

# Fort Belknap Indian Community

## A RESOLUTION APPROVING THE REVISION OF TITLE XI, PART I OF THE SOLID WASTE MANAGEMENT CODE OF THE FORT BELKNAP INDIAN COMMUNITY LAW AND ORDER CODE

**WHEREAS, the Fort Belknap Indian Community Council is the governing body of the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community, Fort Belknap Indian Reservation, Montana, by the authority of the Constitution and By-Laws of the Fort Belknap Tribes approved on the 13 day of December 1935, and**

**WHEREAS, under the Constitution and By-Laws of the Fort Belknap Indian Community, the Community Council is charged with the duty of protecting the health, security and general welfare of the Fort Belknap Indian Community, and**

**WHEREAS, the Fort Belknap Indian Community ("FBIC") Council is responsible for overseeing and managing the governmental affairs of the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Reservation; and,**

**WHEREAS, the FBIC Council is concerned with the health and safety of all members and residents of the Fort Belknap Indian Community; and,**

**WHEREAS, the growing environmental issues affecting the lands and other natural resources of the Fort Belknap Indian Community require that environmental laws and regulations be updated to meet current concerns; and,**

**WHEREAS, the FBIC Council has reviewed the attached draft revisions to Title XI, Part I Solid and Hazardous Waste Management Code, of the FBIC Law and Order Code, and has caused it to be published in the Community.**

**NOW THEREFORE BE IT RESOLVED** that the Fort Belknap Indian Community Council does hereby APPROVE and ADOPT the newly revised Title XI, Part I of the FBIC Law and Order Code, Solid and Hazardous Waste Management, to be codified within the Fort Belknap Law and Order Code.

**BE IT FURTHER RESOLVED** that the current Part I of Title XI Solid Waste Management of the FBIC Law and Order Code is hereby rescinded.

**BE IT FINALLY RESOLVED** that the Council Officers are hereby delegated the authority and responsibility to sign all documents necessary to affect this action.

**ATTEST:**

  
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Andrew Werk Jr., President  
Fort Belknap Community Council

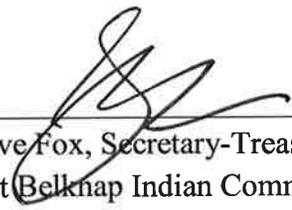
  
\_\_\_\_\_  
Steve Fox, Secretary-Treasurer  
Fort Belknap Community Council

**CERTIFICATION**

I, the undersigned as Secretary of the Fort Belknap Indian Community Council of the Fort Belknap Reservation, Montana, do hereby certify that the Fort Belknap Indian Community Council is composed of 10 (ten) members of whom 6 members constituting a quorum were present at the meeting thereof, duly and regularly called, noticed, convened and held this 1st day of July, 2019 and the forgoing Resolution of the Fort Belknap Indian Community Council was duly adopted and approved the affirmative vote of 6 for; 0 opposed; 0 not voting; 0 temporary absent; 0 absent; and that the said resolution has not been rescinded in any way.

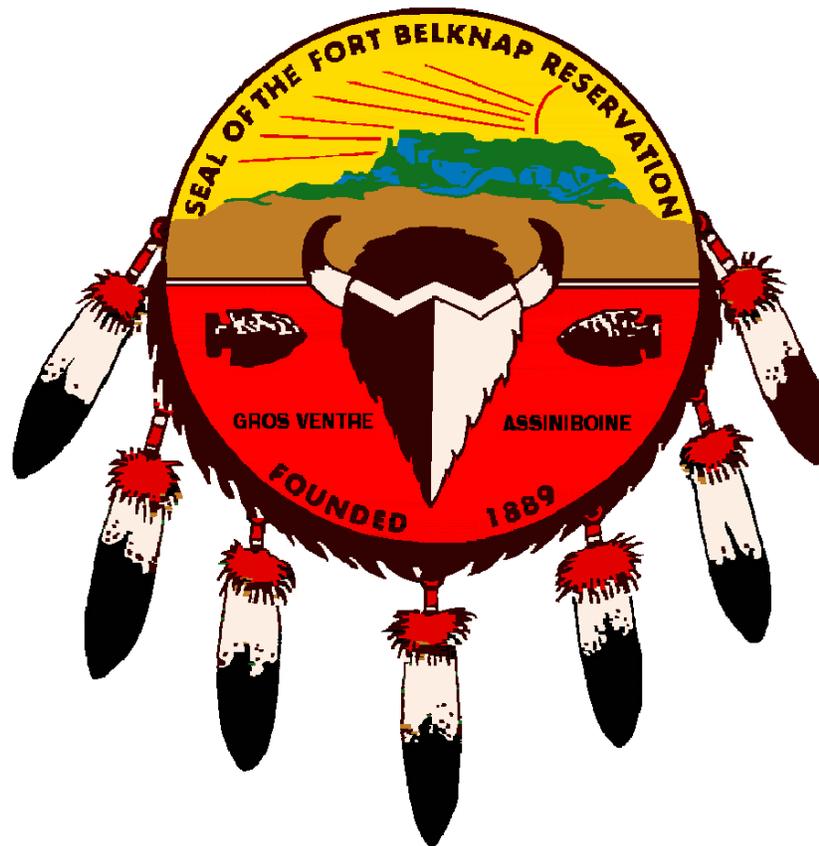
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\_\_\_\_\_  
Steve Fox, Secretary-Treasurer

Fort Belknap Indian Community Council

**TITLE XI: ENVIRONMENT  
PART I:  
SOLID AND HAZARDOUS WASTE MANAGEMENT CODE  
OF THE  
GROS VENTRE AND ASSINIBOINE TRIBES  
OF THE  
FORT BELKNAP INDIAN COMMUNITY**



**REVISED JULY 1, 2019**

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**TITLE XI: ENVIRONMENT  
PART I: SOLID AND HAZARDOUS WASTE MANAGEMENT CODE  
GROS VENTRE AND ASSINIBOINE TRIBES OF THE  
FORT BELKNAP INDIAN COMMUNITY**

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**TITLE XI: ENVIRONMENT**  
**PART I: SOLID AND HAZARDOUS WASTE MANAGEMENT CODE**  
**OF THE GROS VENTRE AND ASSINIBOINE TRIBES**  
**OF THE FORT BELKNAP INDIAN COMMUNITY**

**SECTION I GENERAL PROVISIONS**

**1.01 Purpose**

The purpose of this Code is to provide for the establishment of a comprehensive solid waste collection and disposal system, and to regulate the storage, collection, disposal, treatment, and management of solid waste and hazardous waste within the Fort Belknap Indian Community (FBIC), in order to protect public health, the environment, safety and well-being of the Gros Ventre and Assiniboine Tribes and the residents within the boundaries of the FBIC.

**1.02 Findings**

The Fort Belknap Indian Community Council (FBICC) makes the following findings and declarations:

1. The FBICC has the authority to pass resolutions and codes to protect the general welfare of the Gros Ventre and Assiniboine members of the FBIC, the residents of the FBIC and the environment of the FBIC;
2. The increasing volume and variety of solid waste and hazardous waste being generated on the FBIC and often inadequate existing methods of managing solid waste and hazardous waste contribute to land, air and water pollution and thereby threaten the economy, public health, safety, welfare, and well-being of the residents. These circumstances also contribute to the waste of dwindling natural resources, and to the general deterioration of the FBIC environment and quality of life;
3. The enactment of this Code by the FBICC is in the best interest of ensuring, promoting, and protecting the residents of the FBIC and the character of the FBIC is consistent with policy and is enacted for the protection of the FBIC's natural environment.

**1.03 Consensual Relations Among Non-Indians, FBIC and Tribal Members.**

Any person who uses land anywhere within the exterior boundaries of the Fort Belknap Indian Reservation and any person who enters into agreements or understandings with the FBIC or its members and residents by commercial dealings, contracts, leases, licenses, permits, intergovernmental agreements, or other arrangements, commercial or otherwise, shall be deemed to have entered into a consensual relationship with the FBIC or its members.

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#### **1.04 Scope**

This Code shall apply to all persons, households, commercial businesses, schools, governmental facilities, farmers, ranchers, private contractors, and all other entities and/or facilities in any way operated or having any impact on FBIC lands regarding the storage, collection, disposal, and treatment of solid and hazardous waste within the FBIC.

#### **1.05 Jurisdiction**

The FBICC has inherent sovereignty to exercise civil authority and jurisdiction under this Code over the conduct of FBIC tribal members and all other persons or entities on all lands within the exterior boundaries of the FBIC, so as to maintain the environment, natural resources, public health, safety, welfare, political integrity and economic well-being of the Gros Ventre and Assiniboine Tribes, its members and others, consistent with Title I, Sections II and III of the FBIC Code of Laws as amended.

#### **1.06 Acceptability**

Because any violation of this Code or any rules or regulations adopted hereunder will demonstrably and seriously impact the environment, natural resources, public health, safety, welfare, political integrity, and economic security of the Gros Ventre and Assiniboine Tribes, its members and others, this Code, and any rules and regulations adopted hereunder, shall apply to:

1. all persons or entities found within, doing business within or having any impact within the exterior boundaries of the FBIC, without exception, as defined under this Code; and
2. all places and lands located anywhere within the exterior boundaries of the FBIC or otherwise on FBIC lands, including all trust and non-trust land, notwithstanding the issuance of any patent, fee, allotment, right-of-way, lease, or any real property interest of any kind, held by any person or entity.

#### **1.07 Definitions**

For the purposes of this Code, the following words and phrases shall have the following meanings:

**“Agency”** means any board, bureau, Commission, department, or officer of the FBICC, whether or not the agency or person is subject to review of another Tribal agency, which is authorized by the law to confer or deny a benefit, to exact a penalty or sanction, to determine contested cases, or to enter into contracts, provided that the provisions of this Code do not apply to the FBICC, the FBIC Court, the FBIC Court of Appeals, the supervision and administration of the custody, care, control, or treatment of youths, patients, or prisoners, the FBIC personnel or Human Resources Department or Tribal personnel matters, any school, college, or training institution authorized, operated, managed, regulated, funded, or chartered by the Tribal government or any agency thereof, or any function of the Tribal government exercised in connection with the enforcement and regulation of conservation of fish and wildlife. This Code shall apply to the above named individuals while acting in their official capacity and in the performance of their official duties.

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**“Agricultural Waste”** means waste produced as a result of various operations. It includes manure and other wastes from farms, poultry houses, and slaughter houses, harvest waste, fertilizer run-off from fields, invasive species, pesticides that enter into water, air or soils; and salt and silt drained from fields.

**“Applicant”** means any person who has filed an application with the FBICC for approval to store, collect, transport or dispose of solid waste on the FBIC.

**“Approved Site”** means a disposal site or solid waste facility within the FBIC, which has met all the requirements of this Code and any other applicable regulation.

**“Aquatic Resources”** means all Tribal waters, wherever located or within a wetland.

**“Aquatic Resources Protection Ordinance or ARPO”** means an ordinance developed by the Fort Belknap Environmental Protection Department and adopted by the FBICC authorizing, directing, and regulating the protection of aquatic resources, the enforcement of necessary and proper regulations for the protection of aquatic resources and the establishment of a permit to regulate projects in and adjacent to aquatic resources.

**“Asbestos”** means naturally occurring fibrous minerals with high tensile strength, the ability to be woven, and resistance to heat and most chemicals. Six (6) asbestiform varieties of include: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite/garnierite); anthophyllite; tremolite; and actinolite.

**“Beneficial uses”** means all lawful uses of waters. Uses may include but are not limited to domestic, commercial, industrial, agricultural, traditional, cultural and recreational, and uses by fish and wildlife for habitat or propagation.

**“Bulky Waste”** means items whose large size precludes or complicates handling by normal collection, processing or disposal methods. Bulky waste includes, but is not limited to: carpet, logs, limbs, stumps, furniture, auto parts, bed frames, mattresses, wooden crates, white goods (stoves, refrigerators, dryers, etc.), wires and construction/demolition waste (lumber, brick, pavement, etc.)

**“Carcass”** means any deceased animal or portion of any deceased animal.

**“CERCLA”** means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9076(a).

**“Closure”** means the termination of the receiving, handling, recycling, treatment, composting or disposal of solid waste at a solid waste facility, and includes all operations necessary to prepare the facility for post-closure maintenance.

**“Collection”** means the act of removing solid waste from the central storage point at the source of generation.

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**“Collection Vehicle”** means a solid waste commercial compactor or other conveyance that is easily cleanable and capable of transporting solid waste without spillage and/or littering.

**“Commercial Solid Waste”** means solid waste generated by stores, offices and other activities that do not actually turn out a product.

**“Community”** mean the communities within the exterior boundaries of the FBIC.

**“Composting”** means the controlled microbial degradation of organic solid waste yielding a safe and nuisance-free product.

**“Construction”** means the erection or building of new structures or the acquisition, replacement, expansion, remodeling, alteration, modernization or extension of existing structures.

**“Construction and Demolition Wastes”** means solid waste associated with the construction or dismantling of such objects as roads, buildings or similar structures, including private homes, and individual dwellings. Construction and demolition (C&D) debris consists of the materials generated during the construction, renovation, and demolition of buildings, roads, and bridges. C&D debris often contains bulky, heavy materials that include: concrete, wood (from building), asphalt, gypsum (main component of drywall), metals, bricks, glass, plastics, salvaged building components (doors, windows, and plumbing fixtures), trees, stumps, earth, and rock from clearing sites.

**“Container’s Maximum Weight”** means weight may not exceed 500 lbs. for the 3 cubic yards and 10,000 lbs. for the 40 cubic yards as implemented by Prairie Mountain Utilities (PMU).

**“Council”** means the Fort Belknap Indian Community Council (FBICC).

**“Disposal”** means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

**“Disposal facility”** means a facility permitted to receive and dispose of solid waste and includes all contiguous land and structures, other appurtenances and improvements on the land. It does not include a facility the principal function of which is handling, treatment or composting of manure or other solid waste not intended for disposal. (NOTE: the term disposal facility” is used interchangeably with “Municipal Solid Waste Landfill Unit” or “MSWLF.”)

**“EPD Director”** means the Environmental Protection Department Director/Manager.

**“Enforcement Program”** means the rules, regulations and procedures adopted by the FBICC to enforce this Code.

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**“Environmental Compliance Fund”** means funds secured from the Waste Management Permit. The Waste Management Permit is subject to a fee of 1% of the total project cost, and is part of the Bid Package information. The Waste Management Fee is a separate fee from the TERO fee, and shall be payable to the Environmental Compliance Fund for use on environmental priorities.

**“Environmental Protection Department”** means the Fort Belknap Environmental Protection Department.

**“Friable asbestos containing material”** means any asbestos containing material that when dry may be crumbled, pulverized, or reduced to powder by hand pressure.

**“Fort Belknap Indian Community Council”** means the governing body of the Gros Ventre and Assiniboine Tribes.

**“Fort Belknap Indian Community Court”** means the court of the FBIC as established under the Fort Belknap Indian Constitution and codified at Title I, Section I of the FBIC Code of Laws, as amended.

**“Garbage”** means any matter that is no longer needed and as referenced in the definition of “Solid Waste”, below.

**“Generation”** means the act or process of producing solid waste.

**“Handling”** means collection, transportation, storage, transfer or processing of solid waste or hazardous waste.

**“Hazardous Waste”** means 1) any substance that poses a threat to human health or the environment. Typical hazardous substances are toxic, corrosive, ignitable, explosive or chemically reactive. 2) Any substance that is hazardous, toxic, ignitable, reactive or corrosive and that is defined and regulated as such by the FBICC, the State of Montana or the United States of America; or 3) any substance that is defined to be hazardous or toxic by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) or the Resource Conservation and Recovery Act of 1976 (RCRA Subtitle C, § 40 CFR Ch. 1 §261.3) as either act may be amended from time to time, and by any regulations promulgated there under, including but not limited to any substance, material, smoke, gas, particulate matter or combination thereof containing asbestos, petroleum or its byproducts or polychlorinated biphenyls (“PCBs”). This includes oil and gas Exploration and Production (E&P) Wastes.

