

**SAINT REGIS MOHAWK TRIBE
SOLID WASTE MANAGEMENT CODE**

SECTION 1

1.1 INTRODUCTION

It is the tradition of the Mohawk People to look generations forward in planning. It is with this foresight that the Saint Regis Mohawk Tribe Solid Waste Management Code (“Code”) is intended.

Solid waste disposal practices need to be maintained in good harmony with Mother Earth since these practices will have an effect on the future generations inheriting this land. Adherence to this Code will ensure that best practices for solid waste management are maintained.

1.2 AUTHORITY

The Saint Regis Mohawk Tribe (“Tribe” or “SRMT”) has the inherent authority to manage and regulate the storage, collection, transportation, handling, treatment and disposal of solid waste in a manner which best protects Mother Earth, her natural resources, and the health, welfare, and economic security of this generation of Mohawk People and the generations to follow.

The Tribe retains the inherent sovereign power to exercise civil authority and jurisdiction over the conduct of both Tribal and non-Tribal members on all lands within the Saint Regis Mohawk Indian Reservation (“Reservation”). These civil actions will be taken when necessary to maintain the environment, natural resources, public health, safety, welfare, political integrity and economic security of the Tribe.

1.3 PURPOSE

This Code does not allow for the improper disposal of any Solid Waste on the Reservation. Improper disposal or creating an Open Dump of any Solid Waste materials or recyclables, whether on the side of the road, in the Community Recycling Depot, or anywhere that they should not be disposed of, will be considered a violation of the Code. Disposal of such Solid Waste or creating an Open Dump site is different than someone who litters as outlined in the Saint Regis Mohawk Tribe Traffic Code Section III(5)(f) (TCR 2018-09 or as amended).

It is the intent of this Code to create a comprehensive integrated waste management policy that requires all solid waste to be disposed of properly at management facilities on and off the Reservation. This Code encourages Mohawk People to reduce, recycle and reuse those materials that do not belong in the waste stream. Education of the community through diverse media has been a continuing process, aimed at eliminating the poor solid waste disposal practices of the past.

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The Code intends to:

- (1) Protect the health and safety of Tribal members and all other persons within the Reservation;
- (2) Protect the cultural, social and economic stability of residential, agricultural, commercial, industrial, forest, riparian, and environmentally sensitive lands within the Reservation;
- (3) Protect the historical and cultural values and traditions of the Tribe, Mohawk land as a permanent Tribal homeland, and maintain its aboriginal character;
- (4) Prevent solid waste pollution, including contamination of the Tribe's groundwater, surface waters, drinking water supplies, and all other natural resources;
- (5) Prevent the deterioration of the environment, standard of living, quality of life, welfare and well-being of all persons within the Reservation; and
- (6) Provide and promote Tribal waste management efficiency and services within the Reservation.

SECTION 2

2.1 DEFINITIONS

Unless otherwise provided or the context requires another definition, the definitions set forth in this section shall apply to the terms used throughout this Code.

1. Closure

The termination of the receiving, handling, recycling, treatment, composting, or disposal of solid wastes at a management facility. It shall include all operations necessary to prepare the management facility for post-closure maintenance.

2. Conditionally Exempt Small Quantity Generators

Facilities that produce less than 100 kg (220.5 lbs.) of hazardous waste, or less than 1 kg (2.205 lbs.) of acutely hazardous waste per calendar month.

3. Collection

The act of collecting solid wastes by a SRMT permitted Hauler.

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Construction

The erection or building of new structures and the acquisition, replacement, expansion, remodeling, alteration, modernization, or extension of existing structures.

4. Director

The Director (person in charge) of the Tribe's Environment Division.

5. Disposal

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

6. Environment Division

The Division of the Tribe whose mission is to preserve, protect, restore, and enhance the community of Akwesasne for the present and future generations.

7. Farm

A facility that raises or harvests any agricultural or horticultural commodity through the cultivation of the soil, aquaculture product or the raising, shearing, feeding, caring for, training or management of livestock, bee, poultry, fur bearing animals, fish, domestic animals or wildlife.

8. Financial Mechanism

A trust fund or other equivalent financial arrangement acceptable to the Environment Division to provide the financial assurances required by this Code.

9. Floodplain

Land that would be inundated with floodwater as a result of the occurrence of a 100-year flood.

10. Groundwater

Water below the land surface in a zone of saturation.

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11. Guidance Document

A document prepared by the Environment Division that supplements criteria under this Code. A guidance document may provide specific technical direction regarding the manner in which an owner or operator shall comply with this Code. Guidance documents may be referred to or attached as conditions to permits. Such technical direction must either conform to this Code, or be more stringent. A guidance document may also provide direction as to how the Director of the Environment Division interprets the Tribe's solid waste permit program, consistent with Tribal laws and this Code.

