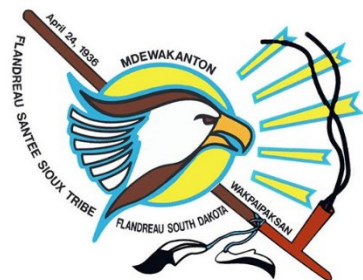




# Integrated Solid Waste Management Plan 2025

**Flandreau Santee Sioux Tribe**

<https://fsst-nsn.gov/>



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# CHAPTER 1 - INTRODUCTION

## Section 1-1 Approach

The Flandreau Santee Sioux Tribe (FSST or Tribe) Brownfields Tribal Response Program (TRP), General Assistance Program (GAP), and Water Quality (WQ) Program under the FSST Department of Natural Resources (DNR) has developed this Integrated Solid Waste Management Plan (ISWMP) utilizing the guidelines in the U.S. Environmental Protection Agency (EPA) Five Elements for a Tribal Integrated Waste Management Plan (EPA 2020a), which includes a:

- Description of the Community Service Area
- Description of the Tribe's Waste Management Program Structure and Administration
- Description of the Tribe's current and proposed waste management practices
- Description of the funding, sustainability, and the long-term goals of the Tribe's waste management program
- Documentation of approval of the (ISWMP) by the appropriate governing body

The purpose of the ISWMP is to review the Tribe's current solid waste practices, evaluate future demand and resources needed, and present a process that will improve the Tribe's ability to reduce, manage, and dispose of solid waste. This ISWMP is intended to be a living document, updated on a periodic basis to adapt to any changes in circumstances that are relevant.

## Section 1-2 Participants

The ISWMP was prepared in cooperation with the FSST DNR Brownfields, TRP, GAP and WQ Programs; the EPA Region 8 Solid and Hazardous Waste Program and Brownfields Program; the Indian Health Service (IHS), and IHS Circuit Riders assisting Tribes in the Solid Waste and Brownfields Programs. A final ISWMP was presented to the FSST Executive Committee for review and adoption after the DNR solicited comments and recommendations from other Tribal programs, and the community. Section 1-3 provides additional details on the public involvement methodologies.

## Section 1-3 Public Involvement

The completion of the ISWMP included a *Public Survey on Solid Waste Management* conducted in July 2009, which surveyed between 50 and 60 people. There have been no follow-up surveys completed to date on the reservation regarding solid waste generation and management.

FSST Law and Order Title, Volume V, Title 16 Solid Waste and Hazardous Waste Management Ordinance (Title 16), was approved by the FSST Executive Committee through Tribal Resolution 19-47 on July 23, 2019.

## Section 1-4 Public Record

A brownfield is defined by the EPA as property that may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant for expansion, redevelopment, or

reuse. The FSST Brownfields Program mission is to empower the Tribal Community and other stakeholders in environmental protection, working together in a timely manner to educate, prevent, assess, safely clean-up, and sustainably reuse brownfields. The Brownfields Program will work to provide technical assistance by assessing a reported or potential site and will collaborate and communicate essential cleanup and reuse information with other community entities, including Tribal leaders, creating a cooperative. This will enhance Tribal community longevity and quality of life. Please refer to **Table 1** for the inventory of brownfield sites known to the Brownfield Program.

*Table 1 – Brownfields Inventory*

FSST BROWNFIELDS SITES				
Longitude	Latitude	Label	Description	Status
-96.552	44.057	Brownfields Site #1	Miasado Land-Homestead	Complete
-96.613	44.017	Brownfields Site #2	South Buffalo Pasture	Complete
-96.549	44.061	Brownfields Site #3	Thuman Wakeman Homestead	Complete
-96.529	44.068	Brownfields Site #4	Gravel Pit	Complete
-96.582	44.084	Brownfields Site #5	Helen Hart Residence	Cleaned-up debris (Not a brownfield site)
-96.586	44.090	Brownfields Site #6	William Schumacher/Kitto Residence	Tribe wants a THPO
-96.594	44.058	Brownfields Site #7	St. Mary's Episcopal Church/ Flandreau Indian School	SHPO
-96.586	44.078	Brownfields Site #8	Red Earth Residence	Complete
-96.593	44.075	Brownfields Site #9	Snow Residence/ FSST #9	Complete
-96.587	44.008	Brownfields Site #10	Three Mile Corner Gas Station	Complete
-96.559	44.060	Brownfields Site #11	Open Dump on #23 Trust Land, open dumping pit 1	Complete
-96.560	44.060	Brownfields Site #11	Open Dump on #23 Trust Land, open dumping pit 2	Complete
-96.560	44.060	Brownfields Site #11	Open Dump on #23 Trust Land, open dumping pit 3	Complete
-96.560	44.06	Brownfields Site #11	Open Dump on #23 Trust Land, open dumping pit 4	Complete
-96.600	44.043	Brownfields Site #12	Natural Resources Building and Tanks Under Parking Lot	REM
-96.576	44.083	Brownfields Site #13	Lovejoy	No Hazards Found
-96.595	44.059	Brownfields Site #14	Abandoned Bureau of Indian Affairs Clinic	Tribe did not want brownfields program to do TBA. Other plans for the building.
-96.586	44.096	Brownfields Site #15	Roy House	Complete
-96.578	44.096	Brownfields Site #16	Lovejoy House	In Progress



# CHAPTER 2 - COMMUNITY SERVICE AREA

## Section 2-1 Population and Demographics

The FSST Indian Reservation (the Reservation) is 5,500 acres of combined trust (approximately 2,200 acres) and fee Tribal land located along and near the Big Sioux River in Moody County, South Dakota (SD), in a region known as the Prairie Coteau, with topography consisting primarily of undulating or gently rolling land (FSST, 2025). The Reservation is located approximately 45 miles northeast of Sioux Falls, SD and approximately 30 miles southeast of Brookings, SD. Most of the Reservation is in the vicinity of the City of Flandreau (the City), which is also home to much of the Tribe's population and the seat of the FSST Government. Please refer to **Figure 1** for an overview of Tribal Lands near the City.