**“Household waste”** means any solid waste derived from households, including single and multiple residences, hotels, motels, campgrounds and other Tribal recreation and Tribal land management facilities.

**“Historical uses”** means all uses that have historical significance for the FBIC and/or the Gros Ventre and/or Assiniboine Tribes and/or their members.

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**“Implementation schedule”** means a schedule that indicates approximate dates for the orderly, timely implementation of Solid Waste Management Plan policies and programs and includes approximate dates for the establishment, expansion and closure of any solid waste facility identified and reserved in the Plan.

**“Incinerator”** means any closed device that: uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or meets the definition of infrared incinerator or plasma arc incinerator (40 CFR Part 260); and does not emit dangerous waste and emissions released are controlled.

**“Industrial solid waste”** means any solid waste generated by industrial processes and manufacturing.

**“Infectious Waste”** means any equipment, instruments, utensils, and fomites of a disposable nature from the hospital rooms of patients who are suspected to have or have been diagnosed as having a communicable disease and must, therefore, be isolated as required by the Tribal Health Agency; any laboratory wastes, such as pathological specimens (e.g., all tissues, specimens of blood elements, excreta, and secretions obtained from patients or laboratory animals) and disposable fomites (any substance that may harbor or transmit pathogenic organisms) attended thereto; or any surgical operating room pathologic specimens and disposable fomites attendant thereto, and similar disposable materials from outpatient areas and emergency rooms.

**“Integrated Solid Waste Management Plan”** means the formation of the Tribal policies for all solid waste collection, handling, transportation, disposal, treatment, storage, and recycling and resource conservation on or off the FBIC.

**“Landfill”** means a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR, Ch. 1, § 257.2. A landfill also may receive other types of RCRA Subtitle D wastes, such as commercial solid waste, non-hazardous sludge, conditionally exempt small quantity generator waste and industrial solid waste. A landfill may be publicly or privately owned or operated. A landfill may be a new landfill, an existing landfill or a lateral expansion.

**“Leachate”** means any liquid, including any suspended components in the liquid that has percolated through or drained from hazardous waste.

**“Liquid”** means a substance in a condition in which it flows, that is a fluid at room temperature and atmospheric pressure, and whose shape but not volume can be changed.

**“Litter”** means solid waste that is scattered intentionally or in a careless manner.

**“Mitigation”** means a measure taken to reduce adverse impacts on the environment.

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**“Municipal Waste”** means any household, commercial or institutional garbage, refuse, rubbish, discarded commodities, and other similar non-hazardous material, other than recyclable material that has been segregated for recycling. This does not include Special or Hazardous waste as defined herein.

**“Municipal Solid Waste Landfill”** or “MSWLF” shall mean a discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well or waste pile, as those terms are defined under 40 CFR 257. An MSWLF unit also may receive as authorized under the Solid Waste Disposal Act, other types of Resource Conservation and Recovery Act (RCRA), Subtitle D, wastes, such as commercial solid waste, non-hazardous sludge and industrial solid waste. An MSWLF may be publicly or privately owned. An MSWLF unit may be a new unit, an existing unit or a lateral expansion. A lateral expansion is the horizontal expansion of the waste boundary of an existing unit. An MSWLF must comply with all of the criteria under this Code.

**“Non-friable asbestos-containing material”** means material containing more than 1 percent asbestos as determined using Polarized Light Microscopy (PLM) that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

**“Notice of Defense”** means the document a permittee must submit to preserve their right to a hearing after receiving a Statement of Charge or denial. A Notice of Defense constitutes a request for hearing and a general denial of all the allegations in the accusation.

A Notice of Defense must be filed within fifteen (15) calendar days of service. If a Notice of Defense is not timely filed, the FBIC Environmental Protection Department can take the permittee or permit applicant’s by default. A default usually means that the harshest sanction sought, revocation or permit denial, is imposed. In a Notice of Defense, the respondent can object to the form of the accusation or object that the accusation is uncertain or ambiguous.

**“Nuisance”** means any act or condition created by any person or persons, which results in an inconvenience to or affects the health of the public.

**“Occupant”** means a person or business who is a tenant, owner or renter of a dwelling.

**“Open Burning”** means combustion of any material directly in the open air without a receptacle, or in a receptacle other than a furnace, multiple chambered incinerator, or wood waste burner, with the exception of detonation of unexploded ordnance, small recreational fires, construction site heating devices used to warm workers, or safety flares used to combust or dispose of hazardous or toxic gases at industrial facilities, such as refineries, gas sweetening plants, oil and gas wells, sulfur recovery plants or elemental phosphorus plants. The Fort Belknap Indian Community Open Burn Ordinance No. 1-07, adopted by FBIC Resolution No. 73-2007 on May 8, 2007, is incorporated by reference herein.

**“Open Dump”** means any facility or site at which solid waste or hazardous waste is disposed of in a manner that does not protect the environment, is susceptible to open burning or is exposed to

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the elements, vectors and scavengers, and includes any facility that fails to satisfy standards found in this Code, FBICC regulations and/or 40 CFR Parts 257 or 258.

**“Operator”** means the person to whom the approval to construct and/or operate a solid waste facility or collection system is granted and any person who has filed an application with the FBICC for such approval.

**“Owner”** means the person who owns a solid waste facility or any portion or part thereof.

**“Petroleum”** or **“Petroleum Product”** includes gasoline, crude oil, fuel oil, diesel oil or fuel, lubricating oil, oil sludge or refuse, and any other petroleum-related product or any fraction thereof that is liquid at standard conditions of temperature and pressure (60 degrees F and 14.7 pounds per square inch absolute), or motor fuel blend, such as gasohol, and that is not augmented or compounded by more than a de minimis amount of another substance.

**“Permit”** means any authorization, license or equivalent control document issued by the FBICC or under the authority of FBICC regulating the siting, design, construction, operation, monitoring, corrective actions, closure, post-closure maintenance and financial assurance of solid waste facilities.

**“Permittee”** means a person, including but not limited to an operator, authorized and permitted to construct and/or operate a solid waste facility under this Code.

**“Person”** means any individual, corporation; partnership, association, agency, municipality, Commission or department, including the FBICC or other federally recognized Tribal government.

**“Plan”** means the FBIC Integrated Solid Waste Management Plan.

**“PMU”** or **“Prairie Mountain Utilities”** means the FBICC’s primary Utilities Department which was established by the FBICC for the sole purpose to provide and maintain a professional water resource system that will distribute consistent water, which is available and appropriate, all residential homes and businesses of the FBIC, that waste water as well as solid waste will be attended to in such a method to provide a healthy, clean, and safe environment for the people of the FBIC.

**“PMU Director”** means the Prairie Mountain Utilities Director.

**“Pollutant or contaminant”** shall include, but not be limited to:

1. Any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring. The term pollutant or contaminant shall also

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- include a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. § 802 *et seq.*) and petroleum or petroleum product;
2. Pollutant or contaminant also means any pollutant or contaminant that may present an imminent and substantial danger to public health or welfare of the Tribes or any person within the exterior boundaries of the Fort Belknap Indian Reservation; or
  3. Any substance that will alter the quality of the waters of the FBIC.

**“Pollution”** means:

1. the condition caused by the presence in or on soil, air, or water of any solid waste, hazardous waste, or substance derived there from in such quantity, of such nature and duration, or under such condition that the quality, appearance or usefulness of the soil, air, or water is significantly degraded or adversely altered; or
2. contamination of the environment to a measurable degree and adverse nature, including but not limited to hazardous substances, pollutants or contaminants as defined in Section 101(14) and (33) of CERCLA, 42 U.S.C. § 9601 *et seq.*; hazardous waste as defined in the Solid Waste Disposal Act, 42 U.S.C. § 6901 *et seq.* and 40 CFR Part 261; a controlled substance as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. § 802 *et seq.*; petroleum or petroleum byproducts or other toxic organic waste or toxic chemicals; or
3. the condition caused by the presence in or on soil, air or water of any solid waste, hazardous waste or substance derived there from in such quantity, of such nature and duration or under such condition that the quality, appearance or usefulness of the soil, air or water is significantly degraded or adversely altered.

**“Prairie Mountain Utilities Commission”** means the entity chartered by the FBICC operated through its Board of Directors, which is responsible for the overall operation and maintenance of solid waste disposal and water and sewer utilities on the FBIC, including the community water systems, community wastewater systems, solid waste systems of Lodge Pole, Hays, and the Agency, together. PMU shall operate under a business plan developed by the PMU and adopted by the FBICC that outlines all details regarding the service to residents and businesses within the boundaries of the FBIC.

**“Prairie Mountain Service Area”** means a specific area(s) where solid waste is collected by PMU.

**“Premise”** means a tract or parcel of land with or without habitable buildings.

**“Property Damage”** means any physical injury to tangible property, including loss of use of that property caused by the injury, or any loss of use of tangible property that is not physically injured.

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**“Quality of the Water or Waters”** means any chemical, physical, biological, bacteriological, radiological, and other properties and characteristics of water that affect its use.

**“Recoverable”** means the capability and likelihood of waste or byproduct being recovered from solid waste for a commercial or industrial use.

**“Recovered Material”** means material and byproducts that have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from and commonly reused within an original manufacturing process.

**“Recoverable Resources”** means materials that still have useful physical or chemical properties after serving a specific purpose; and can, therefore, be reclaimed or recycled for the same or other purpose.

**“RCRA”** means the Resource Conservation and Recovery Act and subsequent amendments, 42 U.S.C. § 6901 et seq., including as it amends the Solid Waste Disposal Act.

**“Recycling”** means the process of sorting, cleansing, treating and reconstituting solid waste or other discarded materials in order to prepare the altered form for use.

**“Regulated Hazardous Waste”** means “a solid waste that is a hazardous waste, as defined in 40 CFR 261.3, that is not excluded from regulation as a hazardous waste under 40 CFR 261.4(b) or was not generated by a conditionally-exempt small quantity generator as defined in 40 CFR part 261.5.” The FBIC reserves the right to regulate any waste as a hazardous waste regardless of its status under state or federal statutes or regulations.

**“Regulated Substance”** is a hazardous substance that means: any substance designated pursuant to section 311(b)(2)(A) of the federal Water Pollution Control Act; any element, compound, mixture, solution, or substance designated a hazardous substance by regulations promulgated by the administrator of the federal Environmental Protection Agency pursuant to section 102 of CERCLA; any toxic pollutant listed under section 307(a) of the federal Water Pollution Control Act; any hazardous air pollutant listed under section 112 of the federal Clean Air Act; and any imminently hazardous chemical substance or mixture with respect to which the administrator of the Environmental Protection Agency has taken action pursuant to section 7 of the federal Toxic Substances Control Act; the term “hazardous substance” does not include petroleum (including crude oil or any fraction thereof that is not specifically listed or designated as a hazardous substance as provided herein) or natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, or mixtures of natural gas and such synthetic gas; or

**“Release”** means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant). Release also means threat of release. The normal application of fertilizer is excluded. (CERCLA, 42 USC 9601).

**“Removal”** means the act of taking solid waste or hazardous waste from the place of generation.

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**“Reservation”** means all land, air, and water located within the exterior boundaries (governed by FBIC) of the Fort Belknap Indian Reservation or other lands owned by the FBIC, including all trust and non-trust land, notwithstanding patent, fee, allotment, right-of-way, lease, or any real property interest of any kind, held by any person or entity.

**“Responsible Authority”** means the PMU Commission, PMU Business, Fort Belknap Environmental Protection Department, Environmental Health Sanitation Program, as defined and with authorities and responsibilities delineated in this Code.

**“Roll-off Site”** means a solid waste management facility that: is generally open to the public for the collection of solid waste that is generated by more than one household or firm that is collected in a refuse container with a total capacity of not more than 50 cubic yards; or receives waste from waste collection vehicles and; receives no more than 3,000 tons of waste each year; has control measures in place to adequately contain solid wastes and blowing litter in the site and to minimize spills and leakage of liquid wastes; and is a site at which a local government unit requires commercial waste haulers to deposit wastes at the site only during the hours that the site is open.

**“Rubbish”** means solid wastes including ashes, consisting of both combustible and non-combustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, tires, or litter of any kind. Refer also to definitions of “garbage” and “solid waste” as defined in this Section.

**“Sanitary”** means promoting health through prevention of human contact with the hazards of wastes.

**“Sanitary Landfill”** means a disposal facility employing a method of disposing of solid waste on land, without creating nuisances or hazards to public health or safety, by using methods to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume and to cover it with a layer of suitable cover material at specific designated intervals. A sanitary landfill by definition must meet all of the 40 CFR, Part 258 criteria.

**“Scavenging”** means the unauthorized removal of materials at any point in the solid waste management system.

**“Segregated from other waste material”** means any of the following: the placement of recyclable materials in separate containers; the binding of recyclable material separately from the other solid waste; or the physical separation of recyclable material from other solid waste.

**“Solid Waste”** means any garbage, refuse, rubbish, sludge, and other material, other than recyclable material that has been segregated for recycling, including solid, liquid, semi-solid, or contained gaseous, material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water

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Pollution Control Act, as byproduct material as defined by the Atomic Energy Act of 1954, as amended, (68 Stat.923).

**“Solid Waste Disposal Act”** means the Act codified at 42 USC § 6901 et seq. which meant to reduce waste and protect human and environmental health by decreasing pollution through regulating disposal of large amounts of municipal and industrial waste through waste management standards.

**“Solid Waste Facility”** means a disposal facility; a transfer/processing station; a recycling facility; a composting facility; any resource recovery system or component thereof; any system, program or facility for resource conservation; and any facility used for the handling, treatment, composting or disposal of solid waste; whether such facility is associated with facilities generating such solid waste or otherwise; and includes all contiguous land and structures, other appurtenances and improvements on the land.

**“Solid Waste Fee”** means a monthly fee for solid waste removal and transport as set by the PMU Commission.

**“Solid Waste Landfill”** means any publicly or privately owned landfill or landfill unit that receives household waste or other types of waste, including commercial waste, non-hazardous sludge, and solid waste.

**“Solid Waste Management”** means a planned program for effectively controlling the generation, handling, treatment, composting and disposal of solid waste in a safe, sanitary, aesthetically acceptable and environmentally sound manner.

**“Solid Waste Work Group”** is a group of people comprised of FBIC staff and PMU Commission members who have received work group status from the FBICC and whose purpose is to work together to address identified solid waste management issues.

**“Special Waste”** means solid waste that is not a Hazardous Waste as defined herein and is:

1. Solid waste that causes corrosion or decay or otherwise reduces or impairs the integrity of containment structures or storage containers; or
2. Solid waste, if mixed or commingled with other solid waste produces violent reactions (heat, pressure, fire or explosion, toxic by-products, reaction products), poses a threat to human health and safety, can become a hazardous material, or impairs the integrity of containment features; or
3. Solid waste that otherwise requires specific storage, management, transportation or disposal requirements to protect public health or the environment; or
4. Solid waste that is prohibited from disposal at available RCRA compliant solid waste disposal facilities.