12. Hauler

A person or commercial establishment that is in the business of collecting and transporting solid wastes and who has obtained a Tribal permit from the SRMT's Compliance Department ("Compliance Department").

13. Hazardous Waste

A waste that:

- a) Because of its quantity, concentration, or physical, chemical, or infectious characteristics, may either cause or significantly contribute to an increase in mortality or serious irreversible or incapacitating illness. It may pose a substantial present or potential hazard to human health, living organisms, or the environment when improperly handled, treated, stored, transported, or disposed of; or
- b) Is specifically defined to be hazardous or toxic, including but not limited to any substance, material, smoke, gas, particulate matter, or combination thereof. Materials containing asbestos, petroleum or its byproducts, or Polychlorinated Biphenyls (PCBs); or
- c) Is hazardous, toxic, ignitable, reactive, or corrosive, and that is defined and regulated as such by the Tribe.

14. Household Hazardous Waste

Chemical products such as paints, solvents or pesticides generated from normal household activities (e.g. routine house and yard maintenance).

15. Industrial Waste

A subset of solid wastes, which are generated by manufacturing or industrial processes. Such processes may include, but are not limited to the following: electric power generation; fertilizer/agricultural chemicals; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and

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resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. The forms of such wastes are exemplified by, but not limited to, liquids such as acids, alkalis, caustics, leachate, petroleum (and its derivatives), and processes or treatment wastewaters; sludges which are semi-solid substances resulting from process or treatment operations or residues from storage or use of liquids; solidified chemicals, paints or pigments; and dredge soil, foundry sand, and the end or by-products of incineration or other forms of combustion.

16. Infectious/Medical Waste

A subset of solid wastes that include but are not limited to the following:

- a) Laboratory wastes, including but not limited to cultures of etiological agents (agents that cause diseases), which pose a substantial threat to health due to their volume and virulence.
- b) Pathological specimens, including but not limited to human or animal tissues, blood elements, excreta, and secretions that contain etiologic agents, and attendant disposable fomites.
- c) Surgical specimens, including but not limited to human or animal parts and tissues removed surgically, or at autopsy, which in the opinion of the attending physician or veterinarian, contain etiologic agents and attendant disposable fomites.
- d) Human dialysis waste materials, including but not limited to arterial lines and dialysate membranes.
- e) Carcasses of animals infected with etiological agents that may present a substantial hazard to public health if improperly managed.
- f) Equipment, instruments, utensils, or any other material that is likely to transmit etiologic agents or presents a significant danger of infection, because it is contaminated with, or may reasonably be expected to be contaminated with, etiologic agents.

17. Inherently Waste-like Material

A material, such as dioxin-containing wastes, that is always considered a solid waste because of its intrinsic threat to human health and the environment.

18. Liquid Waste

Waste material that contains free liquid.

19. Management Facility

All contiguous land and structures, other appurtenances, and improvements on the land used for the management of solid wastes.

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20. Municipal Solid Wastes (MSW)

A subset of solid waste that is defined as durable and non-durable goods, containers and packaging, food wastes, yard trimmings, and miscellaneous organic wastes from residential, commercial, and industrial non-process sources.

21. MSWLF

Municipal Solid Waste Landfill.

22. Nuisance

A condition that occurs as a result of the handling, treatment, composting, or disposal of solid waste, which

- a) Is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and
- b) Affects an entire community or neighborhood or any considerable number of persons.

23. 100-Year Flood

A flood that has a 1 in 100 chance of being equaled or exceeded in any one (1) year, and it has an average recurrence interval of one hundred (100) years.

24. Open Burning

Burning of unwanted materials such as paper, trees, brush, leaves, grass, and other debris where smoke and other emissions are released directly into the air. During open burning, air pollutants do not pass through a chimney or stack

25. Open Dump

Any management facility or site including roadways and ditches on the Reservation where Solid Waste has been disposed of, which is not a sanitary landfill or transfer station authorized under this Code.

26. Operator

The person(s) responsible for the overall operation of a management facility or part of a management facility.

27. Owner

The person(s) who owns a management facility or part of a management facility.

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28. Permit

An authorization and license issued under the authority of the Compliance Department regulating the collection and transportation of MSW and/or solid waste, or regulating the treatment and disposal of MSW and/or solid waste including the construction and/or operation of a management facility.

29. Permittee

A person, hauler, or entity who is authorized and permitted by the Compliance Department to collect and transport MSW and/or solid wastes, or to construct or operate a management facility in compliance with this Code.

30. Permit Documents

Permit applications, drafts and final permits, or other documents that include applicable design and management conditions in accordance with this Code, and the technical and administrative information used to explain the basis of permit conditions, including applicable guidance documents. The unauthorized disposal of any solid waste into the air, land, surface water or groundwater.