The City was incorporated in 1902 and covers approximately 1.93 square miles. The population of the City was approximately 2,291 in 2023 (U.S. Census, 2024).

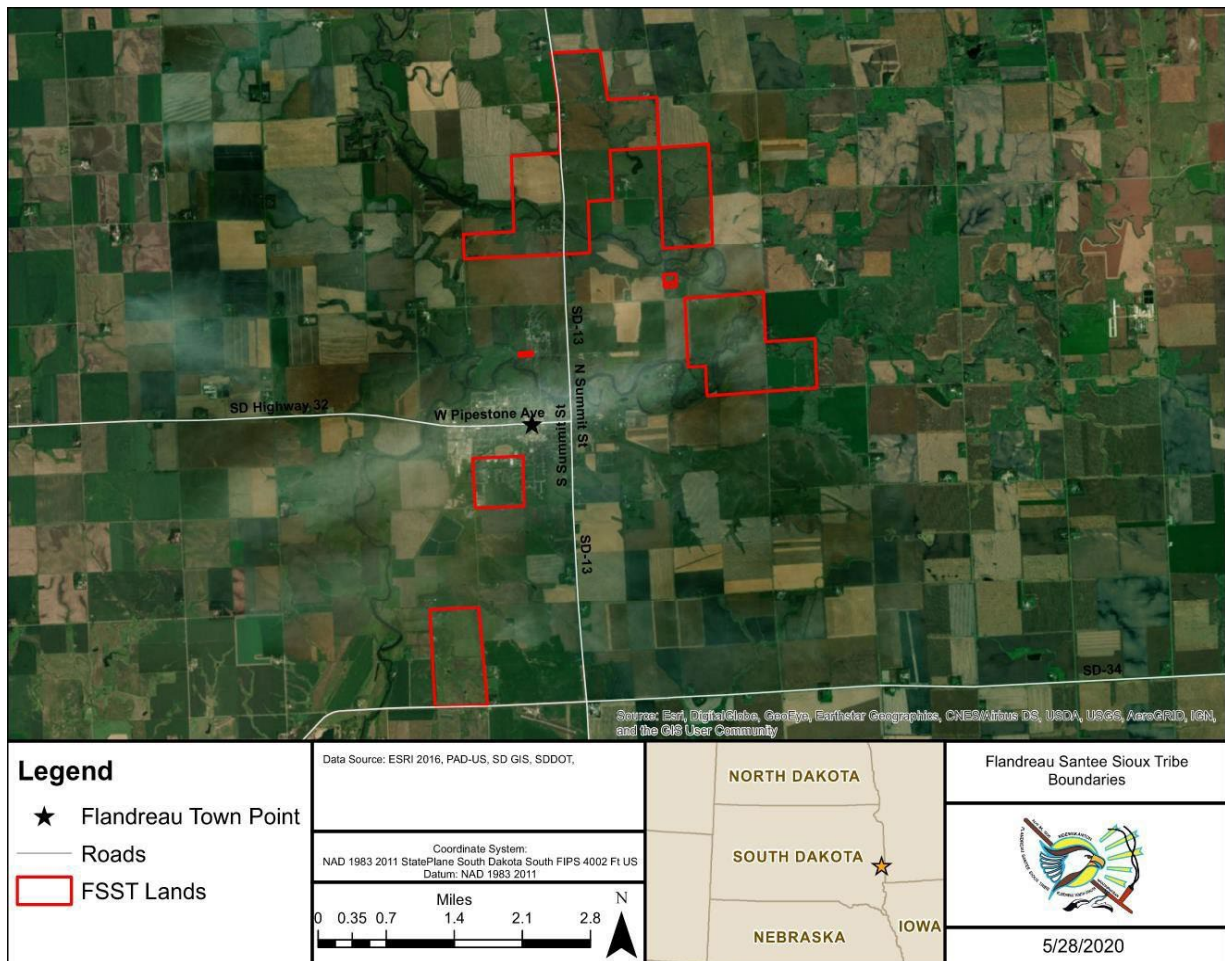


Figure 1. Location of Flandreau Santee Sioux Indian Reservation

According to Bureau of Indian Affairs data, the Tribe had an estimated 736 enrolled members, as of March 2025. According to the 20 U.S. Census, 549 of those Tribal members live on the Reservation. **Table 2** below lists the 2000, 2010 and 2023 populations for the Flandreau Santee Sioux Tribe and total population of American Indians and Alaskan Natives living in the City of Flandreau. It also lists the total population for the City of Flandreau. (2000, 2010 and 2023 U.S. Census Websites, 2025).