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5. Special wastes include agricultural waste, septic tank disposal, liquids, animal carcasses, construction and demolition wastes, junk vehicles, tires, asbestos, medical wastes, used oil, lead acid batteries, white goods, mining wastes and wastes from beneficiation of mining ore or extraction processes, and other special wastes.

Such a waste can be designated by the EPD Director or the PMU Director as a Special Waste and may require special storage, management, transportation or handling under this Code.

**“Storage”** means the holding of solid waste for a temporary period at the end of which the waste is treated or disposed of.

**“Storage Container”** means any receptacle intended for the temporary storage of waste, that is durable, leak proof, nonabsorbent, water tight, corrosion resistant, rodent and insect resistant, easily cleanable, has close-fitting covers and adequate handled to facilitate handling, and is in good condition. The storage container must be structurally compatible with the PMU waste collection system and approved by the PMU Director.

**“Tanks”** means stationary devices constructed of non-earthen materials used to store or treat hazardous waste. Tanks can be open-topped or completely enclosed and are constructed of a wide variety of materials including steel, plastic, fiberglass, and concrete.

**“Toxic materials”** means any chemical or mixture that presents an unreasonable risk or injury to human health or the environment.

**“Transfer Station/Canister Site”** means a facility used to receive, temporarily store, process or transfer solid waste directly from smaller to larger vehicles for transport. “Transfer/processing station” does not include: a facility the principal function of which is to receive, handle, process, treat or compost manure in accordance with Tribal minimum standards; a facility the principal function of which is to receive or handle solid waste that has already been separated for reuse and is not intended for disposal; or the operations premises of a duly licensed solid waste collection operator who handles solid waste as an activity incidental to the conduct of a refuse collection and disposal business.

**“Transportation”** means the movement of solid waste by air, rail, highway, or water.

**“Transporter”** means a person(s) engaged in the transportation of solid waste by air, rail, highway, or water on or off the FBIC.

**“Treatment”** means any method, technique or process designed or intended to change the physical, chemical or biological characteristics of solid waste or hazardous waste to render it less harmful to the quality of the soil, air and water; safer to handle; or easier to contain, manage or use as fuel, nutrient, soil amendment or other additive.

**“Tribes”** means the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Community.

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**“User Fee”** means a fee collected for the development, operation, and management of a solid waste management system.

**“Variance”** means an authorized written permission for a delay or exception in the application of a given law, code or regulation.

**“Vector”** means any insect, arthropod, rodent or other animal capable of transmitting a pathogen from one organism to another or of disrupting the normal enjoyment of life by adversely affecting the public health and well-being.

**“Waste”** means waste water and any and all other substances, liquid, solid, gaseous, radioactive, heat laden, associated with human habitation, or of human or animal origin, or from any of man’s activities including producing, manufacturing or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

**“Waters of the Fort Belknap Indian Community”** means any water, surface or underground, contained within, flowing through or bordering upon the FBIC or any portion thereof.

**“White Goods”** means refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dish washers, clothes dryers, and other similar domestic and commercial large appliances.

## **SECTION II            AUTHORITIES AND RESPONSIBILITIES**

### **2.01    Responsibility of Owner or Occupant**

The owner, agent, or occupant of every dwelling, residence, premises, or business establishment shall be responsible for the sanitary condition of said dwellings, residences, premises, or business establishments. No person(s) shall place, deposit or allow on his premises or on any public street, road, or within any waters of the FBIC any solid waste except in a manner described in this Code. Any person who owns or occupies any dwelling, residence, premises, or business establishment shall be responsible for the storage and stockpiling of all refuse accumulated for proper collection and disposal. It is the responsibility of each person owning or occupying any dwelling, residence, premises, business establishment, or agency to properly store all wastes.

### **2.02    Fort Belknap Environmental Protection Department**

The Fort Belknap Environmental Protection Department is hereby designated by the FBICC as the responsible department to ensure compliance with the provisions of this Code, to develop and establish a permitting system, to set fee provisions and set policy. See “SECTION XI Permits” for full explanation of permits required under this Code.

### **2.03    Environmental Compliance Officer**

1. The Environmental Compliance Officer shall be housed within the Environmental Protection Department.

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2. The FBICC shall adopt and Environmental Protection Department Environmental Compliance Officer shall enforce such policies, procedures, codes or regulations as are reasonably necessary to implement and carry out the policies, requirements, and duties as described in this Code.
  3. The Environmental Protection Department/Environmental Compliance Officer shall develop procedures for carrying out a permit and code compliance inspection program, including but not limited to requiring waste facility operators to file reports with the Environmental Compliance Officer in order to monitor the storage, treatment, handling, transportation or disposal of waste within the FBIC.
  4. The Environmental Protection Department Environmental Compliance Officer may perform inspections to ensure that any person, waste facility, vehicle, transfer station, approved container, roll-off site or approved site is in compliance with the Code.
  5. The Environmental Protection Department/Environmental Compliance Officer shall issue citations for any violations of this Code or any regulations adopted herein to include permit violations, any wrongful dumping of waste or littering.

#### **2.04 Coordination and Cooperation with other Agencies**

The Environmental Protection Department or the Compliance Officer may assist or receive assistance from other Tribal, state, and federal agencies in the development and maintenance of inspection, enforcement, training, and regulatory programs; and request, as necessary, any Tribal or federal agency having jurisdiction to investigate and report on any questions or matters involving solid waste handling, treatment and disposal affecting the FBIC.

### **SECTION III PUBLIC INFORMATION PROGRAM**

1. The Environmental Protection Department shall implement a public information program to provide information to other governments, private industry, and the general public concerning environmental protection, effective reuse of solid waste, code enforcement, permitting and other waste and environmental management matters as it deems appropriate.
2. The FBIC Brownfields Tribal Response Program shall maintain a “Public Record” of planned and completed assessment and/or remediation of contaminated sites conducted by the program.

### **SECTION IV INTEGRATED SOLID WASTE MANAGEMENT PLAN**

#### **4.01 Integrated Solid Waste Management Plan**

The Environmental Protection Department developed an Integrated Solid Waste Management Plan that was approved by the FBICC and PMU Commission on March 31, 2006. The PMU Commission shall gradually implement the Integrated Solid Waste Management Plan over a five (5) year period.

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#### **4.02 Guidance**

The Integrated Solid Waste Management Plan shall serve as a guideline in the interpretation of this Code as it relates to the operation of solid waste facilities, solid waste collection, handling, treatment, and disposal.

#### **4.03 Periodic Review of Plan**

The Solid Waste Work Group shall review and evaluate the Integrated Solid Waste Management Plan at least every five (5) years to obtain maximum consistency with Tribal and Federal policy. After such review and evaluation, the Solid Waste Work Group shall propose appropriate amendments to the FBICC and PMU Commission for consideration.

### **SECTION V RESOURCE RECOVERY PROGRAM (RECYCLING)**

1. FBICC policy is to encourage resource recovery and reuse. The PMU Director will work with the ED Director and other tribal programs and entities to create an effective resource recovery system to conserve our resources and protect the quality of life at FBICC. Any resource recovery program or system shall be tailored to the needs of the FBICC.
2. Before any recycling programs are implemented, the Fort Belknap Environmental Protection Department, in coordination with the PMU Director, shall issue appropriate rules and regulations for the recycling of solid wastes on the FBIC based on the Integrated Solid Waste Management Plan. Solid wastes which are reusable shall be recycled if economically feasible.

### **SECTION VI PROHIBITIONS**

#### **6.01 Prohibition of Disposal in Open Dumps**

In order to protect the land, air and water resources of the FBIC from permanent damage due to hazardous pollution and to protect the health, safety, and welfare of all residents of the FBIC and surrounding communities, disposal of solid waste by any person in any open dump is expressly prohibited within the exterior boundaries of the FBIC. Such person may be subject to a fine or other penalties and must come into compliance with this Code.

#### **6.02 Misleading Information**

It shall be a violation of this Code for any person to knowingly omit material information or make any false statement or representation in any label, record, report, or other document filed maintained or used for purposes or application or compliance with this Code or regulations promulgated there under.

#### **6.03 Scavenging**

Scavenging from solid waste collection, storage, transfer site, disposal facilities, or collection vehicles is prohibited within the exterior boundaries of the FBIC.

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#### **6.04 Open Burning**

Open burning of any waste is prohibited except as allowed in adherence with all applicable rules of the Fort Belknap Indian Community Open Burn Ordinance, Ordinance No. 1-07 as amended.

### **SECTION VII MUNICIPAL WASTE COLLECTION, TRANSPORT, STORAGE AND MANAGEMENT**

#### **7.01 Service Fees**

Prairie Mountain Utility (PMU) Service fees for waste collection, transfer; recycling, or other special services shall be set and collected as prescribed by the PMU Commission.

#### **7.02 Collection Schedule**

The PMU shall establish a schedule and arrange for the collection of solid waste on a timely basis or as needed but not less than once every seven days in accordance with the Fort Belknap Integrated Solid Waste Management Plan.

#### **7.03 Collection Vehicles**

1. Only vehicles approved by the PMU Director in coordination with the Environmental Protection Department shall be used for the commercial collection and transportation of solid waste. Vehicles used for the collection and transport of solid waste shall be kept cleaned and maintained. Vehicles used for the collection and transport of solid waste shall have covered, watertight, metal bodies of easily cleanable construction and shall be cleaned frequently to prevent a nuisance, and shall be maintained in good repair.
2. Vehicles (including private vehicles) used for collection and transport of solid waste shall be loaded and moved in such a manner that the contents, including ashes, will not fall, leak or spill from the vehicles. Tarps, web nets, or tie-downs shall be required on all vehicles when hauling/transporting waste. Where spillage does occur, it shall be collected immediately by the transporter and returned to the vehicle or container.

#### **7.04 Collection Standards**

Solid waste shall be disposed, stored and collected in a manner that prevents spillage and littering. Spillage and/or littering of solid waste shall be immediately picked up by the responsible person and returned to the vehicle or appropriate solid waste container or facility. Tarps, web nets, or tie-downs shall be required on all vehicles when hauling/transporting waste.

#### **7.05 Containers**

1. PMU shall provide a sufficient number of suitable and approved containers for receiving and storage of solid waste.
2. Storage Containers. Every area shall be supplied with adequate solid waste storage containers. PMU shall provide these containers in accordance with fees listed in PMU Plan of Operations.

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- The owner of the property will use such containers for storage.
- A. All storage containers shall be of sound construction resistant to animal entry. Containers will be constructed with rust and impact resistant materials and will be equipped with tight-fitting covers. PMU is responsible for maintaining containers in a neat, clean, and sanitary condition; if a commercial hauler supplies the container, the commercial hauler has this maintenance responsibility.
  - B. Contractors or other entities that are not a part of the PMU, shall provide a sufficient number of suitable and approved containers in accordance with PMU Plan of Operations for receiving and storing of solid waste and shall keep all solid waste therein.
  - C. The owner, agent, or occupant of every dwelling, business establishment or other premises where solid waste accumulates, shall be responsible for the safe and sanitary storage of bulk solid waste accumulated at that premise until it is removed.
  - D. Approved containers shall be maintained in a manner consistent with this Code and acceptable in the solid waste plan. Containers that are broken or otherwise fail to meet the requirements of the Code shall be refurbished/ replaced by PMU and/or other responsible parties.
  - E. Containers shall be easily accessible for collection by the PMU or authorized representatives.
  - F. All containers subject to this Section shall be approved by the PMU Director.
3. Container Prohibitions.
- The following storage container uses are prohibited:
- A. It shall be unlawful for any person(s) to allow the required solid waste storage containers to exceed the weight and capacity established by PMU.
  - B. It shall be unlawful for any person to place yard and tree trimmings of greater than 4 feet of length in PMU containers. If material does not fit completely in the container the responsible party will haul materials to a RCRA Subtitle D compliant landfill.
  - C. It shall be unlawful for any person or entity, except with the permission of the owner of the solid waste container and consistent with this Code, to tamper with, modify, remove from, or deposit solid wastes into any container that has not been provided for that use.
4. Storage Container Maintenance
- A. It shall be unlawful for any entity having the responsibility to maintain a solid waste storage container(s) to fail to maintain such container(s) in good condition. All entities shall maintain all containers in a clean condition and free from animal or vegetable residue.
  - B. When the collection operator furnishes solid waste storage containers, the operator will be responsible for maintaining the structural integrity of the containers unless they are furnished subject to express agreement with the customer that the customer will be responsible for such maintenance.
  - C. The collection operator and customer shall be jointly responsible for placing the storage containers in a location, which minimizes traffic, aesthetic, and other

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problems both on the property and for the general public and reduces the likelihood of damage to the containers.

5. Storage Containers - Condemnation.

The Compliance Officer shall condemn any solid waste container by affixing a condemnation notice thereto if the container is found to be unsound, unclean or otherwise in violation of this SECTION and notify the PMU Director. It shall be unlawful for any person to continue to use such container so long as the condemnation notice is affixed to the container or for person(s) other than those persons listed to remove such notice of condemnation.

6. Container Access

Access to storage containers shall be kept clear to prevent interference with collection services. All access roads to container collection sites shall be kept clear of solid waste debris or any other obstacles that may hinder the access of collection service vehicles.

**7.06 Solid Waste Container Sites**

1. PMU shall be in full compliance with this Code and have provisions for intermediate storage and recycling of these materials and ensure all such materials are appropriately segregated for recycling, except as otherwise allowed by this Code.
2. PMU shall be responsible for maintaining container sites free of improperly stored solid waste accumulations. This includes removal of: animal feces, animal carcasses, brush piles, inoperable machines, appliance fixtures, and equipment of damaged, deteriorated or obsolete condition as to have no substantial value; lumber piles and building materials; tin cans, broken glass, broken furniture, boxes, crates, and other debris; any other form of mixed municipal solid waste. PMU will cause the contents of all containers to be removed for disposal no less frequently than once per week. Non-animal or vegetable matter source separated recyclable waste materials may be stored without collection not to exceed (NTE) one (1) month.
3. Contractors or other entities that are not a part of the PMU collecting, transporting or storing solid wastes shall be responsible for maintaining container sites free of improperly stored waste accumulations.

**SECTION VIII. ESTABLISHMENT OF SOLID WASTE FACILITIES**

In identifying and reserving areas for the establishment or expansion of solid waste facilities, the Fort Belknap Indian Community Council in conjunction with the Environmental Protection Department, shall ensure that the land uses within a solid waste facility meet the requirements set forth in this Code, and shall consider the following:

1. 40 CFR Ch. 1 §§243, 257, and 258 are adopted into this Code by reference and all solid waste facilities shall be established and maintained according to the regulations set forth under 40 CFR Ch. 1 §258;

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2. The varying geographic, geologic, hydrologic, climatic, and other circumstances under which different solid waste practices are required in order to prevent leachate contamination of ground and surface waters, the protection of surface waters from surface runoff contamination, and the protection of ambient air quality;
  3. Characteristics and conditions of solid waste handling, treatment, and disposal methods, techniques, and practices, and locations of solid waste facilities where such methods, techniques, and practices are conducted, taking into account the nature of the material to be handled;
  4. Population density, distribution, and projected growth;
  5. The types and locations of solid waste collection facilities;
  6. The profiles of industries;
  7. The constituents and general rates of solid waste;
  8. The political, economic, organizational, financial, and management problems affecting comprehensive solid waste management on the Reservation;
  9. Types and resource recovery facilities and resource conservation systems that are appropriate; and
  10. Available new and additional markets for recovered material and energy resources recovered from solid waste as well as for conserving such material and energy.

