



# Illegal Dumping Enforcement Strategies

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US EPA

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# Overview

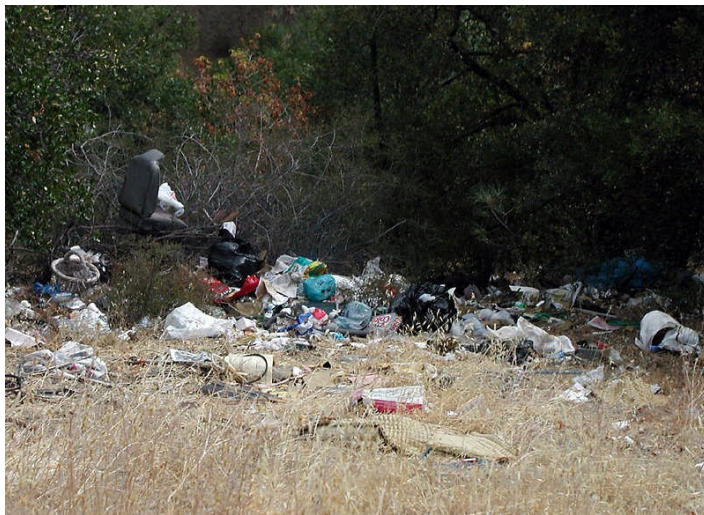
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- ❑ Causes of Illegal Dumping
- ❑ Developing and implementing an Illegal Dumping Prevention and Enforcement Program
- ❑ Non-enforcement measures to prevent illegal dumping
- ❑ Enforcement measures to prevent illegal dumping
- ❑ Resources available

# Causes of Illegal Dumping

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- ❑ How does EPA define an “open dump” or “illegal dump”?
- ❑ An area of any size or content where waste is disposed of illegally by more than one family.



Little dump



Big dump

Both are illegal dumps by EPA's standards



# Causes of Illegal Dumping

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- ❑ Convenience
- ❑ Cost
- ❑ Lack of information
- ❑ Past practices
- ❑ No solid waste management plan
- ❑ No enforcement



Photo from the Ft Independence Tribe

# Developing a Prevention and Enforcement Program

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## Three Steps:

1. Understand the problem
2. Gain tribal government and community support
3. Choose your approach

# Developing a Prevention and Enforcement Program

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## Step 1: Understand the problem

### **Options:**

- ❑ Door-to-door survey
- ❑ Hold a community gathering
- ❑ Survey at the dumpsites

The Yakima Nation environmental staff surveyed people using the local dumpsite and found that most using it did not know it was unsafe and illegal.

# Developing a Prevention and Enforcement Program

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## Step 2: Gain tribal government and community support

### **Options:**

- ❑ Photographs
- ❑ Maps
- ❑ Press coverage
- ❑ Tours
- ❑ Explanation of costs



Photo from a Torres Martinez tour of illegal dumpsites

# Developing a Prevention and Enforcement Program

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## Step 3: Choose your approach

This presentation will give some ideas for enforcement and prevention approaches.

Keep in mind how the chosen approach:

- Reflects the values and goals of the tribe
- Provides for tribal control and sovereignty
- Involves tribal government and community members
- Builds on local knowledge, experience and expertise
- Allows for continuous feedback including a complaint mechanism
- Is feasible















# Non-Enforcement Measures to Prevent Illegal Dumping: Overview

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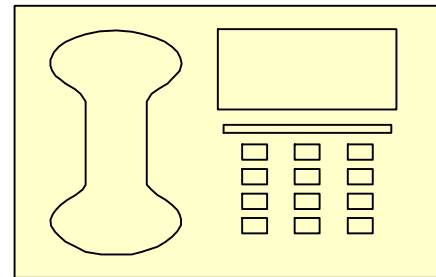
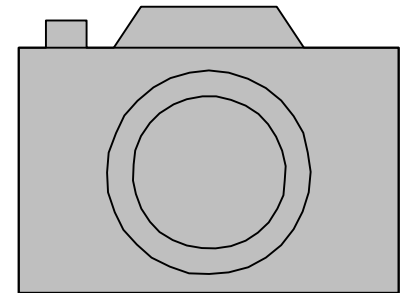
- ❑ Community Outreach and Education
- ❑ Cleanup
- ❑ Dump Tracking
- ❑ Posting Signs
- ❑ Lighting
- ❑ Barriers
- ❑ Hotlines
- ❑ Rewards
- ❑ Monitoring and Surveillance Cameras