*Table 2. 2000, 2010, and 2023 U.S. Census Population Statistics for the Reservation*

Year	Population within the City of Flandreau		
	Flandreau Santee Sioux Tribe (Reservation)	Total American Indian and Alaskan Native	City of Flandreau
2000	326	564 (24% of total City population)	2387
2010	418	649 (28% of total City population)	2341
2023	549	494 (22% of total City population)	2291

Source: U.S. Census Bureau (2000, 2010, 2023)

Section 2-2      Population Projections

For purposes of this document, Tribal and U.S. Census data was used to determine population estimates. Overall population for the City of Flandreau decreased during the period between the years 2010 to 2023 by 50 residents from 2341 to 2291. The American Indian and Alaskan Native population in the City of Flandreau had a decrease of 152 people. Current Census projections anticipate Native American populations to reach 9 million people by 2060, which is a 22% increase from the 7.4 million people in 2023 (U.S. Census, 2024). The Flandreau Santee Sioux Tribal population in the year 2000 was 435, increased to 595 in 2010 (37% increase), and current enrollment estimates the Tribe to have 736 members (24% increase). This is an estimated 69% increase in enrolled Flandreau Santee Sioux Tribal members since 2000.

Section 2-3      Community Assets, Resources, and Economy

There are a number of assets and resources that play a role in the implementation of the ISWMP. The Tribal Council, Tribal Department of Housing, Department of Facilities Management, Maintenance Department, Roads and Transportation Department, Road Maintenance Program, Law Enforcement, Judicial Services, knowledge from Tribal Elders, the Bureau of Indian Affairs (BIA), and IHS are some of the organizations that provide expertise in the ongoing revision of the ISWMP. Many of these organizations make decisions related to solid waste management processes.

The Tribe maintains Mutual Aid Agreements with the City of Flandreau for utilities such as water, wastewater, sewer and electrical services. Emergency response services are provided by a combination of Tribal law enforcement, Flandreau City Police, Moody County Sherriif, and Flandreau

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Volunteer Fire Department. The Tribe coordinates with the City of Flandreau for waste disposal services, which is provided by Eng Services (Sanitation collection) in Flandreau and Millenium Recycling located in Sioux Falls, SD. Eng Sanitation transports solid waste from Flandreau to the Brookings Regional Landfill 20 miles north near Brookings, SD

### *Economy*

The Tribe's major employers are the Flandreau Santee Sioux Tribe, the Flandreau Indian School, the Royal River Casino and Entertainment Complex, and Native Nations Cannabis. The casino complex offers gambling, an entertainment and conference center, hotel, recreational vehicle park, and full-service restaurant with lounge and bar.

The success of the casino has allowed the Tribe to buy back acres of the lands they were forced to leave. This includes an approximately 100-acre property in the sacred Black Hills which is used for ceremonies. The increase in land available to the Tribe for economic development allowed the Tribe to maintain a buffalo herd and lease some acres of their land to farmers for agriculture production. Agriculture (crop production and livestock operations) is now a primary industry on and off the Reservation, employing both Tribal and non-Tribal operators.



\*Tribal Buffalo Pasture

Image courtesy of: FSST Brownfields Department

In 2021 the state of South Dakota changed its Cannabis legislation to allow the use of medical cannabis for patients suffering from a variety of ailments. Upon this change the Flandreau Santee Sioux Tribe expanded operations of their medical dispensary, Native Nations LLC to accommodate the increase in demand for medical cannabis.

The Flandreau Santee Sioux people had everything taken from them and were forced into concentration camps. Over the last 150 years the Flandreau Santee Sioux people have rebuilt a community balancing its traditional cultural values and faith with the realities of the 21st Century.

As illustrated in the Population and Demographics section, the Tribal population on the Reservation has increased by 69% since 2000. It is anticipated the Tribal population will continue to rise, and the increased population will result in an increase in the demand for sanitation services.

Temporary additional sanitation services are also needed during the Wacipi or Powwow events, a major tourist attraction in the area which is held each summer. The Wacipi is a cultural and spiritual gathering during which the Flandreau Santee Sioux people connect with their community and celebrate their cultural traditions.

### *Housing*

The Flandreau Santee Sioux Housing Authority manages and provides maintenance to several housing units on the Reservation in the community of Flandreau as well as some rural scattered sites. These homes are HUD Low Rent and Mutual Self-Help homes.



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## *Transportation*

The Tribe maintains 5.4 miles of roadways on the Reservation through the FSST Tribal Roads Department which provides access to homes throughout the Reservation. The majority of travel through the Reservation is on State highways and County roads. The highway system serving the Reservation consists of County and State highways and a major interstate, I-29 to the west. Major highways that serve as major collectors of traffic in and around the Reservation include highway 13 and highway 32. I-29 provides the Reservation and surrounding communities excellent north and south access to larger cities near the Reservation which include Sioux Falls, SD, which is less than 50 miles to the south and Brookings, SD, which is less than 30 miles to the north. Sioux Falls is the city with the greatest population in South Dakota and has resources of a wide variety. Brookings is the state's fifth largest city and has more resources than Flandreau but fewer than Sioux Falls.

The Flandreau Municipal Airport is approximately three miles south of the Tribal Headquarters in Flandreau, SD, at the intersection of SD Highways 13 and 34, however it provides minimal air travel service. The nearest major airport is the Sioux Falls Regional Airport located south of the Reservation in Sioux Falls. No major passenger service or public transportation is available on the Reservation other than shuttle service from the casino to the airport. The nearest bus station is also to the south in Sioux Falls.