## **SECTION IX. SPECIAL WASTE**

**“Special Waste”** means solid waste that is not a Hazardous Waste as defined in SECTION I, Sub-Section 1.07 Definitions. A waste can be designated by the ED Director or the PMU Director as a “Special Waste” and may require special storage, management, transportation or handling under this Code and as stated below:

### **9.01 Agricultural Waste**

Every person, commercial or industrial facility that handles surplus agricultural pesticides or herbicides and/or pesticide or herbicide containers shall comply with this Code and applicable federal law. Surplus pesticides or herbicides may not be discarded within the exterior boundaries of the FBIC in any manner which endangers humans, animals, Waters of the FBIC and/ or the environment. Pesticide and herbicide containers must be drained or emptied according to label directions and power or triple-rinsed before processing or disposal.

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## **9.02 Septic Tank Disposal**

Disposal of septic tank waste shall not be allowed at solid waste facilities or within the exterior boundaries of the FBIC. Septic tank waste shall only be disposed of at PMU assigned sewage manhole or in accordance with 40 CFR §503 as amended.

## **9.03 Liquids**

Bulk or non-containerized liquid wastes may not be placed in solid waste collection containers. Containers of 1 gallon or less holding household wastes shall be deposited within approved collection containers. Any liquid household hazardous wastes or other liquid hazardous wastes shall not be disposed at any container site, but shall be managed and transported in accordance with this code.

## **9.04 Animal Carcasses**

Private commercial animal removal companies shall be used for all livestock. Pets and livestock may be buried on owner's land. No animal shall be disposed of at a solid waste facility or in a container.

## **9.05 Construction and Demolition Wastes**

All construction/demolition waste generators must make prior arrangements with Prairie Mountain Utilities for appropriate disposal of construction and demolition wastes and obtain a FBIC construction/demolition permit as required in SECTION XII.

## **9.06 Junk Vehicles**

Disposal of all junk vehicles and part(s) thereof shall adhere to all applicable rules of the Fort Belknap Indian Community's Junk Vehicle Act, when adopted.

## **9.07 Tires**

Disposal of all tires shall adhere to all applicable rules of the Fort Belknap Indian Community's Junk Vehicle Act, when adopted.

## **9.08 Asbestos**

Materials containing asbestos shall *not* be placed in PMU containers. Labeling, management, removal, transportation and disposal of asbestos and asbestos containing materials (ACM) must be conducted in compliance with the applicable requirements of this Code, the Clean Air Act (42 U.S. C. 7401-7671q) as amended and follow U.S. Environmental Protection Agency guidelines. Asbestos and ACM must be disposed of outside of the FBIC at a state approved landfill facility. Asbestos disposal must be coordinated with the landfill owner/operator. Friable ACM must be disposed into landfills that have agreed to accept the material and have appropriate facilities, procedures, equipment and training for managing such waste.

## **9.09 Medical Wastes (Medical, Dental, and Infectious)**

Waste from medical and dental clinics and applicable FBIC programs, including infectious wastes shall be labeled and stored in containers with the disposable plastic liners with special identification, stored in a manner not accessible to the public and in an area not harmful to the environment. The Fort Belknap Agency of the Indian Health Service provider is solely responsible for proper disposal of all medical wastes.

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### **9.10 Used Oil**

Viscous fluids (used motor oils and/or any automobile fluids) may not be dumped, spilled, leaked, or otherwise improperly disposed of within the boundaries of the FBIC. The Environmental Director or the PMU Director should be consulted for proper waste oil recycling sites.

### **9.11 Lead Acid Batteries**

No person shall place a used lead acid battery in solid waste container, discard or otherwise dispose of a lead acid battery except by delivery to an automotive battery retailer or wholesaler, to a collection or recycling facility within FBIC authorized under this Code or to a state authorized facility outside of FBIC.

### **9.12 White Goods**

It shall be unlawful to store or dispose of any other unserviceable major appliances or other white goods or implements such as stoves, dish washers, refrigerators, washing machines, clothes dryers, water heaters, or any other such items out-of-doors on the premises or property. The owner or resident of the property is responsible for proper disposal of the item(s) as required under this Code.

### **9.13 Mining Wastes and Wastes from Beneficiation of Mining Ore or Extraction Processes**

Waste from exploration, testing or mining of minerals or other mineral extraction processes to include contaminated soils, water or other fluids are designated as Special Waste. Such wastes accumulated, stored or treated at or near the point of generation in pits or tanks or any other location within the boundaries of the Reservation must obtain all necessary FBIC and U.S. EPA permits and comply with applicable FBIC permit requirements under this Code. Such wastes are not exempted from being regulated as a solid or hazardous wastes by the FBIC. All mining activities and processes within the jurisdiction of FBIC are subject to the laws and Ordinances of the Fort Belknap Indian Community and this Code.

### **9.14 Other Special Wastes**

All dangerous materials and substances shall be rendered harmless prior to collection and disposal in accordance with all FBIC, state, and federal regulations. The PMU Director shall be notified of such special wastes and the PMU shall provide guidance and/or make the necessary arrangements for proper collection and disposal of such special wastes.

## **SECTION X HAZARDOUS WASTE**

Hazardous waste shall be managed and transported in accordance with RCRA Subtitle C, 40 CFR parts 260-279 as amended (with the exception of 271 and 272) to a permitted site. If such site is located on the FBIC, the site must be approved and permitted by the Environmental Protection Department and federally approved and permitted by the U.S. Environmental Protection Agency. If the site is located off the FBIC, it must be permitted by the U.S. Environmental Protection Agency or an authorized State.



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#### **12.04 Waste Management and Disposal Permits**

All solid waste, special waste or hazardous waste treatment, storage or disposal facilities shall obtain a FBIC Permit in accordance with this Code and the requirements of the FBIC Environmental Protection Department.

### **SECTION XIII                    FEES**

#### **13.01 Permit Fees**

1. The Environmental Protection Department shall impose reasonable waste management or disposal permit fees for any private or commercial storage or treatment facility. This shall include any permit for disposal or transportation of solid, special or hazardous wastes facility or operator required by the Environmental Protection Department pursuant to this Code.

The permit fee may be based on the weight, volume, or type of solid waste received, handled, treated, or disposed of by any such operator, cost of permit processing, issuance or monitoring or on any other appropriate basis or combination thereof.

2. The Waste Management Permit is subject to a fee of 1% of the total project cost, and is part of the Bid Package information. The Waste Management Permit fee is a separate fee from the TERO fee, and shall be payable to the Environmental Compliance Fund for use on environmental priorities.
3. A permit fee schedule shall be established by the Environmental Protection Department and reviewed on an annual basis.
4. All fees shall be deposited in the FBIC Environmental Compliance Fund.
5. All fees for permit applications, issuance or renewal required under this Code shall be posted and available as the FBIC Environmental Code Schedule of Permit Fees. The Schedule shall be public information and made available from the Environmental Protection Department.
6. Non-payment of required fees shall be grounds for denial or revocation of a permit. Non-payment of required fees shall be a violation of this Code and permittee shall be subject to civil penalties. The Environmental Protection Department Director shall have authority to hear matters regarding the non-payment of fees established pursuant to this Code. Decisions of the EPD Director may be appealed to the FBIC Court.

#### **13.02 PMU Service Fees**

Prairie Mountain Utility (PMU) Service fees for waste collection, transfer; recycling, or other special services are listed in PMU Plan of Operations.

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### **13.03 TERO Fees**

Tribal Employment Rights Office (TERO) shall collect the following fees: Contracting Fee, Employer Right To Do Business Fee, Employer Fee, Qualifications Fee, Registration Fees, and Vendor Fees as relevant and required in the FBIC TERO Ordinance, as amended.

## **SECTION XIV CLOSURE AND POST CLOSURE**

1. Waste treatment or storage facilities permitted by the FBIC shall have and maintain financial assurance for closure and insurance as required by the FBIC.
2. Waste disposal facilities permitted by the FBIC shall have and maintain financial assurance for closure and post-closure and insurance as required by the FBIC.
3. A current copy of proof of insurance coverage shall be submitted to FBIC EPD and FBIC Procurement Department annually.

## **SECTION XV COMPLIANCE AND ENFORCEMENT**

### **15.01 Enforcement Agent**

The FBICC hereby designates the Environmental Compliance Officer, housed within the Environmental Protection Department, as the enforcement agent entrusted with the duty and responsibility of ensuring the compliance with this Code. Specific Environmental Compliance Officer duties and responsibilities may be delegated to other environmental staff with the approval of the Environmental Protection Department Director.

### **15.02 Complaints**

1. If the Environmental Compliance Officer receives a complaint concerning the violation of applicable FBIC or federal environmental laws, solid waste laws, regulations or permit conditions, the Environmental Compliance Officer shall investigate to ensure proper consideration of the complaint. The Environmental Compliance Officer's investigation may include the inspection of the solid waste facility, records or solid waste collection vehicle to determine whether any applicable FBIC or federal law, regulation, or permit has been or is being violated.
2. If the Environmental Compliance Officer receives a complaint by a person or another agency concerning a solid waste facility, transportation service, or other activity, and the Environmental Compliance Officer does not refer it to another agency, the Environmental Compliance Officer shall either take enforcement action concerning that solid waste facility, transportation service or transporter or provide the person or agency who filed the complaint with a written statement within thirty (30) business days explaining why an enforcement action would not be appropriate.

### **15.03 Compliance Actions.**

1. The Environmental Compliance Officer may initiate informal actions by issuing a written Warning Letter to inform a party of non-repetitive violations of this Code, where such violations *do not* pose an imminent risk to public health or the

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- environment or are not habitual in nature; or The Environmental Compliance Officer may issue a Notice of Violation where a party fails to timely and completely comply with this Code, or where such violations *pose an imminent risk* to public health or the environment; or
2. A written citation with a fine or penalty may be issued for repetitive or non-compliant violations of this Code, where such violations *do not* pose an imminent risk to public health or the environment.
  3. The Environmental Compliance Officer may issue an Enforcement Order where a party fails to timely and completely comply with this Code, or where such violations *pose an imminent risk* to public health or the environment or are habitual in nature.

#### **15.04 Enforcement Orders**

1. Within fifteen (15) business days after discovering a violation of a FBIC law, regulation, or permit that is likely to result in an Enforcement Order, the Environmental Compliance Officer shall provide a written statement providing an explanation and justification for the Enforcement Order and a description of the violation to the Environmental Protection Department Director. Ten (10) business days before issuing an Enforcement Order that is *not* an emergency, the Environmental Compliance Officer shall provide a written statement providing an explanation and justification for the Enforcement Order and a description of the violation to the Environmental Protection Department Director.
2. Within five (5) business days after issuing an Enforcement Order *for an emergency* that has the potential to cause an imminent threat to human health or the environment, the Environmental Compliance Officer shall provide a written statement providing an explanation and justification for the Enforcement Order and a description of the violation to the Environmental Protection Department Director.

#### **15.05 Cease and Desist Orders**

1. The Environmental Compliance Officer may issue a Cease and Desist Order whenever the Environmental Compliance Officer determines that the construction or operation of a waste storage, treatment or disposal facility or the transport of waste is causing or threatening to cause a condition of hazard, pollution, or nuisance due to the release or migration of hazardous, special or solid waste; and the Environmental Compliance Officer may require the operator of the waste facility or the waste transporter to take corrective action necessary to abate any release, hazard, pollution, or nuisance or to protect public health, safety and the environment.
2. The Environmental Compliance Officer may issue a Cease and Desist Order to any person who:
  - A. Constructs or operates a waste facility without a FBIC waste facility permit;
  - B. Constructs or operates a solid waste facility in violation of a FBIC waste facility permit;

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- C. Transports solid waste without a valid FBIC waste transportation permit; or,
  - D. Transports solid waste in violation of a FBIC waste transportation permit;
  - E. Violates any requirements found in this Code, or violates any standard adopted by the Environmental Protection Department or PMU for the collection, storage, handling, treatment, or disposal of solid, special or hazardous waste.
3. Upon order of the Environmental Compliance Officer, such person shall cease and desist any improper action, clean up any waste, abate the effects thereof, and take any other remedial action directed by the Environmental Compliance Officer.

### **15.06 Remedial Action Orders**

Whenever the Environmental Compliance Officer determines that the construction or operation of a waste storage, treatment or disposal facility or the transport of waste is causing or threatening to cause a condition of hazard, pollution, or nuisance due to the release or migration of hazardous, special or solid waste or for any other related reason, the Environmental Compliance Officer may issue a Remedial Action Order to require the operator of the facility or the material or waste transporter to take corrective action necessary to abate any hazard, pollution, or nuisance or to protect public health, safety and the environment.

1. Any person or business who violates any requirements found in this Code, or violates any standard adopted by the Environmental Protection Department or PMU for the collection, storage, handling, treatment, or disposal of waste shall, upon order of the Environmental Compliance Officer, cease and desist any improper action, clean up any waste, and any other remedial action ordered, abate the effects thereof, and take any other remedial action directed by the Environmental Compliance Officer.
2. Any FBIC action taken may be taken in the absence of, or in addition to, cleanup, abatement, or remedial work by the operator or other persons. The Environmental Protection Department may perform the work or the work may be performed by or in cooperation with any other FBIC department, federal agency or private contractor.
3. If solid, special or hazardous waste, hazardous materials, pollutants, contaminants, and/or petroleum wastes is cleaned up, the effects thereof abated, or other necessary remedial action is taken as described above, the person(s) or business who committed or allowed the improper action shall be liable to the FBIC for the reasonable costs actually incurred in cleaning up any solid, special or hazardous waste, abating the effects thereof, conducting the oversight of remedial action or taking other remedial action. The amount of such costs shall be recoverable in a civil action, taken by the FBIC in the FBIC Courts or Courts of competent jurisdiction, together with the costs of suit incurred by the FBIC in recovering such monies. A judgment ordering the payment of these costs to the FBIC will bear interest at the maximum rate of interest allowable on judgments under FBIC law.

### **15.07 Compliance Schedule**

The Environmental Compliance Officer shall develop a compliance schedule for any permitted solid waste facility or solid waste transporter that violates the Environmental Protection Department's minimum standards. The compliance schedule shall assure that diligent progress

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shall be made to bring the solid waste facility or solid waste transporter into compliance with the Environmental Protection Department's minimum standards within a specific period of time determined by the Environmental Protection Department or the Environmental Compliance Officer. If the solid waste facility or solid waste transporter is not in compliance within the period specified, the PMU Commission, the Environmental Compliance Officer or other interested party(s) may recommend to the Environmental Protection Department that they revoke, suspend, or modify the permit until such time as violations of the minimum standards are remedied.

#### **15.08 Revocation, Suspension or Modification of Permit**

After a hearing, the Environmental Protection Department may suspend, modify, or revoke a permit issued by the Environmental Protection Department for cause, including but not limited to:

1. Any violation of any term or condition contained in the permit, this Code or regulations promulgated hereunder, or the underlying lease, FBIC land use permit or other agreement for the use of, or granting an interest in tribal property;
2. Obtaining the permit by misrepresentation or failing to disclose fully all relevant facts;
3. A change in any condition that requires a temporary or permanent modification, reduction, or elimination of the permitted operation to bring it into compliance with the terms or conditions of the permit, this Code or regulations promulgated hereunder, the underlying lease or FBIC land use permit;
4. The revocation or suspension of a permit shall not relieve the owner or operator of the solid waste facility from any legal liability.
  - A. The hearing under this section shall be initiated by the Environmental Compliance Officer by filing a written statement of charges that sets forth the acts or omissions with which the permittee is charged and specifies the terms, laws, conditions, rules, or regulations that the permittee is alleged to have violated. The statement of charges and all accompanying documents shall be delivered personally, process server, or by certified or registered mail, return receipt requested to the Environmental Protection Department.
  - B. The statement of violations shall be accompanied by a notice advising the permittee of a date for a hearing, which hearing shall be held no earlier than twenty (20) calendar days and no later than forty-five (45) calendar days from the Environmental Compliance Officer's mailing or personal delivery of the statement of charges. The notice shall inform the permittee that the permittee has the right to inspect and copy documents relative to the statement of charges.

