



Public Health Law

Office for State, Tribal, Local and Territorial Support
Centers for Disease Control and Prevention

Menu of Selected Tribal Laws Related to Mosquito and Vector Control

American Indian and Alaska Native tribes are sovereign nations that maintain a government-to-government relationship with the United States.¹ There are currently 567 federally recognized tribes throughout the contiguous United States and Alaska.² In addition to exercising political sovereignty, tribes exercise cultural sovereignty through traditions and religious practices unique to each tribe's history and culture.³ Cultural sovereignty "encompasses the spiritual, emotional, mental, and physical aspects" of Native people's lives and is a foundation to tribal exercise of political sovereignty.⁴

As sovereign nations, tribes have inherent authority to protect the public health and welfare of their citizens and "to make their own laws and be ruled by them."⁵ Thus, in the context of vector-borne disease control, tribes have the authority to engage in vector-control activities using methods most appropriate for their communities.⁶ Tribes have exercised this authority by passing laws related to mosquito and vector control and by providing mosquito and vector control services through tribal agencies and programs.⁷

This menu offers examples of selected tribal laws related to mosquito and vector control. It can be used by jurisdictions interested in developing or updating their own vector-borne disease control laws to respond to vector-borne disease threats, such as the Zika virus.⁸ Tribal laws provide examples of vector control laws in various settings, including solid waste management, nuisance control, and insecticide use.

For more information about the Zika Virus, visit CDC's [web page](#). CDC's Tribal Support Unit also maintains a [Zika Resources for Tribes](#) web page.

Solid Waste Management Laws

One method of controlling mosquito and other vectors is by managing solid waste. Solid waste refers "mainly to non-biodegradable items of household, community and industrial waste."⁹ Vector control laws require proper disposal, collection, and storing of waste in order to limit breeding grounds for mosquitos and other vectors.¹⁰ For example, the Swinomish Tribal Code requires that "[a]ll solid waste shall be stored so that it does not . . . [a]ttract rodents, flies, mosquitoes, or other animals that do or may carry disease."¹¹

Similarly, the Cherokee Code of the Eastern Band of the Cherokee Nation requires that open dumps used for the disposal of solid waste be closed and that this waste be disposed of properly, as outlined in



the code.¹² The code further authorizes “the Deputy Operating Officer or his or her authorized representative in coordination with other Tribal programs as necessary, [to request the implementation of] effective vector control . . . measures” at those dumps.¹³

The Poarch Creek Indians Tribal Code incorporates federal disease vector control procedures for the operation of municipal solid waste landfill (MSWLF) units by reference.¹⁴ The law applies to MSWLF units on tribal property.¹⁵ Specifically, the federal law stipulates that “[o]wners or operators of all MSWLF units must prevent or control on-site populations of disease vectors using techniques appropriate for the protection of human health and the environment.”¹⁶

Nuisance Control Laws

When a property becomes a hazard to the public, nuisance control laws may be used to require the property owner to mitigate the nuisance.¹⁷ For mosquito and vector control, laws are used frequently to require property owners to clear containers that are potential breeding grounds for mosquitos. The Yurok Tribe of California’s Tribal Blight Ordinance, for example, prohibits individuals or businesses from maintaining “a blighted property or cause or permit property to be maintained as a blighted property.”¹⁸ The ordinance defines “property blight” to include conditions that “[c]reate[] the potential for the harboring of rats, vermin, vector, or other similar nuisances.”¹⁹

Insecticide Laws

Mosquito and other vector populations can be managed through chemical control measures as well.²⁰ Chemical control measures include the use of insecticides, a form of pesticide, targeting both adult mosquitos (adulticide) and mosquito larvae (larvicide)²¹ and should be used as part of an integrated mosquito management program.²² Mosquito and vector control laws can either allow for the application of insecticides or establish standards for insecticide applicators.²³