## **Section 2-4      Natural Setting**

Flandreau is located in the Great Plains of southeastern South Dakota. Local elevation is approximately 1,565 feet above sea level (USGS 1967). The majority of the Great Plains have been converted from prairies to cropland with some grazing land, which is illustrated by the majority of undeveloped land on and around the Reservation being used for agricultural production. There is still a significant amount of solid waste produced by agriculture, which in conjunction with urban solid waste adds to the complexity of solid waste issues addressed in the ISWMP.

### *Geology and Natural Resources*

The City lies in the Prairie Coteau subregion of the Northern Glaciated Plains Ecoregion. The Northern Glaciated Plains region is primarily characterized by a flat to gently rolling glacial drift upland landscape composed of transitional tall and shortgrass prairie with no evident drainage patterns. The landscape is dotted with small lakes, semi-permanent to seasonal wetland habitats, and marshes that formed when melting glacial ice beneath the sediment layer blocked the former drainage valleys with glacial drift. Land elevation ranges from nearly 1,265 feet to 2,000 feet above mean sea level (USGS 1998).

The surficial geology lies within the Cretaceous period shale bedrock and is characterized by undifferentiated outwash, including sand and gravel plains, kames, terraces, and other glacial features dating to the Upper Wisconsin glaciation. Cretaceous period formations overlies the quartzite include Dakota Sandstone, Graneros Shale, Greenhorn Limestone, Carlisle Shale, Niobrara Chalk and Pierre Shale (SDDENR 2015).

The Big Sioux Aquifer is unconfined water-table, hydraulically connected to the Big Sioux River and has a maximum aquifer thickness of about 50 feet in the Flandreau area (Hansen 1986). Locally, water

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movement is from the aquifer towards the Big Sioux River and generally parallel to the downstream movement of water in the Big Sioux River (Hansen 1988). Changes of the flow direction from the aquifer to the river can occur when the Big Sioux River's stage rises above the water table.

Neither Tribe nor the City maintains landfills. Trash is transported and disposed of in the Brookings Sanitary Landfill, twenty miles to the north. Therefore, there are not geological concerns related to landfill migration issues. However, contamination from illegal dumps, especially those located in ravines, has the potential to find its way into streams, rivers, and aquifers. Historically, most of the illegal dumps are small and, since the area is not heavily industrialized, the risk has been low. Even so, there is concern and anecdotal accounts of non-Tribal and "Midnight Dumpers" (both individual and commercial) taking advantage of the isolation of the rural community areas and illegally dumping waste rather than paying for disposal services.

### *Climate*

According to the National Oceanic and Atmospheric Administration's National Centers for Environmental Information (NOAA 2020), the climate of the Reservation is typical of the upper Midwest, with warm summers and cold winters.

Atypical climate years have been noted on the Reservation. During 2024, the National Ocean and Atmospheric Administration (NOAA) shows the average annual temperature to be 43.4°F with an average maximum of 54.4°F and minimum of 32.3°F. Average precipitation is 26.02" and average snow fall is 36.8". In 2024 the total precipitation was 26.87" and total snowfall was 22.1". The SDSU Mesonet for the year 2024 saw the average temperature being 47°F, showing 2024 average temperature to be approximately 4°F higher than normal. Additionally, Flandreau saw significantly less snowfall than average and has been threatened by various degrees of drought conditions since 2000.

A storm in 2022 resulted in a Major Disaster declaration from President Joe Biden. On May 12, 2022 a severe storm with straight-line winds, tornadoes, and flooding caused property damage to the southeast South Dakota area, including the Reservation. Unlocking federal funding assistance through the Federal Emergency Management Agency (FEMA) for the Tribe to repair damage caused by the storm. A series of storms caused historic flooding on the Reservation between June 16 and July 8, 2024. This resulted in President Joe Biden making another Major Disaster Declaration for South Dakota and again allowed the Tribe to access to federal funding assistance for damages from these storms.

According to FEMA – Disaster Declarations for States and Counties webpage, Moody County has received 19 Disaster Declarations for several types of events including floods, winter storms, tornadoes, blizzards and droughts. The COVID-19 Pandemic accounts for an additional 2 Disaster Declarations which were both issued in 2020.

Extreme weather conditions can impact solid waste collection by delaying pickup and causing trash to be blown out of trash bins and causing litter to be scattered on the Reservation. In addition, Severe weather can also cause roads to be impassible due to snow cover, ice cover, flooding, and in some cases damage road surfaces. This can make it difficult for sanitation services to reach residences, especially those residences outside of town. When roads have been impacted, the Tribe works with the SDDOT, local, and Tribal Road Maintenance departments to clear roads and repair damaged road surfaces as quickly

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as possible to restore access for vehicles, including sanitation services.

## CHAPTER 3 - SOLID WASTE MANAGEMENT PROGRAM STRUCTURE AND ADMINISTRATION

### Section 3-1 Administration and Management

The Tribe operates under a Constitution and By-laws consistent with the Indian Reorganization Act of June 18, 1934, which was ratified by the Tribe on April 4, 1936, and approved by the Secretary of the Interior on April 24, 1936, pursuant to section 16 of the act June 18, 1934 (48 Stat. 984), as amended by the act of June 15, 1935; (49 Stat. 378). The Corporate Charter of the Tribe was issued on October 24, 1936, by acting Secretary of the Interior of the Reservation, was duly submitted for ratification to the adult Indians living on the reservation and was, on October 31, 1936, duly ratified by a vote. The most recent amendment to the Constitution and By-Laws for the Flandreau Santee Sioux Tribe of South Dakota was approved by the Secretary of the Interior on July 8, 2022.