31. Person

Any individual, trust, firm, association, partnership, Indian Tribe, tribally chartered corporation, business, or LLC, political subdivision, government agency, industry, public or private corporation, any legal entity or private enterprise. It also includes members of the Tribe, all other non-member Indians, and all non-Indians.

32. Pollution

The unauthorized disposal of any solid waste into the air, land, surface of the water or groundwater.

33. Post-Closure Maintenance

All activities undertaken at a closed management facility to maintain the integrity of containment features and to monitor compliance with applicable performance standards as required under this Code.

34. Post-Closure Maintenance Period

A period of at least thirty (30) years after closure of a management facility, or Solid Waste Program, a period which ends only after the operator demonstrates to the satisfaction of the Director of the Environment Division that the solid waste contained in such facility no longer poses any threat to human health and the environment.

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35. RCRA (Resource Conservation and Recovery Act)

An Environmental Protection Agency policy, which regulates the generation, transportation and storage of solid and hazardous waste recovery.

36. Recovery

The reclamation of material, byproducts, or energy from solid waste.

37. Recycling

The process of separating and collecting solid wastes, their subsequent transformation or remanufacture into usable or marketable products or materials, and the purchase of products made from materials that have already been used in some form.

38. Reuse

The process of reusing solid wastes for the same purpose that it was originally designed, or using it for a different purpose.

39. Regulated Hazardous Waste

In RCRA § 1004(5), Congress defined hazardous waste as a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:

- a. Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or
- b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

40. Removal

The act of taking solid waste from the place of generation or storage, either by an approved collection agency or by the owner of the solid waste.

41. Reservation

Reservation means both the Saint Regis Mohawk Indian Tribe Reservation as established by the 1796 Treaty with the Seven Nations of Canada (7 Stat. 55) and any other lands over which the Tribe exercises jurisdiction now or in the future.

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42. Rules and Regulations

Any policies promulgated by the Environment Division, and adopted by the Tribal Council, regulating the collection, transportation or disposal of solid waste on the Reservation, which will implement, supplement or regulate any provisions of this Code.

43. Sanitary Landfill

A disposal facility employing a method of disposing of solid waste on land, without creating nuisances, pollution 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 MSWLF under this Code is a sanitary landfill.

44. Sewage Sludge

A subset of solid wastes that includes any residue, excluding grit or screenings, removed from wastewater, whether in a dry, semi-dry, or liquid form.

45. Sludge

A sub-set of solid waste that may be solid, semi-solid, or liquid waste generated from a commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

46. Special Wastes

A subset of solid wastes, which is listed in Section 4.2 of this Code.

- a) Radioactive wastes.
- b) All regulated hazardous wastes as defined by RCRA.
- c) Infectious biomedical wastes, which includes human tissue or human anatomical remains.
- d) Animals or bedding exposed to infectious agents.
- e) Bulk quantities of infectious-type wastes which have been in contact with: blood, blood products and body fluids are handled by Indian Health Services (IHS) through a qualified vendor for disposal.
- f) Any materials containing friable asbestos waste.
- g) Sewage or sewage sludge wastes.
- h) Bulk liquids of any kind.
- i) Polychlorinated Biphenyls (PCBs).
- j) Explosives.
- k) Hazardous waste generated from small quantity generators.

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47. Solid Waste

Any garbage, or refuse, sludge from a residence, business, wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials, resulting from industrial, commercial mining, or agricultural operations, and from community activities, businesses or residences. It includes any discarded or abandoned materials. It can be solid, liquid, semi-solid or containerized gaseous material.

48. Solid Waste Transfer Station (SWTS) or Transfer Station

A publicly or privately-owned facility or site that receives solid waste as for the purpose of sorting, recycling, compacting, recovering, and transferring solid waste. A SWTS unit may be a new unit, an existing unit or a lateral expansion. A lateral expansion is the horizontal expansion of an existing unit.

49. Source Reduction

The design, manufacture, and use of products in a way that reduces the quantity and toxicity of waste produced when the products reach the end of their useful lives; i.e. waste prevention.

50. SWDA (The Solid Waste Disposal Act)

Solid Waste Disposal Act of 1965, set national goals for:

- a) Protecting human health and the environment from the potential hazards of waste disposal.
- b) Conserving energy and natural resources.
- c) Reducing the amount of waste generated.
- d) Ensuring that wastes are managed in an environmentally-sound manner. <https://www.epa.gov/history>

51. Treatment

When used in connection with hazardous waste, is any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste non-hazardous, safer for transport, amendable for recovery, amendable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it non-hazardous.

52. Tribe's Solid Waste Disposal Program

All the authorities, activities and procedures under this Code, the Tribe's Solid Waste Management Plan, and any other Tribal laws or regulations that comprise

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the Tribe's system of permits, and prior approval and conditions for regulating the collection, handling, transportation, and disposal, treatment and storage of solid waste, including all of the location, operation, design, groundwater monitoring, corrective action, closure, post-closure and financial assurance requirements.