# Non-Enforcement Measures to Prevent Illegal Dumping : Outreach and Education

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## **Outreach and education may include:**

- ❑ Press releases
- ❑ Publicity photographs
- ❑ Outreach materials
- ❑ Public hotline
- ❑ Presentations
- ❑ Cleanup days



For more information and tips on starting a tribal outreach/education program, see Chapter 6 of the *Tribal Decision-Maker's Guide to Solid Waste Management*



# Non-Enforcement Measures to Prevent Illegal Dumping : Cleanup

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## **Tribal Example**

**Pinoleville Tribe** is converting a former dumpsite into a native garden. By beautifying the former dumpsite, the tribe is simultaneously reducing the likelihood that waste will again be left on the site and creating a special place on the reservation for tribal members to experience nature.

For more information on illegal dumping cleanup, see our “Open Dump Cleanup Webpage” at [www.epa.gov/region09/waste/tribal/open-dump.html](http://www.epa.gov/region09/waste/tribal/open-dump.html)

# Non-Enforcement Measures to Prevent Illegal Dumping : Dump Tracking

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## **Data collected should include at a minimum:**

- ❑ Location
- ❑ Size and contents
- ❑ Responsible party (if known)
- ❑ Enforcement actions taken
- ❑ Resources expended



# Non-Enforcement Measures to Prevent Illegal Dumping: Posting Signs



# Non-Enforcement Measures to Prevent Illegal Dumping: Lighting

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Install lighting in areas where illegal dumping occurs





# Non-Enforcement Measures to Prevent Illegal Dumping: Barriers

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Examples of barriers include:

- highway dividers
- fences
- berms
- trenches
- landscaping





# Non-Enforcement Measures to Prevent Illegal Dumping: Hotlines & Rewards

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Example of a tribal illegal dumping prevention billboard offering a reward

# Non-Enforcement Measures to Prevent Illegal Dumping: Monitoring and Cameras

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Monitoring can include:

- ▣ surveillance cameras
- ▣ motion sensing beepers
- ▣ patrolling by environmental rangers or police.

*Even dummy cameras can be effective*



# Enforcement Measures to Prevent Illegal Dumping: Overview

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- Lawmaking Authority
- Illegal Dumping Codes
  - Penalties
  - Enforcement Body
  - Judicial Body
- Strategy for Enforcement
- Resources

# Enforcement Measures to Prevent Illegal Dumping: Lawmaking Authority

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**Tribes** have extensive authority to create illegal dumping codes

It is uncertain to what extent tribal dumping codes apply to non-members on non-Indian lands that are within the contiguous boundary of the reservation.

**State and local governments** in both Public Law 280 states and non-Public Law 280 states have limited authority to regulate dumping on tribal land.

The exact limits on state and local authority within Indian country in both types of states are uncertain due to conflicting case law.

# Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

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## **Components to Illegal Dumping Codes**

- ❑ Dumping Code Purpose
- ❑ Dumping Definition
- ❑ Dumping Sanctions
- ❑ Dumping Enforcement Responsibility
- ❑ Dumping Adjudicative Responsibility



# Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

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## **Code Purpose: Example from Hopland**

“2.1. The open dumping and open burning of solid wastes shows disrespect for the natural resources of the Reservation, and for the Reservation community; it causes irreparable damage to the land and the environment; it is a threat to the health and safety of Hopland residents.”

# Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

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## **Code Definition: Example from Hopland**

"6.1. It shall be unlawful for any person ... to dump, scatter, or place, or cause to be dumped, scattered or placed any solid waste material, hazardous or not . . . ."

# Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

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## **Code Sanctions: Example from Hopland**

"9.1. Any person who violates any of the provisions of this Code is subject to an assessment of civil damages for such unlawful activities.... Any person who is found by the court to have committed the alleged violations shall be subject to ... a civil penalty in an amount up to \$500.00 dollars for each day of each violation."



# Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

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## **Common sanctions include:**

- ❑ Fines
- ❑ legal action against property owners
- ❑ property seizure and vehicle impoundment
- ❑ community service
- ❑ court-ordered cleanup and
- ❑ exclusion from the tribe's land or some combination of these



Before



After

# Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

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## **Dumping Enforcement Responsibility: Example from Hopland**

“5.4. The [Hopland] EPA has a duty to investigate under this Code. Upon receiving a credible complaint or report, the EPA shall, on its own initiative, or in conjunction with Tribal law enforcement or other cooperating agencies, perform a thorough investigation of any violations alleged against any person or entity.”

# Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

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## **Common enforcement bodies include:**

- ❑ Tribal Enforcement
  - Tribal environmental agency
  - Tribal police
- ❑ External Enforcement
  - Another tribe's enforcement agency
  - State and local enforcement
  - Federal enforcement





# Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

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## **Dumping Judicial Responsibility: Example from Hopland**

"8.1. If appropriate, the [Hopland] EPA, in its sole discretion, will attempt to resolve any unauthorized open dumping ... through its administrative process...."

"8.6. If, after receiving a citation, the alleged offender believes that he or she has not violated the terms of the Code, he or she may appeal the EPA's finding in writing to the EPA Director."

"9.1. The Director of the EPA is authorized to file a civil action against such person on behalf of the Tribe in Tribal Court ...."

# Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

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## Common Judicial Responsibility:

- ❑ Tribal
  - Tribal court
  - Tribal environmental agency
  - Tribal council
- ❑ Non-tribal
  - State courts (limited)
  - Federal courts (limited)



# Enforcement Measures to Prevent Illegal Dumping: Resources Available

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## Resources for code drafting

- ❑ The ***Tribal Law and Policy Institute*** (TLPI) website includes a wealth of sample codes and code drafting resources.
  - See [www.tribal-institute.org/lists/codes.htm](http://www.tribal-institute.org/lists/codes.htm).
- ❑ The ***National Tribal Justice Resource Center*** (NTJRC) website includes several sample codes.
  - See [www.tribalresourcecenter.org/legal/details.asp?53](http://www.tribalresourcecenter.org/legal/details.asp?53).
- ❑ The ***National Indian Justice Center*** (NIJC) website includes links to model codes.
  - See [www.nijc.org/resources.html](http://www.nijc.org/resources.html).
- ❑ The ***UCLA Law School Tribal Legal Development Clinic*** assists tribes with legal projects, including code drafting.
  - The application form is available on the Clinic website: [www.law.ucla.edu/home/apps/academic/clinical/TribalLegalDevelopment.aspx](http://www.law.ucla.edu/home/apps/academic/clinical/TribalLegalDevelopment.aspx)



# Enforcement Measures to Prevent Illegal Dumping: Resources Available

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## Resources for enforcement

- ❑ The ***U.S. Department of Justice Office of Community Oriented Policing Services*** (COPS) awards grants to improve law enforcement capabilities in Indian country.
  - See [www.usdoj.gov/otj/grant-fund.htm](http://www.usdoj.gov/otj/grant-fund.htm)
- ❑ The ***National Congress of American Indians*** (NCAI) website includes a list of law enforcement agreements between tribes and non-tribal governments
  - See [www.ncai.org/Law\\_Enforcement\\_Agreements.100.0.html](http://www.ncai.org/Law_Enforcement_Agreements.100.0.html)
- ❑ The ***Bureau of Indian Affairs*** funds tribal governments to conduct law enforcement through a 638 contract or compact.