The FSST is governed by an eight-member Executive Committee or Tribal Council. Elected terms are staggered, and candidates must live within the defined Reservation. The Reservation is the only electoral district. The Executive Committee is responsible for oversight of the Brownfields Program and the GAP program to ensure enforcement of Title 16, including funding and the approval of the ISWMP.

The Tribal Solid Waste Program, managed by the Brownfields Program, plays a key role in protecting and improving the health of Tribal members and the Reservation's neighbors by protecting the health and quality of the Reservation's environment. The GAP program is responsible for recycling, e-waste, and identification of potential problems with solid waste management. The Brownfields Program is responsible for the assessment and cleanup of sites that are or are suspected of being or are known to be contaminated, and the GAP program assists with these efforts. Brownfields will assist the GAP program with activities such as recycling solid and special wastes such as used motor oil and electronics.

### Section 3-2 Solid Waste Laws and Regulations

Federal laws govern the management of solid and hazardous waste. The 1976 Resource Conservation and Recovery Act (RCRA) provides the framework for the proper management of the wastes. Subtitle D of the RCRA addresses non-hazardous solid waste and Subtitle C addresses hazardous solid waste. The Code of Federal Regulation provides regulatory requirements to implement the law. The RCRA regulations are contained in Title 40, parts 239 through 282.

#### *FSST Law and Order Title, Volume V, Title 16 Solid Waste and Hazardous Waste Management Ordinance*

The Tribe has concurrently adopted Title 16. Title 16 was approved by the Tribal Executive Committee through Tribal Resolution 19- 47 on July 23, 2019. The ISWMP outlines the legal framework for the Tribe to manage solid and hazardous waste on the Reservation.

Title 16 addresses the following aspects of storing, collecting, and disposing of solid and hazardous waste:

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Chapter 1: Preliminary Provisions

Chapter 2: Solid Waste Management and Prohibitions

Chapter 3: Special and Industrial Wastes Management

Chapter 4: Hazardous Waste and Brownfields Management

Chapter 5: Waste Storage, Collection, Transfer and Transportation

Chapter 6: General Solid Waste Management Requirements, Permits, Fees

Chapter 7: Compliance and Enforcement

Law Enforcement on the Reservation is the primary responsibility of the FSST Police Department. Additionally, the Tribe maintains mutual aid agreements with the City of Flandreau for law enforcement and the Volunteer Fire Department for fire protection services.

*FSST Integrated Solid Waste Management Plan*

As identified in **Title 16 Section 1-3 (a)(2) and (b)(4). Organization and Duties.**

The DNR will be responsible for drafting, implementing, and updating the ISWMP. The DNR will submit the updated ISWMP to the Land Committee and Executive Committee for approval. Once approved, the DNR will provide the Land Committee and Executive Committee an annual report on the Program and recommend amendments, as needed, to the ISWMP. The DNR may engage other agencies or consultancies to assist in the preparation and updates of the ISWMP. The Executive Committee will review the Solid Waste Management Program and the ISWMP on an annual basis and make amendments to the ISWMP, as needed.

The ISWMP seeks to provide management direction in accordance with federal and Tribal laws and regulations. The ISWMP does not address abandoned hazardous waste sites, substandard landfills, or leaking underground storage tanks. However, understanding the types of substances that are regulated under Title 16 is essential in managing solid and hazardous wastes. For a complete list of wastes which are not solid wastes and for solid wastes which are not hazardous wastes, refer to 40 CFR 261.4 (Exclusions), which can be found in Chapter 7. The definitions are updated to reflect the definitions adopted by the EPA. In any case when a term is not defined in the ISWMP or is in question, the EPA definition will prevail.

There are no recognized solid waste dumps on the Reservation, therefore dumping on the Reservation is prohibited by the Tribal legal code. In no event are solid or hazardous wastes allowed to be disposed of on the Reservation by any businesses, programs and/or residences operating or living within the exterior boundaries of the Reservation. This is intended to:

- Promote the health, safety, and welfare of FSST members and all other persons living and working within the boundaries of the Reservation.
- Protect the historical and cultural values of the Tribe.
- Minimize the impacts of improper management and/or disposal of solid waste to the air, surface water, groundwater, wildlife and other land and natural resources.

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- Enforce rules and regulations under Title 16 for the storage, collection, transfer, and disposal of all waste within the boundaries of the Reservation.
  - Implement strict requirements for storing wastes, including abandoned cars, tires, and other solid wastes.

The Executive Committee sets fees and operating requirements for those individuals, and commercial entities that collect and dispose of waste for Tribal members, and residents of the Reservation.. The Tribe coordinates with the City for waste disposal services.

### Section 3-3      Solid Waste Permits

This section discusses the solid waste permits, including emergency permits. Permit Application for individuals and businesses may be obtained at the FSST Brownfields Program Office located at 603 W. Broad Avenue Flandreau, South Dakota 57028. Advance requests may be obtained by telephone at (605) 997-3891.

Please plan accordingly when submitting application prior to event/activity requested in application, DNR will need adequate time (*up to 30 days*) to review applications.

#### *Solid Waste Permit*

A permit (Permit) from FSST Department of Natural Resources (DNR) is required for the following activities or facilities pursuant to Title 16.