53. Tribe's Solid Waste Management Plan and Regulations

The formulation of Tribal policies for all solid waste collection, handling, transportation, disposal, treatment, storage, source reduction, reusing, recycling and resource conservation on the Reservation.

54. Vector

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.

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**SECTION 3
DESIGNATION OF AUTHORITY**

3.1 ENVIRONMENT DIVISION AND COMPLIANCE DEPARTMENT

The Tribe respects the thoughts and teachings of the Mohawk People and is entrusted to protect the land, air, water, vegetation and animal life for the next seven generations. To accomplish this mission as it relates to solid waste management, the Tribe hereby appoints the Environment Division as the lead Tribal agency to ensure the proper management of solid wastes while the Tribe's Compliance Department is delegated the authority to issue permits and maintain compliance with this Code. The Environment Division and the Compliance Department shall each have the powers, duties, and responsibilities as provided herein.

The Environment Division shall develop and manage the Tribe's comprehensive integrated waste management policy and regulations using both the traditional concept of seven generations and by the duties specifically designated in this Code or as may be assigned from time to time by the Environment Division Director or Tribal Council. The Environment Division shall communicate to the community information regarding the Tribe's comprehensive integrated waste management policy and make reports containing such information as the Tribe approves, excluding any confidential or privileged information.

3.1.1 Duties of the Environment Division with Respect to Solid Wastes.

The Environment Division is entrusted to protect the land, air, water, vegetation and animal life for the future generations from the detrimental effects of improper management of solid waste. To accomplish this task the Environment Division shall perform the following:

- (1) Develop and implement the Tribe's Solid Waste Management Plan. The goal of the Solid Waste Management Plan is to provide guidance to manage solid wastes in a manner that honors the earth, people, plants, animals, and waters, while contributing to the economic and social progress of the community.
- (2) Build on the community's inherent respect for the natural world by maintaining and improving the processes and equipment utilized in the management of solid wastes, recyclable and reusable materials. Provide the technical standards and criteria for the collection and transportation of Solid Waste.
- (3) Prepare an inventory and location of all open dumping sites in and around the Reservation where solid wastes have been disposed, and a plan to close all such sites.
- (4) Encourage community involvement and input in the Tribe's Solid Waste Management Plan;

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- (5) Prepare technical reports as may be requested from time to time, including environmental assessments as may be necessary.
- (6) Administer, supervise, monitor, and investigate the collection, transportation, and disposal of Solid Waste on the Reservation in compliance with this Code, as well as adhere to all laws, rules and regulations, and Guidance Documents promulgated hereunder.
- (7) Investigate and prepare applications for private, Federal or State grants or funding, and provide financial and technical assistance to implement the Tribe's Solid Waste Management Plan.
- (8) Maintain and renew permits for the collection and transportation of and for the operation of the Solid Waste Transfer Station.
- (9) Ensure that proper handling, collection and disposal of regulated Hazardous Waste is done in accordance with Section 4 of this Code.

3.1.2 Duty of the Compliance Department to Investigate Under This Code

Upon receiving a credible complaint by any person, or upon its own initiative, the Environment Division shall request that the Compliance Department perform a thorough investigation of any violations made by any person, Management Facility, or Hauler. The Compliance Department shall prepare a report which will then be submitted to the Environment Division, Tribal Council and General Counsel.

A credible complaint is a complaint that relates to, but is not limited to, improper disposal methods, unauthorized acceptance of special wastes, inappropriate handling, collection and transportation of solid waste and/or worker safety issues.

If a complaint is founded then an Enforcement Action pursuant to Section 6.3 may be undertaken. For any complaint that is unfounded a report shall be transmitted to the complainant within thirty (30) days of the investigation's completion.

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**SECTION 4
PROPER HANDLING, COLLECTION AND DISPOSAL OF SOLID WASTES**

4.1 INTEGRATED WASTE MANAGEMENT

An integrated waste management approach shall be used for the management of Solid Wastes. This approach shall promote reducing, reusing, and recycling, followed by disposal.

The Environment Division may issue rules and regulations for reducing, reusing, and recycling of solid wastes on the Reservation. Proper and safe practices based on industry standards will be developed to increase safety in the recovery phase of these efforts.

The Saint Regis Mohawk Tribe will abide by restrictions on recyclables at the landfill (County of Franklin Solid Waste “Local Law No. 3”.) The following rules apply to this Solid Waste Code for recyclable materials:

- a. All recyclables shall be separated from Municipal Solid Waste
- b. Designated Recyclables shall not be contaminated with hazardous waste or any other solid waste.
- c. Recyclables will be delivered in a manner to follow these requirements or they may be rejected.