#### **15.09 Administrative Procedures for Enforcement Orders**

1. Within fifteen (15) calendar days after service of the statement of charges upon the permittee, the permittee may deliver to the Environmental Compliance Officer a

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notice of defense in which the permittee may object to the statement of charges upon the grounds that:

- A. It does not state acts or omissions upon which the Environmental Compliance Officer may proceed; or
  - B. To the form of the statement of charges on the ground that it is so indefinite or uncertain that the permittee cannot identify the acts or omissions or prepare the permittee's defense.
    - a. The notice of defense shall be deemed a specific denial of all parts of the statement of charges not expressly admitted. Failure to file a notice of defense shall constitute a waiver of the right to a hearing. The statement of charges shall stand and legal action for remedy shall begin.
    - b. The notice of defense shall be in writing signed by or on behalf of the permittee.
    - c. A copy of any statement of charges and notice of defense shall be delivered to the Environmental Compliance Officer, Environmental Protection Department Director, Chief Administrative Officer (CAO), and FBIC Attorney.
2. All hearings listed under this section shall be conducted by the FBIC Trial Court (not appellate court) and, during such hearing, the Environmental Compliance Officer and the permittee shall be allowed to present evidence, question witnesses and provide argument. At the conclusion of the hearing, the FBIC Trial Court shall issue a decision within twenty (20) business days. A true and correct copy of the decision shall be mailed to the parties thereto upon issuance. Decisions of the FBIC Trial Court shall be final.

## **SECTION XVI      CIVIL FINES AND PENALTIES**

### **16.01 Penalties and Fines for Violations**

Any person who violates any provision of this Code may be subject to civil fines and/or penalties upon citation by the Environmental Compliance Officer or Environmental Protection Department or any other designated enforcement agency of FBIC or civil fines and/or penalties imposed by the FBIC Court in addition to remedies specifically provided for any violation.

In addition:

1. Persons found to be responsible for illegal dumping on any public grounds, or around any public waters of the FBIC, shall be required to remove all solid waste illegally disposed of; be subject to fines and penalties according to this Section; be required to restore the site to a condition acceptable to the Environmental Protection Department; and be required to dispose of the solid waste at a permitted (designated) solid waste facility.
2. Any person who shall act in such a manner as to permit his residential or commercial property to become dangerous or hazardous, or impair the safety, health or comfort of the public by the discarding of solid waste or causing the release of a hazardous substance will be required to remove such nuisance.

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### **16.02 Determining Factors.**

In determining the amount of a civil penalty under this section, the following factors shall be considered:

1. The seriousness of the violation.
2. As an aggravating factor only, the economic benefit, if any, resulting from the violation.
3. Any history of that violation.
4. Any good faith efforts to comply with this Code.
5. The economic impact of the penalty on the violator.
6. The duration of the violation.
7. Previous violations of the alleged violator.
8. Other factors deemed relevant.

### **16.03 Fines**

Any person who engages in the unauthorized handling, storage, treatment, or disposal of solid, special or hazardous waste within the exterior boundaries of the FBIC or who violates any standard adopted by the FBIC Environmental Protection Department or PMU Commission for the handling, storage, treatment or disposal of solid, special or hazardous waste may be liable for a civil penalty in accordance with Appendix B Fines Schedule, as amended.

1. Any person who commits any of the above-prohibited acts may be subject to other penalties and may be liable for any civil damages caused by the Commission of such acts.
2. Any person who commits any of the above prohibited acts, or whose employees or agent(s) in the course of their employment or agency commit any of the above prohibited acts, may have its rights to engage in activities on the FBIC suspended or terminated. The TERO shall be notified immediately.

### **16.04 Other Penalties**

1. Any civil penalties or damages imposed under the Environmental Code are in addition to, and do not supersede or limit any other remedies which may be available to the FBIC, including the filing of an action for injunctive relief in FBIC Court, or the filing of a civil action for civil damages or any other relief in any court of competent jurisdiction.
2. The FBIC Court shall have jurisdiction to enjoin violations of this Code, and grant such additional relief as it deems necessary or appropriate to secure compliance with the provisions of this Code or any order, license, permit approval or regulation issued or adopted there under upon the petition of the Environmental Protection Department, PMU or the PMU Commission.
3. As an alternative penalty, first time violators found guilty of violating any of the provisions of this Code, may be required to provide community service assisting the PMU, under the supervision of the Director.

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4. Reasonable attorney fees and any costs of suit awarded in any civil action shall be paid to the FBIC.

#### **16.05 Recovery of Disposal Costs**

If a person violates any provision of this article and as a result, the Fort Belknap Indian Community arranges for or executes the lawful disposal of the solid waste or hazardous waste, that person shall be responsible to the Fort Belknap Indian Community for all reasonable costs and expenses associated with the transportation and proper disposal of the solid waste.

If the Fort Belknap Indian Community or property owner files suit to collect their reasonable costs and expenses for disposal of the waste as provided in subsection 16.05, above, the FBIC Court may award a reasonable amount as attorney's fees to the prevailing party.

#### **16.06 Forfeiture; procedure**

- A. Any property used or which could reasonably have been used to commit any violation of this Article, or used in aid of or in conjunction with the commission of an act in violation of this Article, or anything which was the object of or was intended to be the end result obtained from an act of violation of this Code, upon any land with the Fort Belknap Indian Community shall be subjected to forfeiture.
- B. Petition to begin forfeiture proceeding shall be filed within forty-five (45) days of the seizure of the property. Further procedures in the forfeiture of property shall be conducted pursuant to the Rules of Civil Procedure.

#### **16.07 Disposition of Fines**

Disposition of proceeds of sales and/or fines whenever property is seized, forfeited and sold under provisions of this Section, the net proceeds of the sale must be remitted to the FBIC Finance Department. Penalty fines collected shall be paid 100% to the Environmental Protection Department for the Environmental Compliance Fund. Penalty fines paid to the Environmental Protection Department shall be retained in a fund designated for meeting the costs of responses to environmental priorities within the FBIC.

### **SECTION XVII REPEAL, SEVERABILITY, LIMITATIONS**

#### **17.01 Appropriations**

Nothing in this Code shall cause the FBICC, Environmental Protection Department, PMU, or PMU Commission to expend funds in excess of appropriations.

#### **17.02 Repeal**

Any Act, provision of law, rule or regulation of the FBICC in conflict with this Code, is hereby superseded.

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### **17.03 Severability**

Any provision of this Code or part thereof or its application to any person in any circumstance declared invalid, shall be severed from the code and the remaining provisions or applications of this Code shall remain in effect and enforceable.

### **17.04 Statute of Limitations**

The FBIC Court shall have no jurisdiction over any action under this Code brought more than ten (10) years after the Environmental Protection Department, PMU, PMU Commission, or injured person first knew, or reasonably could have known, of the injury or damage and the cause thereof.

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**TITLE XI: ENVIRONMENT  
SOLID AND HAZARDOUS WASTE MANAGEMENT CODE  
FORT BELKNAP INDIAN COMMUNITY**

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**TITLE XI: ENVIRONMENT  
PART I: SOLID AND HAZARDOUS WASTE MANAGEMENT CODE  
GROS VENTRE AND ASSINIBOINE TRIBES OF THE  
FORT BELKNAP INDIAN COMMUNITY  
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**TITLE XI: ENVIRONMENT**  
**PART I: SOLID AND HAZARDOUS WASTE MANAGEMENT CODE**  
**GROS VENTRE AND ASSINIBOINE TRIBES OF THE**  
**FORT BELKNAP INDIAN COMMUNITY**  
**TRIBAL RESPONSE AND REMEDIAL ACTION PROGRAM**

**SECTION 1.01      REMEDIAL ACTIONS BY THE TRIBAL RESPONSE PROGRAM (TRP)**

The Fort Belknap Indian Community (FBIC) Tribal Response Program, as a part of the U.S. Environmental Protection Agency, Office of Land and Emergency Management (EPA/OLEM), may investigate, assess, and remediate, or require a responsible party to investigate, assess or remediate, a release or threat of release of a hazardous waste, substance, pollutant, contaminant, petroleum product, controlled substance or mining materials that may pose a threat to public health, welfare or the environment.

**A. Imminent Threats.**

If a release of a hazardous substance, pollutant or contaminant results from the management, handling, treatment, storage, transportation or disposal of a solid or hazardous waste, hazardous material, petroleum product, controlled substance or from mining activity poses an imminent threat to life or public health, the TRP may:

1. Conduct inspections and investigations as provided for in this code;
2. Perform such activities as are necessary to address the threat in cooperation with any other Tribal, state, or federal agency; and
3. Expend any available funds to perform any assessment, cleanup, abatement, and remedial activities required to mitigate the threat, subject to the approval of the Commission.

**B. Remedial Actions by TRP.**

If a release of a hazardous substance, pollutant or contaminant resulting from the management, handling, treatment, storage or disposal of a solid waste or hazardous waste, petroleum product, controlled substance or from mining activity, does not pose an imminent threat to life, health or the environment, but the TRP and/or the Director deems it necessary for the protection of public health, safety or the environment to perform assessment, cleanup, abatement or other remedial actions, the TRP may perform such activities in cooperation with any other Tribal, state, or federal agency and expend available monies thereon, subject to the approval of the FBIC Council.

**C. Remedial Actions by TRP at Orphan Sites.**

As used in this Section, orphan sites mean sites where the Director determines that there is no identifiable or viable party that is responsible for causing or contributing to the contamination present at the site. The EPA/OLEM may expend funds, subject to approval of the FBIC Council, for the purpose of remediation of orphan sites and the performance of any other activity as defined in this Section. Such activities may include conducting site evaluations and testing, evaluating remedial measures, selecting remediation requirements, and constructing, installing, maintaining and operating systems to remedy contamination in accordance with a remediation work plan prescribed by the Director for the orphan site.

**D. Remedial Actions Due to Failure to Perform.**

Remedial action may be taken by the TRP in the absence of, or in addition to, assessment, cleanup, abatement, or remedial activities by the site owner, operator or other responsible or viable persons in cooperation with any other Tribal, state, or federal agency in the event that the activities subject to a Tribal Order or Voluntary Remediation Agreement are not satisfactorily performed or completed. Costs of remedial actions shall be borne in accordance to Section 1.04, below.

**E. Tribal Liability for Remedial Actions.**

The liability of the TRP and the FBIC to fulfill the requirements of this Section is limited to the amount of funds available for such actions and are subject to approval by the FBIC Council.

**SECTION 1.02      REMEDIAL ACTION CONTRACTING**

The TRP may perform remedial activities itself or by or in cooperation with any other Tribal, state, or federal agency or private contractor. Such contracts shall be entered into in conformance with applicable Tribal laws, codes and policies. To this end and notwithstanding any other provisions of law, the TRP may:

- A. Enter into oral or written contracts for such activities, and the contracts, whether written or oral, may include provisions for equipment rental and the furnishing of labor and materials necessary to accomplish or complete the activities; and
- B. Expend any available funds to contract any assessment, investigation, cleanup, abatement, or remedial activities, subject to the approval of the Council.

**SECTION 1.03      LIABILITY OF OWNERS, OPERATORS AND OTHER PERSONS**

Whenever the Director determines that the operation of a solid waste management facility or the collection or transportation of solid waste is causing or threatening to cause a release of a hazardous substance, contaminant or pollutant or a condition of hazard, pollution, or nuisance due to the migration of hazardous or solid waste, or for any other reason, the TRP may require the operator of the solid waste facility or the solid waste transporter to take corrective action necessary to abate any hazard, pollution, or nuisance or to protect public health and safety and the environment the owner or operator of the property or business may be held liable for all damages and costs associated with the assessment, investigation, cleanup, abatement, or remedial actions caused by such release or threat or release. However, an “innocent land owner”, as defined below, is not liable for investigation, monitoring, remediation or other response action, or relates costs, regarding contamination attributable to a release, discharge or migration of contaminants on his property.

**A. Innocent Land Owner.**

For the purposes of this Chapter "Innocent Land Owner" means a person who did not cause or contribute to the source of contamination and who is one of the following:

1. An owner of real property that has become contaminated as a result of a release or migration of contaminants from a source not located on or at the real property;
  2. An owner of real property who can show with respect to the property that the owner has no liability for contamination under section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9607(a), (CERCLA) because the owner can show a defense as provided in section 107(b) of that act (42 U.S.C. 9607(b));
  3. An owner of real property who at the time of becoming the owner of the property, and after exercising due diligence, did not know or should not have reasonably known about the presence of contamination on the property;
  4. A lender or fiduciary who owns or holds a security interest in land, unless the lender or fiduciary participated in the management of a site at the time that the owner or operator thereof caused a release or migration of contaminants; or
  5. A unit of Tribal government which acquired ownership or control through bankruptcy, abandonment or other circumstances in which the government acquires title by virtue of its function as sovereign, unless the Tribal government agency contributed to the contamination.
- B.** To be eligible for immunity under this Chapter, such “innocent land owner” shall:
1. Grant to the Director, the TRP or to a person designated by the TRP, reasonable access to the land for purposes of investigation, monitoring or remediation;
  2. Comply with any requirements established by the TRP that are necessary to comply with federal grants or programs;
  3. Not use the real property in a manner that causes exposure of the public to harmful environmental conditions; and
  4. Comply with any Tribal engineering or institutional controls applicable to the real property.
- C.** Any person who knowingly transfers, conveys or obtains an interest in land to avoid liability for contamination, remediation or compliance with any provision of this code shall not be an innocent owner.
- D.** Notwithstanding the provisions of this Chapter, an innocent land owner who undertakes a cleanup of his property, due to requirements of this code, must comply with all applicable provisions of this code.

#### **SECTION 1.04      RECOVERY OF EXPENDITURE OF TRIBAL FUNDS**

If a release of a hazardous substance, pollutant or contaminant is assessed, remediated, the effects thereof abated, or other necessary remedial action is taken by the TRP as described above, the person or persons who committed or allowed the improper disposal, action or release and who is not an “innocent land owner” as defined in Section 1.03(a) of the Solid and Hazardous Waste Management Code, shall be liable to TRP for the reasonable costs actually incurred in cleaning up any solid waste, hazardous waste or hazardous material, abating the effects thereof, monitoring, implementing engineering controls or taking other remedial action. The amount of such costs shall be recoverable in a civil action in the FBIC Court, together with the costs of suit incurred by TRP in recovering such monies. A judgment ordering the payment of these costs to TRP will bear interest at the rate of **fifteen percent (15%)** a year. TRP shall reimburse the Tribes to the extent of the latter’s contribution.

**SECTION 1.05      REMEDIAL ACTION AND ENFORCEMENT ORDERS**

Whenever TRP determines that a person or responsible party is causing, has caused or is threatening to cause a condition of hazard, pollution, or nuisance due to the release or migration of a hazardous substance, pollutant or contaminant the Director or the Commission, as appropriate, may issue an Order, pursuant to this code, to take emergency action, cease or desist and/or require the person or responsible party to take corrective action necessary to abate any hazard, pollution, or nuisance or to protect public health and safety and the environment. Any person shall, upon Order of the Commission or Director, cease and desist any improper action, remediate a release of a hazardous substance, pollutant or contaminant, abate the effects thereof, and take any other remedial action directed by the EPA/OLEM pursuant to this Chapter.