- 1) Commercial Motor Vehicle Salvage Yard
- 2) Commercial Waste Collection and Transportation
- 3) Construction Waste Management
- 4) Demolition Waste Management (structures greater than 100 sq.ft)
- 5) Waste/Used Oil Collection and Storage
- 6) Open Burning
- 7) Septic Waste Pumping and Hauling
- 8) Used or Scrap Tire Storage
- 9) Prime Contractor Waste Management Permit Fee

If a Permit is denied by DNR, it will be referred to the Executive Committee for final action.

#### *Emergency Permits*

As identified in Title 16, The Executive Committee may issue an emergency permit, upon recommendation by the DNR, for one-time waste management or disposal events based on various practical factors during emergency conditions. Application for such permits will be made pursuant to this Title. The Executive Committee, DNR, and other Tribal, Local, State and Federal Agencies will work together to accomplish the efficient, environmentally sound disposal of solid waste, hazardous waste and/or regulated materials to minimize impacts on human health, the environment and water resources.



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Disposal under emergency permits must be restricted to nonhazardous solid wastes from a specific site/area for a specific period.

### *Application Contents*

Please refer to **Appendix A** for the permit application. Applications shall include at a minimum:

- 1) The applicant's full name, residential address, telephone number, and email address (if available).
- 2) If the applicant represents a business entity, the full name of the business, the principal business location address, Employer Identification Number (EIN) number, the full name, title, and email address (if available) of everyone who will be a key participant on application.
- 3) Written Description and/or location of area where permitted activity will occur.
- 4) Projected time frame of permitted activity.
- 5) Name, description, and quantity of material and/or waste being stored (if applicable).
- 6) Location of "stored" material and/or waste.
- 7) List all possible hazard(s) to human health or the environment outside the permitted location (listed) or to the nearby surrounding area.

### *Revocation*

The Executive Committee reserves the right to revoke a permit, on the recommendation of DNR, at any time based upon any of the following:

- 1) Failure to follow the stipulated conditions of the permit.
- 2) Excessive wildfire occurrence in the vicinity of an open burn.
- 3) Complaints of dumping hazardous waste.
- 4) Complaints of hazardous smoke and/or nuisance smoke created by an open burn.

### *Fees*

In accordance with Title 16, the Executive Committee sets all fees by resolution. The following sections in Title 16 refer to fees:

#### **Section 16-6-3. Waste Management Permit Fees:**

- (a) The Executive Committee, upon recommendation of the DNR, will set fees by resolution. The fees will be commensurate with costs to issue and monitor activities undertaken by the Permit.
- (b) The Executive Committee may exempt fixed income, disabled or other persons from such fees for solid waste management and/or determine alternative ways for such persons to pay for the Permit.
- (c) The DNR may declare free days for the collection and disposal of waste, debris and refuse in furtherance of clean-up days and other civic purposes.
- (d) Each Permittee will keep complete and accurate records in such form as the Executive Committee may require.

#### **Section 16-6-4. Prime Contractor Waste Management Permit Fee:**

The FSST will charge a Permit Fee for "Prime Contractors" for demolition or construction

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projects. The permit fee will be payable to the FSST and will be for the sum of 2% of the total gross amount of the contract. The permit fee will be noticed as part of the request for bids process. For the purposes of this requirement a “Prime Contractor” is the prime contractor for construction or demolition projects funded by a Federal Agency, Tribal Government, or other commercial construction, this does not apply to private residential or agricultural property construction or demolition.

**Section 16-6-5. Non-payment of Permit Fees:**

Non-payment of any required permit fee may be grounds for denial or revocation of a permit and/or a contract. Non-payment of required fees will be a violation of Title 16 and permittee may be subject to civil penalties. The Executive Committee will have the primary jurisdiction to hear matters regarding the non-payment of fees established pursuant to the Title.

**Section 16-6-6. Revenues from Permit Fees:**

- (a) Fees collected under this Chapter will be deposited in a special account established for the Program for the permitting, inspection, Title 16 enforcement and oversight of solid waste management and facilities as well as response to environmental hazards and emergencies.
- (b) The expenditure of all above revenues from fees will be subject to the review and oversight of the Executive Committee.

The Executive Committee approved the following permit fees and fines for violations of Title 16:

*Table 3. FSST Permit and Citation Rate Sheet*

<b>Permit and Citation Rate Sheet</b> <b>Flandreau Santee Sioux Tribe</b> <b>Department of Natural Resources</b>			
<b>Type</b>	<b>Action</b>	<b>Fee</b>	<b>Unit</b>
Citation	Large Illegal/Open Waste Dumps (>0.5 ac)	\$ 100.00	Month
	Small Illegal/Open Waste Dump (<0.5 ac)	\$ 50.00	Month
	Littering	\$ 50.00	Event
	Solid Waste Burning	\$ 100.00	Pile
	Solid Waste Accumulation	\$ 50.00	Month
	Unserviceable Vehicle Accumulation	\$ 500.00	Vehicle
	Unauthorized Waste Management Facility	\$ 200.00	Month
Permit	Septic Tank Pumping's and Sewage Sludge	\$ 50.00	each
	Used or Waste Oil	\$ 50.00	each
	Major Appliances	\$ 50.00	each
	Lead-acid batteries	\$ 50.00	each
	Infectious, medical, laboratory wastes disposal	\$ 50.00	each
	Farm and Ranch Wastes	\$ 50.00	each
	Dead Animals	\$ 50.00	each
	Used and Scrap Tires	\$ 50.00	each
	Abandoned Mobile Home or Trailer	\$ 50.00	each
	Construction and Demolition Wastes	\$ 50.00	each
	Petroleum Contaminated Soils	\$ 50.00	each
	Motor Vehicle/Tire Salvage Yard	\$ 50.00	each
	Commercial Waste Collection	\$ 50.00	each
	Open burning	\$ 50.00	each
	Hazardous Waste Management	\$ 50.00	each