4.2 OPEN DUMPING

The open dumping of Solid Wastes on the Reservation is disrespectful and does irreparable damage to the land and the environment. Much of this waste can last longer than seven generations and can affect even more generations through contamination of: soil, groundwater, and surface waters. Proper disposal of these materials can be accomplished through the utilization of Management Facilities, Haulers and/or taken directly off reservation to permitted disposal areas.

It is a violation of this Code for anyone or business to operate an Open Dump site. If there is an allegation of an Open Dump site it shall be investigated. The Open Dump site shall immediately cease to operate and violator will be subject to enforcement actions as outlined in Section 6.3. if the matter was not resolved under Section 3.1.2.

It is a violation of this Code to dump, scatter or place any solid wastes anywhere except at a duly authorized and designated solid waste transfer station or landfill. Any written or verbal allegation of open dumping shall be forwarded to the Compliance Department to investigate. If the alleged violator’s conduct does not cease after the Compliance Department has undertaken efforts to seek cooperation to stop the offending behavior, it may then determine whether to refer the matter to Tribal Police or the Environment Division for further enforcement action.

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If there are further enforcement actions and the matter is brought to the Tribal Court, it shall be dealt with according to Section 6.4.

4.3 BURNING OF SOLID WASTE

Any burning of Solid Wastes will be done in accordance with the open burn regulations established by the Environment Division's Clean Air Program (*see* TCR 2002-59 or as amended)

4.4 HOUSEHOLD HAZARDOUS WASTES

On specified days during the calendar year, certain Household Hazardous Wastes will be accepted at specific drop off areas on the Reservation for proper disposal. Only on those days and at those locations will a limited number of prohibited special wastes be accepted. The wastes allowed will be listed and announced thirty (30) calendar days prior to the collection date by the Director of the Environment Division.

All items to be included in the Household Hazardous Waste collection will be compiled on a list by the Director of the Environment Division. The permitted items will be announced in a locally circulated newspaper, the Tribe's website, social media and radio for at least three (3) consecutive weeks prior to collection activities. Disposal methods and containers will follow recognized standards established by United States Environmental Protection Agency (USEPA) and Occupational Safety and Health Administration (OSHA). Rules and regulations adopted by the Environment Division may be used if those methods specified meet or exceed the minimum standards established by USEPA and OSHA.

If the Director or any employee involved with the collection of Household Hazardous Waste is in doubt regarding the safe handling of a product, then such product will be returned to the individual who transported it to the collection point.

Collection of Household Hazardous Waste will occur based solely on the availability of funding. If the Environment Division deems that regularly scheduled collections are necessary in its discretion, under rules and regulations to be adopted by the Environment Division, then the necessary steps and procedures will be taken to assure regularly scheduled collections.

Disposing of Household Hazardous Wastes except as outlined above at a Management Facility located on the Reservation is a violation of the Code.

4.5 SPECIAL WASTES

The Environment Division may prohibit the disposal of other Solid Wastes at Management Facilities on the Reservation, as it deems necessary, under rules and regulations

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to be adopted by the Environment Division. The Environment Division shall issue rules and regulations governing the disposal or prohibition of disposal of other Solid Wastes not listed herein, including but not limited to, ashes and powders, and mineral wastes and soils. The Environment Division shall develop rules and regulations for special wastes, which require special handling, treatment and disposal.

Tribal Departments or agencies, private enterprises, Haulers or any other person are prohibited from disposing of the following Special Wastes at any management facility located within the Reservation.

Only Haulers who follow applicable Tribal, Federal and State laws and regulations shall collect and transport Special Waste within the Reservation and from the Reservation.

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**SECTION 5
PERMIT REQUIREMENTS FOR SOLID WASTE MANAGEMENT ACTIVITIES**

5.1 GENERAL PERMIT REQUIREMENTS

Tribal departments or agencies, private enterprises, haulers, or any other persons are required to obtain a permit from the Tribe's Compliance Department to collect and/or transport Solid Waste, or to construct or operate a management facility. Any Permittee shall be required to comply with this Code, any rule or regulation promulgated thereunder, all Tribal Environmental standards and criteria, all relevant guidance documents, all permit conditions, all orders issued by the Tribe's Compliance Department and applicable Tribal laws.

No Tribal department or agency, private enterprise, hauler, or person may collect or transport Solid Wastes, or operate a Management Facility within the Reservation without first having obtained from the Environment Division either (1) a solid waste collection and transportation permit; or (2) a solid waste facility construction and/or operation permit.

In order to provide for Tribal health and safety and to facilitate the conservation of vital Tribal resources, each person living on the Reservation or Tribal business shall provide for the removal of Solid Wastes and recyclables from his/her property on which it is generated either through a service provided by the Tribe or Hauler or by direct haul to a permitted Management Facility approved by the Tribe that is located on the Reservation.