**SECTION 1.06      ACCIDENTAL RELEASE OR SPILL**

In the event of an accidental release or spill of a hazardous substance, pollutant or contaminant to the air, land or waters or groundwater of the Reservation resulting in a potential threat to the public health, welfare, or the environment within the boundaries of the Reservation the persons causing the release or the originating facility's or vehicle's owner or operator must implement the requirements of this Chapter to include:

**A. Timely and Appropriate Action.**

The person(s) causing the release or the originating facility or vehicle owner or operator must take timely and appropriate action to include notification of appropriate officials and government agencies as specified below. Failure to take timely and appropriate action, as directed by this Chapter and the Director may result in enforcement action pursuant to this code and/or other Tribal Laws or codes and/or referral to appropriate state or federal agencies.

**B. Notification Requirements.**

Timely notification must be made as required and directed under this Section where an accidental spill or release of a hazardous substance, pollutant or contaminant has occurred within the boundaries of the Reservation; and

1. The release poses a potential threat to the public health, welfare or the environment; or
2. The release exceeds 25 gallons or causes a sheen on surface water; or
3. It exceeds any Tribal or federal U.S EPA groundwater, surface water or drinking water quality standards; or
4. The release is required to be reported according to SARA, Title III, § 304 (1986) or other federal or state requirements {call the following numbers to obtain information on federal reporting requirements: National Response Center 1-800-424-8802 or the US. EPA Region VIII (303) 293-1788}; or
5. The Director requires a notification of a release to be made.

**C. Who to Notify of a Release.**

The owner or operator of a facility, tank, container or a vehicle believed to be the source of such a release of a hazardous substance, pollutant or contaminant must immediately notify the FBIC Environmental Department Manager 406-353-8429 /8368/8384, and

EPA Office of Land and Emergency Management (OLEM) at 1-800-424-8802, as well as the appropriate State and federal authorities. Outside of business hours, contact the Fort Belknap Police Department at 406-353-2933.

**D. Notification Information Required.**

All notifications and reports of an accidental release or spill of any hazardous substance, pollutant shall contain the following information, at a minimum, to the best of the reporting person's ability:

1. Name and telephone number of the reporting person;
2. Name and address of the facility (or location of the spill or release);
3. Name of facility/vehicle owner if different than reporting person;
4. Time and type of incident, for example spill, release, fire, etc;
5. Name, description and quantity of materials involved, to the extent known;
6. The extent of any injuries, if known;
7. The possible hazard to human health or the environment outside the facility or to the nearby area;
8. Description of actions taken to mitigate the release or spill; and
9. Other authorities notified.

**E. Additional Reports.**

Subsequent to the initial report, the responsible person shall immediately notify the Director of information that changes the accuracy or completeness of the initial report. As directed by the Director, the responsible person shall make additional reports verbally or in writing.

**F. Response Action Required.**

The owner or operator of a facility or a vehicle believed to be the source of such a release or spill of a hazardous substance, pollutant or contaminant must comply with the requirements of this code, any applicable state or federal law or regulation and the Director to address the immediate and long term impacts of the release or spill to include all necessary containment, remediation, assessment of impacts of a release.

**SECTION 1.07 REMEDIATION/CORRECTIVE STANDARDS**

Any voluntary or involuntary corrective action conducted by an owner, operator or responsible party or by the TRP, shall:

**A. Be protective of human health, safety and the environment.**

A remedy shall be considered to be protective of human health if it reduces risk to human receptors of acute and chronic toxic exposures to contaminants to levels that do not pose a significant risk to human health. A remedy shall be considered to be protective of the environment if it adequately reduces risk of significant adverse impacts to ecological receptors for which habitats have been identified on or near the site. Remedies may meet this requirement through a combination of removal, treatment, monitored natural attenuation, engineering or Tribal institutional controls. Any site where a remedy is proposed that includes leaving contamination above background or risk based levels in place utilizing engineering or Tribal institutional controls must also be approved by the Director pursuant to this code;

**B. Attain Standards Established by the Tribe.**

A remedy shall attain standards established under this Section for air, soil, water and ground water affected by the release, unless the Director sets an alternate standard. No

standard set under this Section for a contaminant shall be set at a level or concentration lower than the background level or concentration for that contaminant. A remedy must attain standards or alternate standards by the end of the remediation period set forth in the Remediation Agreement/Order. A remedy shall be considered to attain Tribal standards for air, soil water and ground water if it:

1. Meets any applicable media standards established under Tribal or applicable federal Act, law or rule or regulation; or
2. Meets site-specific, risk-based standards developed by the Director for the eligible site based on exposure factors. Exposure factors for hazardous substances, pollutants or contaminants in groundwater shall assume that groundwater may be used as a drinking water source, provided that no standard set under this Section for a contaminant shall be set at a level or concentration lower than the background level or concentration for that contaminant. For substances that may adversely impact water quality, the exposure factors to be used by the Director shall assume uses consistent with the class of use prior to contamination of the groundwater.

**C. Maintain Source Control.**

The remedy shall control any sources of releases so as to reduce or eliminate, to the extent technically practicable, further releases as required to protect human health and the environment. A remedy shall be considered to control sources of releases if it controls the release of contaminants from sources to any media in concentrations that:

1. Exceed applicable standards set by the Director under this Chapter; and
2. Complies with any applicable federal, state or Tribal standard for management of wastes generated as a consequence of the remedy.

**D. Remedy Waste Management.**

A remedy shall be considered to comply with applicable standards for management of wastes if all wastes generated as a consequence of implementation of the remedy are treated, stored or disposed of in compliance with the requirements of this code and any applicable state or federal requirements.

**SECTION 1.08 REMEDY SELECTION.**

The Director shall approve a remedy, or combination of remedies, from among those remedies, which meet the requirements of this Section, as applicable. In approving a remedy, the Director shall consider:

- A.** The extent to which the remedy will be reliable and effective for the long term. For remedies that include engineering or Tribal institutional controls, the Director shall consider the expected life cycle performance of any engineering controls, monitoring systems and institutional controls;
- B.** The extent to which the remedy results in a reduction of toxicity, mobility or volume of contaminants;
- C.** The degree to which remedies incorporate treatment or removal of contaminants to lower long term risk to human health and the environment;
- D.** The time required for each remedy to attain standards for air, soil water and ground water specified in this Section, as applicable.
- E.** Monitored natural attenuation may be considered, if there is evidence that natural attenuation is occurring and will be completed within a reasonable time period;

- F.** Any adverse impacts which may be caused by a remedy, and shall take into consideration:
1. The gravity of any projected impact and the cost and availability of measures to mitigate the impact;
  2. The extent and nature of contamination and practicable capabilities of remedial technologies, and whether achieving standards is technically impracticable;
  3. Reasonably anticipated future land uses or use restrictions in a Tribal institutional control area;
  4. Consistency of remedies with the nature and complexities of releases of contaminants;
  5. Consistency of the remedies with cultural and traditional values of the Tribe; and
  6. Cost of the remedy to include capital, operation and maintenance, engineering and institutional control costs and monitoring costs for the anticipated life of the remedy.

### **SECTION 1.09 APPLICATION FOR PARTICIPATION IN THE VOLUNTARY REMEDIATION PROGRAM**

To participate in the TRP voluntary remediation program an applicant identified as the owner, operator or other responsible party must submit an application to the Director of the TRP that provides the location and description of the site and the release or contamination. The application shall also describe the site-specific conditions which the applicant believes satisfy one (1) or more of the above eligibility criteria of this Section. No later than forty-five (45) days after receipt of the application, the TRP shall give written notice to the applicant containing the Director's determination of the site eligibility for participation in the voluntary remediation program.

### **Section 1.10 VOLUNTARY REMEDIATION ELIGIBILITY**

Sites or properties that are eligible for voluntary remediation shall include sites or properties which meet the following conditions:

- A.** Sites, or portions of sites or properties, where releases occurred before the effective date of this code; and
- B.** The site, or portion of site or property, where the release occurred was not subject to the requirements of a Tribal solid waste permit under this code at the time of the release; or
- C.** The site or the release is not covered by an EPA/OLEM Order, a FBIC Order or by any federal order and entered into with the consent of the person or entity.
- D.** Sites, or portions of sites, where releases occurred on or after the effective date of this code and where the responsible party, owner or operator is implementing a pollution prevention plan approved by the TRP to prevent further releases consistent with this code.
- E.** Waste management or disposal units that have been permitted under this code and the Director determines that the release from the permitted unit, if restricted or prohibited by the permit, cannot be remediated in accord with the permit requirements because of technical impracticability.
- F.** But shall not include a site or property that is:

1. Listed on the National Priorities List of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. §§ 9601-9675;
2. A commercial solid waste management facility, commercial waste incineration or disposal facility permitted under this code;
3. Underground and aboveground storage tanks being addressed by federal remediation requirements under RCRA;
4. Radioactive waste storage or processing facilities subject to Federal requirements; or
5. The source of a release resulting from continuous or repeated violations of any law, rule, regulation, permit or Order under this code or other Tribal, state or federal statutes, codes, law or regulation.

### **SECTION 1.11 VOLUNTARY REMEDIATION REQUIREMENTS**

It is the policy of the FBIC to encourage a responsible party, owner or operator to voluntarily remediate eligible sites. All voluntary remediation for eligible sites shall be performed in accordance with this code and all remediation requirements shall be contained in a Remediation Agreement issued by the Director. The following requirements and procedures are necessary for voluntary remediation of eligible sites or properties under this code:

- A. The remediation shall not conduct un-permitted releases of hazardous substances, pollutants or contaminants to the environment of the Reservation;
- B. Except as provided in this Chapter, no additional remediation requirements may be imposed by the Director under this code for remediation of any site or property subject to a Remediation Agreement issued by the Director, unless the Remediation Agreement has been reopened or terminated pursuant to this code;
- C. Nothing in this Chapter shall prohibit the imposition of remediation requirements to address the release of a contaminant which may occur after a Remediation Agreement has been entered into or a no further action letter has been issued;
- D. Remediation authorized by the Director under this Chapter shall not be deemed a prohibited act under this code, or of any rules or regulations promulgated thereunder;
- E. Nothing herein shall relieve owners or operators of eligible sites from applicable permit requirements under this code or limit the Commission's or the Director's ability to undertake enforcement action relating to a complaint under this code and impose a penalty for violation of the code;
- F. Nothing in this Chapter shall limit the Commission or the Director's authority to order any person to abate any condition that poses an imminent or substantial endangerment to human health or the environment, or the Director's authority to issue emergency orders or take emergency action; and
- G. The applicant for voluntary remediation shall implement a public participation plan which shall be provided by the Director.

### **SECTION 1.12 ASSESSMENT AGREEMENT**

The Director may enter into an Assessment Agreement with a person, responsible party or other party that may be interested in acquisition of a potentially contaminated property or site. Such agreement shall contain the terms and conditions agreed to by the parties, which shall include the information, supporting documents, existing data or reports and procedures required by the TRP

for completion of an environmental assessment or site characterization that is adequate and appropriate to:

- A.** Meet current standards for “due diligence”, American Society for Testing and Materials (ASTM) assessment standards or other standards acceptable to the Director;
- B.** Meet the standards of this code and any applicable federal requirements;
- C.** Provide sufficient data and information to develop a remediation work plan for the remediation of any existing contamination and support the selection of a permanent or long term protective remedy for the site and adjacent property;

### **SECTION 1.13 REMEDIATION AGREEMENT**

The Director may enter into a Remediation Agreement for any site or property, including those subject to a prior administrative or judicial order or permit which contains remedial requirements. However, no Remediation Agreement for any such site or property shall be effective until the previous order or permit has been modified to incorporate the terms of the Remediation Agreement. Modifications to Orders or permits under this Section shall be made using the procedures specified in the prior Order or permit. Entry into a Remediation Agreement under this Section shall not affect the duty of the site owner or operator to comply with any prior order or permit. Any Remediation Agreement shall contain, at a minimum:

- A.** A Remedial Action Plan, including:
  - 1. The remediation standards and objectives for the site or property;
  - 2. The remediation standards and objectives for adjacent property;
  - 3. A description of any engineering or proposed Tribal institutional controls;
  - 4. A schedule for the required remediation activities; and
  - 5. Conditions for the effective and efficient implementation of the Remediation Agreement.
- B.** A suitable bond or other evidence of financial assurance, that is approved and accepted by the Director, to assure the satisfactory performance of the planned remediation and maintenance of engineering controls and any long term monitoring activities. It shall be the duty of any successor in interest in the property to maintain such bond or financial assurance; and
- C.** Re-opens or termination clauses determined appropriate by the Director.

### **SECTION 1.14 PUBLIC NOTIFICATION**

The residents of the Fort Belknap Indian Reservation, including any adjacent property owners or lessees, shall be notified of all remedial actions, either voluntary or non-voluntary, planned and conducted under this Chapter.

- A.** The Director shall notify the affected public, including any adjacent property owners or lessees, of all confirmed releases requiring a response plan for soil, water and/or groundwater remediation, and upon request, provide or make available to the interested public information concerning the nature of the release and any corrective actions planned or taken;
- B.** Following any voluntary remediation application and determination by the Director that a site is an eligible site, or following the submission of any application to modify an existing voluntary Remediation Agreement, the applicant shall:

1. Give written notice to all known property owners or lessees of record and/or responsible tribal or government agency(s) of land, which is contiguous to the site, of the proposed action;
  2. The notice shall be of a form and content prescribed by the Director, provide a description of the site and summarize the proposed Remediation Agreement; and
  3. Shall publish such notice in a newspaper of general circulation in community in which the site is located. Such notice shall:
    - (i.) Identify the site or property;
    - (ii.) Provide a summary of the criterion which makes the site eligible for participation in the TRP voluntary remediation program under this Chapter; and
    - (iii.) Provide contact information for the public to comment on the proposed response action.
- C. The public shall be provided a minimum of 14 days' notice and an opportunity to comment on a draft Remedial Action Plan and related activities.

### **SECTION 1.15 PUBLIC PARTICIPATION**

For any remedial action the Director shall implement a public participation plan. In implementing the plan, the Director shall:

- A. Consult with and consider the public participation needs of interested parties, including but not limited to all known adjacent property owners and lessees of record, responsible tribal or federal government agencies and local public interest groups;
- B. Determine whether there is significant public interest, taking into consideration whether there have been responses to the notices required under this Section by:
  1. At least five (5) individuals;
  2. An organization representing at least twenty (20) individuals;
  3. The governing body of a local government or Tribal District; or
  4. The Tribal Council.
5. Provide an opportunity for a public meeting on a planned remedial action and the meeting shall be held if the Director finds sufficient public interest. The public shall be provided a minimum of 14 days' notice for any public meetings on a planned response action.

### **SECTION 1.16 PUBLIC RECORD**

The Director shall establish and maintain a Public Record of response actions conducted by the EPA/OLEM, TRP or conducted by another party, or tribal or government agency, with oversight by the TRP that is updated at least annually. The Public Record shall include, at a minimum:

- A. A record of sites that at which response actions have been completed during the previous calendar year, including the name and location of such sites;
- B. A record of sites at which response actions are planned to be conducted in the coming calendar year;
- C. Upon completion of a response action, information of whether the site will be suitable for unrestricted use or if institutional controls on the use of the site or property will be implemented by the TRP or the Tribe as part of the remedy; and
- D. Other such information as deemed appropriate by the Director.