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## CHAPTER 4 - CURRENT AND PROPOSED WASTE MANAGEMENT PRACTICES

### Section 4-1 Current Solid Waste Program

The current solid waste program includes collection, disposal, and recycling. The program also includes an understanding of the waste generators, including amount and types of waste. As part of the current solid waste program on the Reservation, the ISWMP was created in order to provide reliable solid waste guidance for Tribal members, residents and businesses on the Reservation; to ensure the health and safety of all citizens within the boundaries of the Reservation; to inform and educate persons of the need to properly dispose of solid wastes; and to comply with all applicable Tribal and federal laws and regulations in waste management operations on the Reservation.

#### *Collection*

The FSST DNR currently works with Eng Services for waste collection, which is in the City. The municipal solid waste (MSW), more commonly known as trash or garbage, consists of everyday items such as product packaging, grass clippings, furniture, clothing, bottles, food scraps, newspapers, and appliances. MSW is collected from 65-gallon containers and rear load straight RL- 200 dumpsters. Eng Services utilizes rear loading garbage hauler trucks to provide service to 36 rental units and 17 homeownerships at the Tribal Housing in the City.

Tribal residents living in homeownerships or rented homes are responsible for trash removal and are billed directly by Eng Services for collection services at \$30.00 per month. Eng Services transports waste to Brookings Sanitary Landfill. Under contract, Eng Services pays the Brookings Sanitary Landfill \$10.90 per month for each household unit disposed of at the landfill. Additionally, the Tribe contracts with Eng Services for collections at Tribal Housing Authority units at \$30.00 per month for each unit. It currently leases dumpsters from Eng Services at \$100.00 per dumpster per year, which are then positioned at the Tribal Housing units. The dumpsters are picked up on a weekly schedule. The Tribe operates under a 2010 Solid Waste Hauling Agreement with Eng Services (See **Appendix B** for Waste Hauling Agreement with Eng Services).

Tribal members that live outside the City limits have optional management of their solid waste. Many residents choose to contract for services with Eng Services at a monthly rate. Eng Services has a variable rate structure depending on services and location. Typically, a resident pays \$15.00 for dumpster equipment rental and \$15.00 per month for dumpster service. If a resident chooses to purchase his or her own dumpster, the rate is reduced by the rental fee.

Eng Services also provides services to the rural areas outside the City in Moody County. Collection stops include:

- South-side (3 homes)
- Eastside (8 homes)
- North side of highway (13 homes)
- BIA roads 227 and 228<sup>th</sup> street (16 homes)

- Pow-wow grounds (8 homes)
- 480<sup>th</sup> Avenue (2 homes)
- 229<sup>th</sup> Street (4 homes)

A total of 54 rural homes have their garbage picked up on a weekly basis by Eng Services.

### *Disposal*

Eng Services collects waste and disposes of it at the Brookings Landfill near Brookings, SD which is 28 miles north of the City. The City of Brookings has an established rate structure for domestic, government, and commercial units within the city limits. Commercial haulers servicing the Tribe and their members are charged a usage fee for the facility. The following fees were current as of April 2025:

- Appliances (stoves, washers, dryers) - \$48.75 per ton
- Asbestos - \$56.65 per ton
- Asbestos (bag) - \$8.00 per bag
- Compost / yard waste (grass clippings) - \$48.75 per ton
- Concrete - \$48.75 per ton
- Contaminated soil - \$48.75 per ton
- Demolition / construction - \$48.75 per ton
- Electronic waste - \$48.75 per ton
- Fill / dirt - \$48.75 per ton
- Freon-containing Items
  - Refrigerator or Freezer - \$15.90 each
  - Air Conditioner or Dehumidifier - \$22.75 each
- Garbage / refuse - \$48.75 per ton
- Lumber - \$23.40 per ton
- Metal / scrap iron - \$48.75 per ton
- Mobile Home - \$265.25 each
- Roofing / Siding - \$48.75 per ton
- Tires
  - Car tires - \$4.55 per tire
  - Pickup tires - \$6.80 per tire
  - Tractor tires - \$38.60 per tire
  - Truck tires - \$14.35 per tire
  - Tire rim - \$8.85
- Trees - \$23.40 per ton



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## *Recycling*

According to Section 16-5-1. (b) of Title 16-: “All solid wastes (or materials which have been separated for the purpose of recycling) will be stored in such a manner that the waste does not constitute a fire, health, or safety hazard, does not provide food or harborage for vectors, and contained or bundled so as not to result in spillage.”

Eng Services provides curbside recycling service to the Tribal Housing residents on the Reservation. Scheduled pick-up times are every other Tuesday of the month. Eng Services accepts single source recycling; all items must be empty of liquids and food waste.

The City also has an 8-yard dumpster available at the City Office in the east parking area for residents to use for recycled material should they wish to participate in the program but not in curbside recycling.