# Enforcement Measures to Prevent Illegal Dumping: Resources Available

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## Resources for Judicial Systems

- ❑ The **Bureau of Justice Assistance's** (BJA) Tribal Courts Assistance Program provides support to tribal justice systems.
  - See [www.tribaljusticeprograms.org/programs/tcap.asp](http://www.tribaljusticeprograms.org/programs/tcap.asp).
- ❑ The **National Tribal Justice Resource Center** (NTJRC) website has online resources and is available to consult tribes.
  - See [www.tribalresourcecenter.org/tribalcourts/](http://www.tribalresourcecenter.org/tribalcourts/).
- ❑ The **Tribal Law and Policy Institute** (TLPI) website includes a Tribal Court Clearinghouse.
  - See [www.tribal-institute.org/lists/justice.htm](http://www.tribal-institute.org/lists/justice.htm).
- ❑ The **National Indian Justice Center** (NIJC) performs court system consulting and evaluation.
  - See [www.nijc.org/resources.html](http://www.nijc.org/resources.html).
- ❑ The **National Center for State Courts** (NCSC) links to tribal justice resources.
  - See [www.ncsconline.org/wc/CourTopics/ResourceGuide.asp?topic=TribCt](http://www.ncsconline.org/wc/CourTopics/ResourceGuide.asp?topic=TribCt)

# General resources available

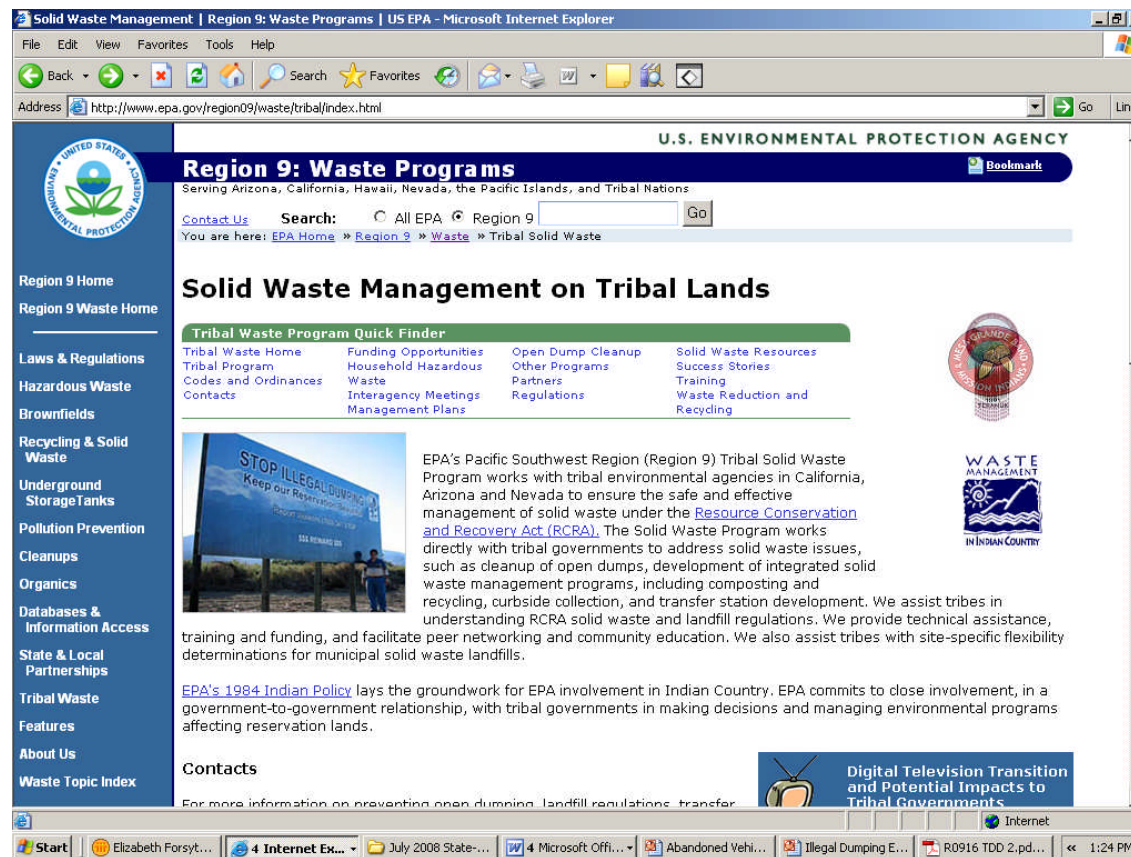
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# General Resources Available

Tribal Solid Waste Team Website:  
[www.epa.gov/region09/waste/tribal/](http://www.epa.gov/region09/waste/tribal/)







Questions?