5.2 PERMITS FOR THE CONSTRUCTION AND OPERATION OF A MANAGEMENT FACILITY

**5.2.1 Management Facility
Public Hearing.**

No Management Facility permit shall be issued unless there has been a public hearing conducted by the Environment Division and Compliance Department at which the applicant and all interested persons shall have an opportunity to present relevant evidence and be heard on whether the application should be granted, or whether there are any special conditions which should be included in such permit. No application may be submitted until a business permit has been granted and an environmental assessment review has been conducted, as well as any other necessary permits are obtained.

All applications for a solid waste construction and/or operation facility permit, including all documentation required for such permit, shall be available for public review and inspection at least thirty (30) calendar days in advance of the hearing. The Environment Division shall publish a notice of such public hearing on each application at least ten (10) calendar days in advance of the hearing in the locally circulated newspaper. The Environment Division also shall post notice of the public hearing near the proposed permanent site for a management facility, but viewable to the public, at least thirty (30) calendar days in advance of the hearing. The Environment Division may designate issues it deems most relevant in the public notice. Such public hearings shall be recorded.

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The Environment Division also may consider, in consultation with the Compliance Department, certain issues that are raised at the hearing. For any issue, which the Environment Division deems contentious it may decide to address them and provide an analysis of alternatives.

The information in every application for a Management Facility must include the following information so as to allow the Environment Division in consultation with the Compliance Department to fulfill its responsibilities under this Code by:

- (1) having details sufficient to determine how the facility will be constructed, operated, and closed and how it will be monitored and maintained after closure;
- (2) provide sufficient detail to ascertain the environmental impact of the proposed project; and
- (3) provide sufficient detail to demonstrate that the design, construction, operation, closure, and post closure monitoring and maintenance of the facility is capable of complying with the applicable requirements of this Code.

Unless otherwise specified in this Code, the plans and drawings for all Solid Waste Management Facilities must be submitted using the following format:

- (1) the sheet size with title blocks must be 32 by 34 inches or 24 by 26 inches;
- (2) the cover sheet must include the project title, applicant's name, sheet index, legend of symbols, and the engineer's name, address, signature, date of signature and seal;
- (3) the plans relating to the project to its environmental setting must include:
 - a. a regional plan or map (having a minimum scale of 1:62,500)
 - b. a vicinity plan or map (having a minimum scale of 1:24,000); and
 - c. an overall site plan (having a minimum scale of 1:2,400 with a five feet minimum contour interval);
- (4) site plans must contain the location of all property boundaries certified by an individual licensed to practice land surveying in the State of New York;
- (5) the engineering reports for all Solid Waste Management Facilities must:
 - a. contain a cover sheet stating the project title and location, applicant's name, and the engineer's name, address, signature, date of signature and seal;
 - i. have its text printed on 8-1/2 x 11-inch pages (paginated consecutively);

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- ii. contain a table of contents or index describing the body of the report and the appendices;
- iii. include a body of report; and
- iv. include all appendices.

5.2.2 Transfer Stations

In addition to sections 5.1 & 5.2.1, Transfer Stations receiving less than 50,000 cubic yards or 12,500 tons of Solid Waste annually, must meet the following additional conditions:

- (1) Only MSW (and recyclables) are accepted at the facility;
- (2) A maximum of 1,000 yards or 250 tons of MSW are located on-site at any given time;
- (3) All putrescible MSW (organic matter capable of being decomposed by microorganisms) is removed from the transfer station within seven (7) days of receipt, unless prior written approval is received from the Environment Division;
- (4) The facility operates only between the hours of sunrise and sunset, or when an attendant is on duty;
- (5) The facility is developed, operated and maintained in a safe, nuisance-free manner; and
- (6) The facility complies with the applicable operational requirements of Section 4 of this Code.

5.2.3 Operational Requirements for Transfer Stations

All Solid Waste Transfer Stations must comply with the following operational requirements:

- (1) Acceptable waste. Only MSW shall be accepted at the facility. No industrial wastes, special wastes, or construction and demolition debris shall be accepted unless specifically approved by the Environment Division.
- (2) Ultimate disposal of waste. All Solid Waste passing through the Transfer Station must be ultimately treated or disposed of at a facility authorized by the Environment Division if it is located within the Reservation, or by the appropriate governmental agency or agencies if in other states, territories, or nations. In the case of transfer stations at which Solid Waste is intended to be placed on vessels, no Solid Waste shall be placed on a vessel not owned or operated by a City whose population exceeds one million, without having first received written approval from the Environment Division. That approval shall be granted if the operator of the facility submits to the Environment Division

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the following:

- a certified copy of each permit or other authorization pertaining to the operation of the treatment or disposal facility to which the Solid Waste will be brought, issued by each governmental entity having jurisdiction over that facility; and,
- original letters from each jurisdiction through which that Solid Waste will pass, and from each jurisdiction in which that Solid Waste will be treated or disposed of, stating that the governmental entity does not object to the Solid Waste being transported through or treated or disposed of within its jurisdiction.