For example, the Navajo Nation Pesticide Act requires, as a condition of certification to administer pesticides on the Navajo Nation,²⁴ that commercial and public pesticide applicators “demonstrate practical knowledge of vector-disease transmission as it relates to and influences application programs. A wide variety of pests [are] involved, and it is essential that they be known and recognized, and appropriate life cycles and habitats be understood as a basis for control strategy. These applicators shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. They should also have practical knowledge of the importance and employment of such non-chemical control methods as sanitation, waste disposal, and drainage.”²⁵

Acknowledgments and Disclaimers

This document was developed by Aila Hoss, JD, Carter Consulting, Inc., contractor and Dawn Pepin, JD, MPH, Chenega Professional and Technical Services, LLC, contractor with the Public Health Law Program (PHLP) within the Centers for Disease Control and Prevention’s (CDC’s) Office for State, Tribal, Local and Territorial Support. The author thanks Matthew Penn, JD, MLIS, Director, PHLP, for his editorial assistance.

For further technical assistance with this inventory, please contact phlawprogram@cdc.gov. PHLP provides technical assistance and public health law resources to advance the use of law as a public health tool. PHLP cannot provide legal advice on any issue and cannot represent any individual or entity in any matter. PHLP recommends seeking the advice of an attorney or other qualified professional with

questions regarding the application of law to a specific circumstance. The findings and conclusions in this summary are those of the author and do not necessarily represent the official views of CDC.

This menu includes tribal mosquito and vector control laws collected from WestlawNext on March 10, 2016.

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¹ COHEN'S HANDBOOK OF FEDERAL INDIAN LAW, § 4.01[1][a] (Nell Jessup Newton et al. eds., 2012).

² [Indian Entities Recognized and Eligible to Receive Services from the Bureau of Indian Affairs](#), Fed. Reg. 77, 155 (Aug. 10, 2012); [Final Determination for Federal Acknowledgment of the Pamnukey Indian Tribe](#), Bureau of Indian Affairs, Dep't of Interior (July 2, 2015).

³ Wallace Coffey and Rebecca Tsosie, *Rethinking the Tribal Sovereignty Doctrine: Cultural Sovereignty and the Collective Future of Indian Nations*, 12 STAN. L. & POL'Y REV. 191, 196 (2001) (arguing that the concept of "cultural sovereignty" needs to be defined by Native communities and outside the construct of political sovereignty: "[W]e hope to open a dialogue about sovereignty and our collective future that is generated from *within* our tribal communities." *Id.* at 192.). Wallace Coffey is the chairman of the Comanche Nation Business Committee. Rebecca Tsosie is a law professor at the Indian Legal Program at Arizona State University. At the time of publication of this article, Chairman Coffey and Professor Tsosie both served on the Board of the Directors of the Native American Rights Fund, which they credited as providing the "impetus for this dialogue on cultural sovereignty." *Id.* at n.a.1.

⁴ *Id.* at 210.

⁵ *Williams v. Lee*, 358 U.S. 217, 271 (1959).

⁶ Tribes maintain "inherent powers of limited sovereignty which has never been extinguished." *United States v. Wheeler*, 435 U.S. 313, 322–3 (1978) (quoting F. Cohen, HANDBOOK OF FEDERAL INDIAN LAW 122 (1945)). *Wheeler* further explains that "Indian tribes still possess those aspects of sovereignty not withdrawn by treaty or statute, or by implication as a necessary result of their dependent status." *Wheeler*, 435 U.S. at 323.

⁷ See, e.g., EASTERN BAND CHEROKEE INDIANS CODE § 113B-4(1) (2010); SWINOMISH TRIBAL CODE 10-08.030 (2010); YUOK TRIBAL ABAND. VEH. ABATE. ORD. Section 2 (2013); [Environmental Health](#), SENECA NATION (last visited Aug. 23, 2016); [Environmental Health Program](#), SEMINOLE TRIBE OF FLORIDA (last accessed Aug. 23, 2016). The federal government also exercises some vector control activities on Tribal lands. For example, the Indian Health Service (IHS), a federal agency established "to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes," (25 U.S.C. § 1661(a)(1)) provides various environmental health services, including vector control services, to tribes. See [Environmental Health Services](#), INDIAN HEALTH SERVICE (last accessed Aug. 23, 2016); [Division of Environmental Health Services](#), INDIAN HEALTH SERVICE (last accessed Aug. 23, 2016). See also, [Environmental Review Manual for Indian Health Service Programs](#), INDIAN HEALTH SERV. OFFICE OF ENVTL. HEALTH & ENGINEERING (January 2007), which provides IHS program managers with information related to environmental health issues, with some discussion of vector control.

