal/thirds/regmsw.htm>.
- Rosebud Sioux Tribe (South Dakota) Solid Waste Code. WordPerfect file accessible at <www.epa.gov/epaoswer/non-hw/tribal/thirds/regmsw.htm>.
- Environmental Code of the White Mountain Apache Tribe (AZ) is accessible at <thorpe.ou.edu/archives/apache/environmental.html>.

- The St. Regis Mohawk Tribe's Solid Waste Management Code is available at <www.srmtenv.org/swcode.pdf>

Model Code Templates

- The following Web site: <www.tribal-institute.org/lists/codes.htm>, includes sample or model codes that were not developed for any specific tribe or nation, but were intended to be used by tribal governments as a starting point that can be built upon, modified, and adapted according to the needs and customs of each individual tribe. The majority of these sample codes provide options and commentaries for tribes to consider in evaluating and adapting the code to meet their specific needs.
- The Inter Tribal Council of Arizona, Inc. Model Tribal Solid Waste Management Code, available on the Web at <www.epa.gov/epaoswer/non-hw/tribal/pdftxt/itc10746.txt>.
- The National Indian Justice Center Model Tribal Solid Waste Ordinance. Contact at 707 579-5507 or on the Web at <www.nijc.org/main.htm>.

Other References

- *Tribal Waste Journal: Respect Our Resources: Stop Illegal Dumping*. Issue 1. EPA Solid Waste and Emergency

Response. EPA530-N-02-001. May 2002. <www.epa.gov/epaoswer/non-hw/tribal/pdftxt/twj-1.pdf>

- Bois Forte Chippewa and Outside Agencies Band Together for Integrated Waste Management. Waste Management in Indian Country. <www.epa.gov/tribalmsw/thirds/boisforte.htm>.
- *Solid Waste Management Planning for Rural Communities in Alaska: Community Resource Guide and Planning Workbook*. Available from the Alaska Native Health Board in 2004.
- *Tribal Leaders Are Key to Reducing Backyard Burning*. EPA530-F-03-016. August 2003. <www.epa.gov/msw/backyard>.
- *Reducing Backyard Burning in Indian Country*. EPA530-F-03-017. August 2003. <www.epa.gov/msw/backyard>.
- EPA's construction and demolition debris Web site <www.epa.gov/epaoswer/non-hw/debris>.
- EPA's Management of Scrap Tires Web site <www.epa.gov/epaoswer/non-hw/muncpl/tires/index.htm>.