**SECTION 1.17 PUBLIC ACCESS**

The public shall have access to all documents and related materials that the owner/operator of a site or property and/or the Director is relying upon to make response action decisions or conduct the site activities to include the:

- A. Notification of a Release;
- B. Spill Reports;
- C. Assessment Report(s);
- D. Remedial Agreement or Action Plan and related documents;
- E. Notification of Completion of a Response Action;
- F. Certification of Completion of a Response Action; and
- G. Post Response Action/Monitoring Plan (if required).

**SECTION 1.18 DOCUMENTATION OF COMPLETION**

The Director shall determine when a response or remedial action has been completed and all commitments and goals have been met.

- A. The Director may, upon receipt of a written request, issue either of two (2) letters to a responsible party, person or government agency to document that a response action is complete:
  - 1. A Certificate of Completion, when the response or remediation has been totally completed and no significant level of contamination remains; or
  - 2. A No Further Action (NFA) letter, when some contaminants may remain on the site or affected area but the level of contaminants, in combination with other engineering or institutional controls, do not present any further hazard to public health or the environment.
- B. If a Certificate of Completion or No Further Action letter is issued, the Director shall record a notice of such action sent to the Fort Belknap Indian Community Land Department, the Bureau of Indian Affairs (BIA) Superintendent, Fort Belknap Agency, and the BIA Rocky Mountain Regional Office to be recorded with the deed or property records for the site or property, and any other governmental agency where such deeds are recorded.
- C. If a term or condition of any No Further Action letter, covenant not to sue, or Certificate of Completion requires the maintenance of a bond or other evidence of financial assurance, it shall be the duty of any successor in property interest to maintain such bond or financial assurance.
- D. No person or entity shall change any engineering or institutional controls contained in a Remediation Agreement, NFA letter or Certificate of Completion without the prior written consent of the Director. Before a change may be made, the Director shall review the contamination at the site and any new requirements shall be incorporated into a subsequent Remediation Agreement, NFA letter or Certificate of Completion. Upon entry into a subsequent Remediation Agreement or Certificate of Completion or issuance of a NFA letter, the Director shall modify or terminate any prior Remediation Agreement, NFA letter or Certificate of Completion.

- E.** A Certificate of Completion or No Further Action letter does not limit the Commission's or the Director's ability to undertake enforcement actions or to impose penalties for violations of this Code;
- F.** A Certificate of Completion or No Further Action letter does not relieve the responsible party from applicable FBIC, state or federal environmental permitting requirements;
- G.** A Certificate of Completion or No Further Action letter may be issued for an entire site or for only a particular area on a site, or a particular set of contaminants, or a particular environmental medium.
- H.** The Director may reopen a Certificate of Completion or No Further Action letter based on the provisions in the certificate or letter and/or:
  - 1. The site owner fails substantially to comply with the terms and conditions;
  - 2. Contamination is discovered that was present on the site but was not known to the owner/responsible party or the TRP on the date the certificate/letter was issued;
  - 3. An imminent and substantial endangerment to human health or the environment is discovered;
  - 4. TRP determines that the site remedy has failed to meet remediation objectives; or
  - 5. TRP determines that the certificate was based on fraud, material misrepresentation or failure to disclose material information.

### **SECTION 1.19 INSTITUTIONAL CONTROLS**

An institutional control area or site may be created or modified by the Director and is enforceable by the Director, subject to approval by the Council and/or a responsible government agency.

- A.** The Director, an owner or lessee of a site or property or a government agency responsible for a site or property may propose long-term restrictions on the use of a site or property and shall petition to the Fort Belknap Indian Community Council and to the appropriate governmental entity or entities, as appropriate, for the creation of such an institutional control area to establish long-term restrictions on the use of the site or property. Such petitioner for creation or modification of an institutional control area shall:
  - 1. Provide data, information, reports and any other information required under this Chapter;
  - 2. Document written notice of the petition to all property owners or lessees of record of land contiguous to the site; and
  - 3. Publish notice of the petition and a public meeting in a newspaper of general circulation in the community in which the site is located. The notice shall identify the property, generally describe the petition and proposed use restrictions, direct that comments may be submitted to the Director, the Council and any responsible governmental entity or entities to whom the petition has been submitted, and provide the date, time and place of a public meeting. The public meeting shall be held no sooner than thirty (30) days after the first publication of the notice.
- B.** The Director shall approve or deny such petition for an institutional control area within one hundred eighty (180) days after the petition is received in accordance with applicable rules, regulations and procedures. The petitioner, property owner or lessee and a responsible governmental entity may agree to extend the time period in which the Commission is to vote upon the petition.

- C. The Director may, within one hundred and eighty (180) days after the petition is received, condition approving the petition upon the determination by the Director that a remedy can be selected that meets the requirements of this Chapter and is consistent with petition.
- D. Before a voluntary remediation applicant and the Director may enter into a Remediation Agreement that includes long-term restrictions on the use of a site or property, the owner or lessee of the site or property must obtain an institutional control designation for the site as provided for in this Chapter.
- E. Institutional controls or use restrictions shall run with the land and be binding upon successors in land ownership and/or leases.
- F. A violation of any use restriction or institutional control shall be deemed a violation of this code, and the Director may bring any action for such violation against the owner or lessee of the property or site for the violation at the time the violation occurs or against the person who violates the use restriction or institutional control.
- G. Nothing in this Chapter shall contravene or limit the authority of any Tribal, county, city or government agency to regulate and control the property under their jurisdiction.

### **SECTION 1.20 RE-OPENINGS OR TERMINATIONS**

- A. The Director or the Commission may re-open a Remediation Agreement, covenant not to sue, No Further Action Letter or Certificate of Completion at any time if:
  - 1. The current owner fails substantially to comply with the terms and conditions of the Remediation Agreement, covenant not to sue, No Further Action Letter or Certificate of Completion;
  - 2. An imminent and substantial endangerment to human health or the environment is discovered;
  - 3. Contamination is discovered that was present on the site but was not known to the owner, responsible party or the Tribe on the date of the Remediation Agreement or when the Director issued a covenant not to sue, NFA letter or Certificate of Completion; or
  - 4. The remedy fails to meet the remediation objectives that are contained in the Remediation Agreement, NFA letter or Certificate of Completion;
  - 5. The monitored natural attenuation remedy is not effective in meeting the standards under this section.
- B. The Director may terminate a Remediation Agreement, covenant not to sue, Certificate of Completion or No Further Action letter if:
  - 1. It is discovered that any of these instruments were based on fraud, material misrepresentation or failure to disclose material information; or
  - 2. If a responsible party's or property owner's willful violation of any use restriction results in harmful exposures of any toxic contaminant to any user or occupant of the site.
- C. If a Remediation Agreement, covenant not to sue, Certificate of Completion or No Further Action letter is re-opened or terminated, the Director shall record a notice of such action to the Bureau of Indian Affairs (BIA) Superintendent, Fort Belknap Agency office, to be recorded with the deed or property records for the site or property and shall file the notice no later than ten (10) business days after the date of the Remediation Agreement, covenant not to sue, certificate of completion or no further action letter is reopened or terminated.

**SECTION 1.21 DISPUTES AND APPEALS**

If a person and the Director is unable after good faith efforts to resolve a dispute arising under this Chapter pursuant to the provisions of an agreement, the person may request a hearing to appeal the Director's decision. Such request shall be submitted to the Commission and shall be conducted pursuant to this code and the FBIC Title XI: Environment, as appropriate.

**SECTION 1.22 PUBLIC RIGHT TO INTERVENE**

Any person having an interest that is or may be adversely affected may intervene as a matter of right in any civil action for response actions or remedies specified in this code.

**SECTION 1.23 FEES, NOTICES AND APPEAL**

- A. The Director may implement a fee system and schedule of fees, subject to the approval of the Commission and the Tribal Council, which are applicable to the applicant for an Assessment Agreement, Corrective/Remediation Agreement, Certificates of Completion or No Further Action letter authorized under this Chapter. Fees shall cover all reasonable direct and indirect costs of the Director's and the TRP's participation in any activity authorized by this Chapter.
- B. The Director shall give written notice of the amount of the fee assessment to the applicant.
- C. The applicant for the Assessment Agreements, Corrective/Remediation Agreements, Certificates of Completion and No Further Action letters authorized under this Chapter may appeal the assessment to the Commission to this code and the FBIC Title XI: Environment, as appropriate.

**SECTION 1.24 APPROPRIATIONS**

Nothing in this code shall cause the Fort Belknap Indian Community or the EPA/OLEM or the Director to expend funds in excess of appropriations or other available funds.

**FORT BELKNAP INDIAN COMMUNITY SOLID AND HAZARDOUS WASTE MANAGEMENT CODE  
FINES SCHEDULE (Revised July 1, 2019)**

<b>VIOLATION</b>	<b>1<sup>st</sup> OFFENSE</b>	<b>2<sup>nd</sup> OFFENSE</b>	<b>3<sup>rd</sup> CONSECUTIVE OFFENSE DAILY FINE</b>
<b>SCAVENGING</b>			
Scavenging <i>SECTION VI, Sub-Section 6.03</i>	4-Hours Community Service	\$50	\$75-\$250
<b>OPEN BURNING</b>			
Unauthorized Open Burning of Solid Waste <i>SECTION VI, Sub-Section 6.04</i>	\$50	\$125	\$250 Plus Triple Damage Costs
Unauthorized Open Burning of Solid Waste in Prairie Mountain Utility (PMU) Canisters <i>SECTION VI, Sub-Section 6.04</i> <i>SECTION VII, Sub-Section 7.05</i>	\$250 Plus Damage Costs - Repair or Replace Containers (\$3,000-\$20,000)	\$500 Plus Damage Costs - Repair or Replace Containers (\$3,000-\$20,000)	\$1,000 Plus Damage Costs - Repair or Replace Containers (\$3,000-\$20,000)
Unauthorized Open Burning of Hazardous Waste <i>SECTION VI, Sub-Section 6.04</i> <i>SECTION X</i>	\$250 Plus Immediate Cleanup	\$500 Plus Immediate Cleanup	\$1,000 Plus Immediate Cleanup AND UP TO ONE Calendar Year Suspension of Permit To Do Business On FBIC

**FORT BELKNAP INDIAN COMMUNITY SOLID AND HAZARDOUS WASTE MANAGEMENT CODE  
FINES SCHEDULE (Revised July 1, 2019)**

<b>VIOLATION</b>	<b>1<sup>st</sup> OFFENSE</b>	<b>2<sup>nd</sup> OFFENSE</b>	<b>3<sup>rd</sup> CONSECUTIVE OFFENSE DAILY FINE</b>
<b>LABELING</b>			
<b>Failure to Properly Label Medical, Dental, and Infectious Waste</b>  <i>SECTION IX, Sub-Section 9.09</i>	<b>\$250</b>	<b>\$500</b>	<b>\$1,000 AND UP TO ONE Calendar Year Suspension of Permit To Do Business On FBIC</b>
<b>Failure to Properly Label Hazardous Waste</b>  <i>SECTION X</i>	<b>\$250</b>	<b>\$500</b>	<b>\$1,000 AND UP TO ONE Calendar Year Suspension of Permit To Do Business On FBIC</b>
<b>Failure to Properly Label Asbestos and Asbestos Containing Materials (ACM)</b>  <i>SECTION IX, Sub-Section 9.08</i>	<b>\$2,500 Plus Immediate Cleanup</b>	<b>\$5,000 Plus Immediate Cleanup</b>	<b>\$10,000-\$40,000 Plus Immediate Cleanup AND UP TO ONE Calendar Year Suspension of Permit To Do Business On FBIC</b>

**FORT BELKNAP INDIAN COMMUNITY SOLID AND HAZARDOUS WASTE MANAGEMENT CODE  
FINES SCHEDULE (Revised July 1, 2019)**

<b>VIOLATION</b>	<b>1<sup>st</sup> OFFENSE</b>	<b>2<sup>nd</sup> OFFENSE</b>	<b>3<sup>rd</sup> CONSECUTIVE OFFENSE DAILY FINE</b>
<b>STORING</b>			
<b>Failure to Store Municipal Waste in Approved Containers</b>  <i>SECTION VI, Sub-Section 6.01</i> <i>SECTION VII, Sub-Section 7.04</i>	<b>8-Hours Community Service Plus Immediate Cleanup</b>	<b>\$50 Plus Immediate Cleanup</b>	<b>\$100 Plus Cleanup Within 5 Calendar Days</b>
<b>Failure to Properly Store Hazardous Waste</b>  <i>SECTION X</i>	<b>\$250 Plus Cleanup Within 5 Calendar Days</b>	<b>\$1,250 Plus Cleanup Within 5 Calendar Days</b>	<b>\$2,500 Plus Immediate Cleanup</b>
<b>Failure to Properly Store Agricultural Waste (endangers humans, animals, waters, air, and the environment)</b>  <i>SECTION IX, Sub-Section 9.01</i>	<b>\$250 Plus Cleanup Within 5 Calendar Days</b>	<b>\$500 Plus Cleanup Within 5 Calendar Days</b>	<b>\$1,000 Plus Cleanup Within 5 Calendar Days</b>
<b>Failure to Properly Store Construction and Demolition Wastes</b>  <i>SECTION VII, Sub-Sections 7.04 and 7.05D.</i> <i>SECTION IX, Sub-Section 9.05</i> <i>SECTION XII, Sub-Section 12.03</i>	<b>\$350 Plus Cleanup Within 5 Calendar Days</b>	<b>\$500 Plus Cleanup Within 5 Calendar Days</b>	<b>\$5,000 Plus Cleanup Within 5 Calendar Days</b>

**FORT BELKNAP INDIAN COMMUNITY SOLID AND HAZARDOUS WASTE MANAGEMENT CODE  
FINES SCHEDULE (Revised July 1, 2019)**

<b>VIOLATION</b>	<b>1<sup>st</sup> OFFENSE</b>	<b>2<sup>nd</sup> OFFENSE</b>	<b>3<sup>rd</sup> CONSECUTIVE OFFENSE DAILY FINE</b>
<b>STORING (Cont.)</b>			
<b>Failure to Properly Store Medical, Dental, and Infectious Waste</b>  <i>SECTION IX, Sub-Section 9.09</i>	<b>\$250 Plus Cleanup Within 5 Calendar Days</b>	<b>\$500 Plus Cleanup Within 5 Calendar Days</b>	<b>\$1,000 Plus Immediate Cleanup</b>
<b>Failure to Properly Store Used Oil, Lead-Acid Batteries, White Goods (containing Freon), and Tires</b>  <i>SECTION IX, Sub-Sections 9.07, 9.10, 9.11, and 9.12</i>	<b>\$50 Plus Cleanup Within 5 Calendar Days</b>	<b>\$100 Plus Cleanup Within 5 Calendar Days</b>	<b>\$200 Plus Cleanup Within 5 Calendar Days</b>
<b>Failure to Properly Store Asbestos and Asbestos Containing Materials (ACM)</b>  <i>SECTION IX, Sub-Section 9.08</i>	<b>\$2,500 Plus Cleanup Within 5 Calendar Days</b>	<b>\$5,000 Plus Cleanup Within 5 Calendar Days</b>	<b>\$10,000-\$40,000 Plus Cleanup Within 5 Calendar Days AND UP TO ONE Calendar Year Suspension of Permit To Do Business On FBIC</b>
<b>Failure to Properly Store Mining Wastes and Wastes from Beneficiation of Mining Ore or Extraction processes</b>  <i>SECTION IX, Sub-Section 9.13 SECTION XII, Sub-Section 12.04</i>	<b>\$5,000 Plus Immediate Cleanup</b>	<b>\$20,000 Plus Immediate Cleanup</b>	<b>\$80,000 Plus Immediate Cleanup AND UP TO ONE Calendar Year Suspension of Permit To Do Business On FBIC</b>