5.3 PERMITS FOR THE COLLECTION AND TRANSPORTATION OF SOLID WASTE BY HAULERS

As a condition for the issuance of a Solid Waste collection and transportation permit, the Tribe's Compliance Department shall require every vehicle operated by the Hauler to be conspicuously marked to identify it. Every vehicle shall be marked with the trade name of the Hauler, and the number of the transportation permit issued pursuant to this Section. Every vehicle and driver must be licensed and must comply with all safety and insurance requirements of the state or province from which he/she is licensed.

After placement of Solid Wastes and recyclable materials at the roadside or other designated area approved by the Tribe for collection, such Solid Wastes and recyclable material shall be delivered to the SRMT Transfer Station located at 179 County Route 43, Fort Covington NY. In certain situations, the Hauler may be granted permission to **by-pass** the SRMT Transfer Station and deliver Solid Waste directly to the Franklin County Landfill. The Hauler must first provide enough historical data to establish a monthly average tonnage of Solid Waste being transported from the Reservation to the landfill. The Hauler will be charged a "Regional Fee". Regional Fees and "*Transfer Station Price List*" can be found on the Saint Regis Mohawk Tribe's webpage (<https://www.srmt-nsn.gov/>).

As a condition for the issuance of a Solid Waste collection and transportation permit, a Hauler agrees to make an annual report by December 1 of each year, to the Tribe's Compliance Department, indicating the number and type of installations emptied or cleaned, the quantity of Solid Wastes disposed of, the place and manner in which such Solid Wastes were finally disposed, quantity and types of recyclables collected, and such other information as the Compliance Department may require. A renewal application may be denied by the Compliance Department for failure of the Permittee or Hauler to properly and timely file an annual report.

The Compliance Department on a calendar basis must renew solid waste permits for the collection and transportation annually. The Environment Division shall adopt rules and regulations for Solid Waste collection and transportation on the Reservation in consultation with the Compliance Department, including the operation of management facilities, and may impose whatever conditions it deems reasonably necessary to protect the environment, and the health, safety and welfare of the Tribe and its members before issuing any permit under this Section.

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5.4 COMPLIANCE MONITORING

The Environment Division and/or the Compliance Department shall have the right to request any and all information from any Permittee or Hauler under this Code, including but not limited to records and technical reports or studies, whether contained in the Permittee's or Hauler's operating record or not, which may be relevant to determine whether a Permittee or Hauler is in compliance with all Tribal Solid Waste requirements, including but not limited to this Code, any condition contained in a permit, any rules or regulations promulgated under this Code, any guidance documents, any orders issued pursuant to this Code, or any Tribal environmental laws. Failure by a Permittee or Hauler to provide the requested information may result in the revocation of his/her permit.

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**SECTION 6
PUBLIC INVOLVEMENT AND ENFORCEMENT**

6.1 PUBLIC PARTICIPATION AND HEARINGS

The Environment Division may allow for public participation and hold one (1) or more informal public hearings, for the following matters prior to taking any formal action:

- (1) The approval of any site location for a new Management Facility;
- (2) The issuance of any permits for the construction and/or operation of a Management Facility; and
- (3) Any other matters which the Environment Division deems appropriate for public participation and review.

The Environment Division shall schedule such hearings at a convenient location, and give reasonable advance notice of the date, time and subject matter(s) of such hearing, by publication in the newspaper most widely circulated on the Reservation. Thirty (30) calendar days' advance notice is required for the issuance of any management facility permits. There shall be a reasonable opportunity for anyone to comment at such hearings, and to present any relevant information.

6.2 ACTIONS ON PUBLIC COMPLAINTS

If any department of the Saint Regis Mohawk Tribe, including the Environment Division, receives a credible complaint concerning any person, business, Management Facility owner/operator, or Hauler, giving reasonable grounds that this Code, or any of its rules or regulations, permits conditions, environmental standards, or guidance document, has or is being violated it will forward it to the Tribe's Compliance Department to investigate the matter in accordance with Section 3.1.2 of this Code.

6.3 ENFORCEMENT ACTIONS

6.3.1 Enforcement Policy: While it is the Tribe's policy to encourage informal, practical, result-oriented resolutions of any environmental occurrence it must still prevent damage to the Reservation's resources or prevent harm to the health, safety or welfare of the Reservation's population. It is also the Tribe's policy, consistent with the principles of due process, to provide effective procedures for enforcement. Therefore, after the Compliance Department has finalized its investigation pursuant to Section 3.1.2 of a credible complaint it shall forward its findings to the Environment Division, Tribal Council and General Counsel for review and plans of action.