⁸ PHLP collected select tribal code provisions that referenced mosquitos or vectors on March 10, 2016, using WestlawNext, a legal research database. PHLP selected the provisions for inclusion in this document based on legal research assistance requests received on these legal domains. The following tribal codes are available using this database: Absentee Shawnee Tribe of Indians; Confederated Tribes of the Colville Reservation; Confederated Tribes of Siletz Indians; Coquille Indian Tribe; Eastern Band of Cherokee Indians; Grand Traverse Band of Ottawa & Chippewa; Kalispel Tribe of Indians; Leech Lake Band of Ojibwe; Little River Band of Ottawa Indians; Little Traverse Bay Bands of Odawa; Mashantucket Pequot; Navajo Nation; Oneida Tribe of Indians of Wisconsin; Poarch Band of Creek Indians; Ponca Tribe of Nebraska; Prairie Band Potawatomi Nation; Sac & Fox Tribe of the Mississippi in Iowa; Snoqualmie Indian Tribe; Squaxin Island Tribe; Standing Rock Sioux; Swinomish Indian Tribal Community; White Earth Nation; Wind River Reservation, Eastern Shoshone & Northern Arapaho Tribes; and Yurok Tribe of California.

⁹ [Dengue: Guidelines for Diagnosis, Treatment, Prevention and Control](#), WORLD HEALTH ORGANIZATION, 59–86 (2009).

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- ¹⁰ *Id.* For additional information on tribal solid waste management laws, see [Investing in healthy tribal communities: Strengthening solid waste management through tribal public health law](#), NAT'L CONGRESS OF AM. INDIANS POL'Y RESEARCH CTR. (2014).
- ¹¹ SWINOMISH TRIBAL CODE § 10-08.030(A) (2013). *See also* SWINOMISH TRIBAL CODE § 11-07.030(A) (2013).
- ¹² EASTERN BAND CHEROKEE INDIANS CODE § 113B-4(1) (2010).
- ¹³ *Id.* at § 113B-4(2).
- ¹⁴ POARCH BAND OF CREEK INDIANS CODE § 26-2-18(b)(3) (2010); POARCH BAND OF CREEK INDIANS CODE § 26-2-2 (2010).
- ¹⁵ *Id.*
- ¹⁶ 40 C.F.R. § 258.22(a) (2016). For additional examples of tribal solid waste management laws that reference vector control, *see, e.g.*, ONEIDA TRIBE OF WISCONSIN CODE § 44.11(g) (2011); PRAIRIE BAND POTAWATOMI NATION LAW AND ORDER CODE § 21-1-3(C)(2) (2011); YUOK TRIBAL ABAND. VEH. ABATE. ORD. § 2 (2010).
- ¹⁷ [Public Health Confronts the Mosquito—Developing Sustainable State and Local Mosquito Control Programs](#), ASS'N OF STATE & TERRITORIAL HEALTH OFFICIALS, 12 (Feb. 17, 2015).
- ¹⁸ YUOK TRIBAL BLIGHT ORD. Art. I, 3.1 (2010).
- ¹⁹ *Id.* Art. V, 6.3 (2010).
- ²⁰ WHO, *supra* note 9, at 59–86.
- ²¹ [Control](#), AM. MOSQUITO CONTROL ASS'N (last visited Aug. 23, 2016).
- ²² [Integrated Mosquito Management](#), CTRS. FOR DISEASE CONTROL & PREVENTION (last visited Aug. 23, 2016).
- ²³ *See, generally*, WHO, *supra* note 9, at 59–86; AM. MOSQUITO CONTROL ASS'N, *supra* note 20.
- ²⁴ 4 NAVAJO CODE § 316 (2010).
- ²⁵ *Id.* § 312(C)(8) (2010).