**FORT BELKNAP INDIAN COMMUNITY SOLID AND HAZARDOUS WASTE MANAGEMENT CODE  
FINES SCHEDULE (Revised July 1, 2019)**

<b>VIOLATION</b>	<b>1<sup>st</sup> OFFENSE</b>	<b>2<sup>nd</sup> OFFENSE</b>	<b>3<sup>rd</sup> CONSECUTIVE OFFENSE DAILY FINE</b>
<b>DISPOSAL</b>			
<b>Failure to Dispose of Solid Waste at Approved Site or in Approved Container (Open Dumping)</b>  <i>SECTION VI, Sub-Section 6.01 SECTION VII, Sub-Section 7.04 SECTION XII, Sub-Sections 12.02, 12.04</i>	<b>\$50 Plus Cleanup Within 5 Calendar Days</b>	<b>\$150 Plus Cleanup Within 5 Calendar Days</b>	<b>\$500 Plus Cleanup Within 5 Calendar Days</b>
<b>Unauthorized Disposal of Solid Waste at Approved Site or Container (Without A Permit)</b>  <i>SECTION VII, Sub-Sections 7.05C., 7.05D., and 7.05E. SECTION XII, Sub-Sections 12.02, 12.04</i>	<b>\$75 Plus Cleanup Within 5 Calendar Days</b>	<b>\$250 Plus Cleanup Within 5 Calendar Days</b>	<b>\$500 Plus Cleanup Within 5 Calendar Days</b>
<b>Failure to Properly Dispose of Agricultural Waste (endangers humans, animals, waters, air, and the environment)</b>  <i>SECTION IX, Sub-Section 9.01 SECTION XII, Sub-Section 12.04</i>	<b>\$1,000 Plus Cleanup Within 5 Calendar Days</b>	<b>\$2,500 Plus Cleanup Within 5 Calendar Days</b>	<b>\$5,000 Plus Cleanup Within 5 Calendar Days</b>

**FORT BELKNAP INDIAN COMMUNITY SOLID AND HAZARDOUS WASTE MANAGEMENT CODE  
FINES SCHEDULE (Revised July 1, 2019)**

<b>VIOLATION</b>	<b>1<sup>st</sup> OFFENSE</b>	<b>2<sup>nd</sup> OFFENSE</b>	<b>3<sup>rd</sup> CONSECUTIVE OFFENSE DAILY FINE</b>
<b>DISPOSAL (Cont.)</b>			
<b>Failure to Properly Dispose of Asbestos and Asbestos Containing Materials (ACM)</b>  <i>SECTION IX, Sub-Section 9.08</i> <i>SECTION XII, Sub-Section 12.04</i>	<b>\$5,000</b> <b>Plus Cleanup</b> <b>Within 5</b> <b>Calendar Days</b>	<b>\$10,000</b> <b>Plus Cleanup</b> <b>Within 5</b> <b>Calendar Days</b> <b>AND Suspension</b> <b>of Permit To Do</b> <b>Business On</b> <b>FBIC</b> <b>For 1 Year</b>	<b>\$20,000-\$80,000</b> <b>Plus Cleanup Within 5 Calendar Days</b> <b>AND</b> <b>UP TO ONE Calendar Year</b> <b>Suspension of Permit To Do Business</b> <b>On FBIC</b>
<b>Failure to Properly Dispose of Medical, Dental, and Infectious Waste</b>  <i>SECTION IX, Sub-Section 9.09</i> <i>SECTION XII, Sub-Section 12.04</i>	<b>\$500</b> <b>Plus Cleanup</b> <b>Within 5</b> <b>Calendar Days</b>	<b>\$1,250</b> <b>Plus Cleanup</b> <b>Within 5</b> <b>Calendar Days</b>	<b>\$2,500</b> <b>Plus Cleanup Within 5 Calendar Days</b>
<b>Failure to Properly Dispose of Septic Tank Waste at Designated Site</b>  <i>SECTION IX, Sub-Section 9.02</i> <i>SECTION XII, Sub-Section 12.04</i>	<b>\$1,000</b> <b>Plus Cleanup</b> <b>Within 5</b> <b>Calendar Days</b>	<b>\$2,500</b> <b>Plus Cleanup</b> <b>Within 5</b> <b>Calendar Days</b> <b>AND Suspension</b> <b>of Permit To Do</b> <b>Business On</b> <b>FBIC</b> <b>For 1 Year</b>	<b>\$5,000</b> <b>Plus Cleanup Within 5 Calendar Days</b> <b>AND</b> <b>UP TO ONE Calendar Year</b> <b>Suspension of Permit To Do Business</b> <b>On FBIC</b>

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FINES SCHEDULE (Revised July 1, 2019)**

<b>VIOLATION</b>	<b>1<sup>st</sup> OFFENSE</b>	<b>2<sup>nd</sup> OFFENSE</b>	<b>3<sup>rd</sup> CONSECUTIVE OFFENSE DAILY FINE</b>
<b>DISPOSAL (Cont.)</b>			
<b>Failure to Properly Dispose of Animal Carcasses</b>  <i>SECTION IX, Sub-Section 9.04</i>	<b>\$50 Plus Cleanup Within 5 Calendar Days</b>	<b>\$100 Plus Cleanup Within 5 Calendar Days</b>	<b>\$200 Plus Cleanup Within 5 Calendar Days</b>
<b>Failure to Properly Dispose of Construction and Demolition Wastes</b>  <i>SECTION IX, Sub-Section 9.05 SECTION XII, Sub-Section 12.03</i>	<b>\$250 Plus Cleanup Within 5 Calendar Days</b>	<b>\$500 Plus Cleanup Within 5 Calendar Days</b>	<b>\$2,500-\$5,000 Plus Cleanup Within 5 Calendar Days</b>
<b>Failure to Properly Dispose of Used Oil, Lead-Acid Batteries, White Goods (Containing Freon), and Tires</b>  <i>SECTION IX, Sub-Sections 9.07, 9.10, 9.11, and 9.12 SECTION XII, Sub-Section 12.04</i>	<b>\$100 Plus Cleanup Within 5 Calendar Days</b>	<b>\$500 Plus Cleanup Within 5 Calendar Days</b>	<b>\$5,000 Plus Cleanup Within 5 Calendar Days</b>

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FINES SCHEDULE (Revised July 1, 2019)**

<b>VIOLATION</b>	<b>1<sup>st</sup> OFFENSE</b>	<b>2<sup>nd</sup> OFFENSE</b>	<b>3<sup>rd</sup> CONSECUTIVE OFFENSE DAILY FINE</b>
<b>DISPOSAL (Cont.)</b>			
<b>Failure to Properly Dispose of Hazardous Waste at Approved Site or in Approved Container</b>  <i>SECTION X SECTION XII, Sub-Section 12.04</i>	<b>\$2,500 Plus Cleanup Within 5 Calendar Days AND Payment To Licensed Facility For Disposal</b>	<b>\$5,000 Plus Cleanup Within 5 Calendar Days AND Payment To Licensed Facility For Disposal</b>	<b>\$10,000-\$40,000 Plus Cleanup Within 5 Calendar Days AND Payment To Licensed Facility For Disposal AND UP TO ONE Calendar Year Suspension of Permit To Do Business On FBIC</b>
<b>Unauthorized Disposal of Hazardous Waste (Without a Permit)</b>  <i>SECTION X SECTION XII, Sub-Section 12.04</i>	<b>\$5,000 Plus Cleanup Within 5 Calendar Days AND Payment To Licensed Facility For Disposal</b>	<b>\$10,000 Plus Cleanup Within 5 Calendar Days AND Payment To Licensed Facility For Disposal</b>	<b>\$20,000-\$80,000 Plus Cleanup Within 5 Calendar Days AND Payment To Licensed Facility For Disposal</b>
<b>Failure to Properly Dispose of Mining Wastes and Wastes from Beneficiation of Mining Ore or Extraction Processes</b>  <i>SECTION IX, Sub-Section 9.13 SECTION XII, Sub-Section 12.04</i>	<b>\$10,000 Plus Cleanup Within 5 Calendar Days</b>	<b>\$50,000 Plus Cleanup Within 5 Calendar Days</b>	<b>\$100,000 Plus Cleanup Within 5 Calendar Day AND UP TO ONE Calendar Year Suspension of Permit To Do Business On FBIC</b>

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FINES SCHEDULE (Revised July 1, 2019)**

<b>VIOLATION</b>	<b>1<sup>st</sup> OFFENSE</b>	<b>2<sup>nd</sup> OFFENSE</b>	<b>3<sup>rd</sup> CONSECUTIVE OFFENSE DAILY FINE</b>
<b>TRANSPORT</b>			
<b>Transports Solid Waste in Violation of Solid Waste Transportation Permit or this Code</b>  <i>SECTION XII</i>	<b>\$50 Plus Immediate Cleanup</b>	<b>\$100 Plus Immediate Cleanup</b>	<b>\$200 Plus Immediate Cleanup</b>
<b>Failure to Properly Transport Agricultural Waste</b> (endangers humans, animals, waters, air, and the environment)  <i>SECTION, Sub-Section 9.01</i> <i>SECTION XII</i>	<b>\$500 Plus Immediate Cleanup</b>	<b>\$1,000 Plus Immediate Cleanup</b>	<b>\$2,500 Plus Immediate Cleanup</b>
<b>Failure to Properly Transport Asbestos and Asbestos Containing Materials (ACM)</b>  <i>SECTION IX, Sub-Section 9.08</i> <i>SECTION X</i> <i>SECTION XII</i>	<b>\$5,000 Plus Immediate Cleanup</b>	<b>\$10,000 Plus Immediate Cleanup</b>	<b>\$20,000-\$80,000 Plus Immediate Cleanup</b>

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FINES SCHEDULE (Revised July 1, 2019)**

<b>VIOLATION</b>	<b>1<sup>st</sup> OFFENSE</b>	<b>2<sup>nd</sup> OFFENSE</b>	<b>3<sup>rd</sup> CONSECUTIVE OFFENSE DAILY FINE</b>
<b>TRANSPORT (Cont.)</b>			
<b>Failure to Properly Transport Construction and Demolition Waste</b>  <i>SECTION IX, Sub-Section 9.05</i> <i>SECTION XII</i>	<b>\$250 Plus Immediate Cleanup</b>	<b>\$500 Plus Immediate Cleanup</b>	<b>\$2,500-\$5,000 Plus Immediate Cleanup</b>
<b>Transports Hazardous Waste in Violation of Solid Waste Transportation Permit or this Code</b>  <i>SECTION X</i> <i>SECTION XII</i>	<b>\$2,500 Plus Cleanup Within 5 Calendar Days</b>	<b>\$5,000 Plus Cleanup Within 5 Calendar Days</b>	<b>\$10,000-\$40,000 Plus Cleanup Within 5 Calendar Days</b>
<b>DUMPING</b>			
<b>Unauthorized Dumping of Solid Waste</b>  <i>SECTION VI, Sub-Section 6.01</i> <i>SECTION XII, Sub-Sections 12.02, 12.04</i>	<b>\$100 Plus Immediate Cleanup</b>	<b>\$500 Plus Immediate Cleanup</b>	<b>\$1,000 Plus Immediate Cleanup</b>
<b>Unauthorized Dumping of Special Waste</b>  <i>SECTION IX</i> <i>SECTION XII, Sub-Section 12.04</i>	<b>\$500 Plus Immediate Cleanup</b>	<b>\$2,500 Plus Immediate Cleanup</b>	<b>\$5,000- \$10,000 Plus Immediate Cleanup</b>

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<b>VIOLATION</b>	<b>1<sup>st</sup> OFFENSE</b>	<b>2<sup>nd</sup> OFFENSE</b>	<b>3<sup>rd</sup> CONSECUTIVE OFFENSE DAILY FINE</b>
<b>DUMPING (Cont.)</b>			
<b>Unauthorized Dumping of Hazardous Waste</b>  <i>SECTION X</i> <i>SECTION XII, Sub-Section 12.04</i>	<b>\$2,500 Plus Immediate Cleanup</b>	<b>\$5,000 Plus Immediate Cleanup</b>	<b>\$25,000-\$50,000 Plus Immediate Cleanup</b>
<b>[RESERVED – OIL &amp; GAS] DUMPING</b>			
<b>Unauthorized Dumping of Non-Hazardous Waste From Oil and Gas Well Operations and/or Drilling or Fracking</b>  <i>SECTION XI Oil and Gas [Reserved]</i>	<b>\$ Plus Immediate Cleanup and Follow Re- vegetation Guidelines.</b>	<b>\$ Plus Immediate Cleanup and Follow Re- vegetation Guidelines.</b>	<b>\$ Plus Immediate Cleanup and Follow Re-vegetation Guidelines.</b>
<b>Unauthorized Dumping of Hazardous Waste From Oil and Gas Well Operations and/or Drilling or Fracking</b>  <i>SECTION XI Oil and Gas [Reserved]</i>	<b>\$ Plus Immediate Cleanup and Follow Re- vegetation Guidelines.</b>	<b>\$ Plus Immediate Cleanup and Follow Re- vegetation Guidelines.</b>	<b>\$ Plus Immediate Cleanup and Follow Re-vegetation Guidelines.</b>

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FINES SCHEDULE (Revised July 1, 2019)**

VIOLATION	1 <sup>st</sup> OFFENSE	2 <sup>nd</sup> OFFENSE	3 <sup>rd</sup> CONSECUTIVE OFFENSE <i>DAILY FINE</i>
<b>[RESERVED – OIL &amp; GAS] RELEASES</b>			
<b>Unauthorized Release of Non-Hazardous Waste From Oil and Gas Well Operations and/or Drilling or Fracking Pit</b>  <i>SECTION XI Oil and Gas [Reserved]</i>	<b>\$ Plus Immediate Cleanup and Follow Re-vegetation Guidelines.</b>	<b>\$ Plus Immediate Cleanup and Follow Re-vegetation Guidelines.</b>	<b>\$ Plus Immediate Cleanup and Follow Re-vegetation Guidelines.</b>
<b>Unauthorized Release of Hazardous Waste From Oil and Gas Well Operations and/or Drilling or Fracking Pit</b>  <i>SECTION XI Oil and Gas [Reserved]</i>	<b>\$ Plus Immediate Cleanup and Follow Re-vegetation Guidelines.</b>	<b>\$ Plus Immediate Cleanup and Follow Re-vegetation Guidelines.</b>	<b>\$ Plus Immediate Cleanup and Follow Re-vegetation Guidelines.</b>

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<b>VIOLATION</b>	<b>1<sup>st</sup> OFFENSE</b>	<b>2<sup>nd</sup> OFFENSE</b>	<b>3<sup>rd</sup> CONSECUTIVE OFFENSE <i>DAILY FINE</i></b>
<b>MISLEADING INFORMATION OR FALSE STATEMENT</b>			
<b>Knowingly Provide Misleading Information or Omit Material Information or Make Any False Statement or Representation in any Label, Record, Report, or Other Document Filed, Maintained, or Used for Purposes of Application or Compliance with this Code or Other Environmental Regulations.</b>  <i>SECTION VI, Sub-Section 6.02</i>	<b>\$1,000</b>	<b>\$5,000</b>	<b>\$10,000</b>

**\*Fines of \$200 or less may be worked off through Community Service ordered by the Presiding Judge, and shall only be allowed on the First Offense. Community Service Hours can only be worked off at the Prairie Mountain Utilities (PMU) Enterprise, with written concurrence by the PMU Director, and under the supervision of the PMU Director.**