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6.3.2 Corrective Action Plan: After receiving the Compliance Department's report, the Environment Division shall review it. After this initial review, the Environment Division may along with the Compliance Department contact the Tribal Member or Tribal Member business causing the environmental concern to devise a corrective action plan to remedy the situation. Environmental concerns can include, but are not limited to, any solid waste regulation or permit condition.

If the Tribal Member or Tribal Member business agree to a corrective action plan or to cease the offending activity then the Environment Division shall monitor to ensure the corrective action plan is followed or the offending activity is suspended. If the Tribal Member or Tribal Member business fails to follow through on the corrective action plan or cease the activity or refuses to agree to a corrective action plan then the matter shall be referred for further enforcement measures as outlined in Section 6.3.3 and 6.4.

If the corrective action plan is followed or the activity is suspended then the Compliance Department shall conduct a follow-up investigation with a report submitted to the Environment Division, Tribal Council and General Counsel. If the environmental concern is resolved to the Compliance Department and Environment Division's satisfaction then the matter shall be closed.

6.3.3 Cease and Desist Order: If efforts under Section 6.3.2 fail then the Tribe's Compliance Department shall serve a Cease and Desist Order on the alleged violator. The failure to comply with a Cease and Desist Order shall constitute a violation of this Code

6.4 TRIBAL COURT AND HEARINGS ON VIOLATIONS

Wherever rules are not outlined herein the Saint Regis Mohawk Tribe's Rules of Civil Procedure along with the Rules of Evidence shall govern.

6.4.1 Complaint. If an alleged violator fails to comply with a Cease and Desist Order from Section 6.3.3, then the Compliance Department shall request General Counsel to file a complaint in Tribal Court. The complaint shall provide notice to the alleged violator of the violation(s) and any other environmental concerns. The Compliance Department shall provide a Summons and arrange for service upon the alleged violator to appear before the Tribal Court.

6.4.2 Hearings. On the return date, the Environment Division shall present its documentary proof to the Court and/or present witnesses regarding the alleged violation(s). After closing its proof, the alleged violator shall then be given the opportunity to rebut the proof present or the conduct alleged to have happened.

6.4.3 Burden of Proof. After the Environment Division has made its presentation and met its burden of proof based upon the preponderance of the evidence, the burden shall shift to the alleged violator to rebut the evidence and testimony.

6.4.4. Evidentiary Issues. The Tribal Court is free to accept or reject any documentary evidence

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or testimony.

6.4.5 Judgment.

After hearing all of the testimony, the Court shall issue a written decision to the parties within thirty (30) days of the hearing. If the Court finds in favor of the Environment Division it may issue a civil fine of up to **ten thousand (\$10,000.00) dollars, except for an Open Dump violation which shall be assessed a fine of five hundred (\$500.00) dollars for zero (0) to one (1) ton of Solid Waste and five hundred (\$500.00) dollars per ton for any Solid Waste above one (1) ton.** In addition to the civil fine the Court can include any cost for the remediation needed to remedy the violation and any other relief provided by law, including the assessment and recovery of civil penalties and clean up and administrative costs associated with the enforcement of this code. If the Court determines that the Environment Division failed to meet its burden it shall dismiss the complaint. Any fines collected shall be remitted to the Tribal General Fund and divided between the Compliance Department and Environment Division.

6.4.6 Failure to satisfy Judgment. After issuing a judgment, if it is not satisfied within thirty (30) days then the respondent's name may be transferred to Tribal Council or its designee who may issue a reminder notice to the judgment debtor. Failure to remit payment after receiving such a notice may prompt the Compliance Department to issue a "Delinquency Letter" to the Court with a copy provided to the judgment debtor notifying the Tribal Court the judgment debtor has not yet complied. Once received, the Court Clerk shall issue a "letter of warning" to the judgment debtor. The letter of warning must state that further non-compliance may result in a judgment for contempt of Court and that the enforcement of the judgment may result in measurements such as garnishment of wages and the revocation of tribal licenses. If the judgment is not satisfied within ten (10) days from the date the letter is sent by the Court Clerk, the Compliance Department shall notify the Court. The Court shall set a hearing that must take place no later than ten (10) days from the date of notification by the Compliance Department. At the hearing, the Compliance Department may enter evidence demonstrating that the judgment debtor has not satisfied his/her judgment. The judgment debtor/respondent may appear and offer evidence. After review of the evidence, the Court may enter an enforcement order revoking any Tribal licenses or garnish the judgment debtor's wages. The Tribal licenses and/or Tribal services shall remain suspended until the judgment has been paid and proof of payment has been made to the Court.

6.5 APPEALS

6.5.1 Within thirty (30) days of the judgment, a respondent may file an appeal with the Saint Regis Mohawk Tribe Court of Appeals. The appeal shall be limited to the fine and penalty imposed.