Recyclable Items will be accepted curbside and, in the dumpster, located at the City Office. Recyclable items include:

- tin cans, aluminum cans and plastic containers marked 1 PETE or 2 HDPE only.
  - Tin cans, aluminum cans, and plastic containers must be rinsed out and clean. No plastic bags, glass, or pizza boxes are accepted.
- newspaper, magazines, cardboard, cereal box type cardboard and junk mail.
  - Newspaper, magazines, cardboard, and junk mail must be dry and can be placed inside brown paper grocery bags for recycling.

The Tribal DNR accepts recycling throughout the year from Tribal businesses and all members in the City and rural Moody County. The Tribal DNR works with students involved in the Future Farmers of America program within the Flandreau Public School. The students and their teachers will drop off paper, plastics, and aluminum cans during the school year at the Tribal DNR, which are transported in an enclosed trailer to Millennium Recycling in Sioux Falls, SD, which is 45 miles south of the Reservation.

Aluminum cans are collected by the Tribal DNR and the FSST Youth Program from the local Tribal Casino (Royal River Casino & Hotel) on a quarterly basis. R&T Unit Can Company travel to the City from Sioux Falls to pick-up the cans collected.

Electronic waste is collected by DNR year-round and transported to Secure Enterprise Asset Management (SEAM) in Sioux Falls, SD.

## *Amount and Composition of Waste Generated*

No studies have been completed on the Reservation for waste generated and there is no current accurate estimate of the quantities or characteristics of solid waste generated. In lieu of minimal waste collection data on the FSST Reservation, statistics may need to be noted from another Tribe in the region. National data may also assist with estimating waste generation data for the Reservation.

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## CHAPTER 5 FUNDING, SUSTAINABILITY, GOALS

### Section 5-1 Funding Sources

The current Tribal Solid Waste Management Program receives funding from various sources such as Tribal programs and local government offices that utilize the Solid Waste Program for disposal of solid waste.

The Brownfields Programs primary funding source is from the EPA under a Tribal Response Program (TRP) Grant.

- CERCLA §128(a) TRP Grant to survey and inventory potential Brownfield sites and provide oversight on assessments and cleanups.

### Section 5-2 Sustainability

Addressing solid waste issues is a priority for the Tribe. The Tribe has established Title 16 to give a legal framework for how Solid Waste needs to be handled on the Reservation. This process is reviewed and improved periodically with the following considerations:

- Grants will be continuously sought after in order to assist in funding projects and equipment.
- Recycling options are continuously improved upon.
- Educational outreach and enforcement activities intended to mitigate illegal dumping on the Reservation occur annually.
- Annual review of internal processes and procedures will be made to identify needs, reduce costs, and improve efficiency.
- Annual training will assist the staff in carrying out the duties of their jobs.
- Enlisting the support of partners that play roles in protecting the environment and public health.
- Continuing to gain support from the community.

The Solid Waste Program and Brownfields Program will continue to use the resources of the EPA Tribal Response Program to assist with the inventory updates of dump sites, clean-up plans, provide oversight of the cleanups, enforcement of Title 16, and conduct public outreach to help educate the community on the negative impacts of illegal dumping.

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## Section 5-3 Long Term Goals

The vision of the FSST is to establish long term goals to protect the health and welfare of all residents of the Reservation. The goal are to:

- 1) Improve and protect human health
- 2) Improve the quality of water, air, and land
- 3) Protect the Reservation's domestic animals and wildlife
- 4) Keep the Reservation a beautiful and healthy place to live for generations to come.

The ISWMP is updated periodically and provides guidance on methods of protecting the Tribes financial health by determining the best methods to enforce Title 16 in order to prevent the development of hazardous waste sites.

The goals of the ISWMP are to:

- Identify the services that collect, transfer, and dispose of waste in a responsible and efficient manner.
- Provide direction on the disposal of waste in a proper manner, eliminating littering, identify open dumps, and monitor burning.
- Continue to document and identify recycling markets (current need for recycling tires).
- Find innovative ways to divert waste from final disposal into constructive materials and end products.
- Provide guidance on how to reduce the amount of waste generated on the Reservation.
- Educate the Reservation's population on:
  - 1) everyone's contribution to improving solid waste practices and habits
  - 2) the negative impacts of improper or excessive disposal of solid waste.
- Provide the framework for the implementation of the FSST Integrated Solid Waste Management Plan to ensure the rules, regulations, procedures, and standards are detailed and related to solid waste management programs and practices.
- Outline the legal authority and enforcement of Title 16 provisions as well as establish appropriate penalties for violation of Title 16.
- Identify the operational funding sources for actions and activities documented in the ISWMP.
- Identify partners within neighboring jurisdictions (towns, counties, and volunteer organizations) to evaluate if more efficient operation may be gained by working together on Solid Waste related activities.
- Be a living guide for all Solid Waste related decisions on the Reservation and document grant funding from local, state, and federal agencies.

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## CHAPTER 6 - APPROVAL BY TRIBAL COUNCIL

(Placeholder)

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## CHAPTER 7 – DEFINITIONS

The following terms are defined and incorporated into the ISWMP and Title 16: Solid Waste and Hazardous Waste Management Ordinance:

**Agricultural waste-** Solid waste derived from the production and processing of crops and livestock such as manure, spoiled grain, grain screenings, undigested rumen material, livestock carcasses, fertilizer, and fertilizer containers. This does **NOT** include pesticide waste or pesticide containers.

**Approved container-** Any receptacle intended for the temporary storage of waste, that is durable, leak proof, nonabsorbent, watertight, corrosion resistant, rodent and insect resistant, easily cleanable, has close-fitting covers and adequate handles to facilitate handling, and is in good condition. Containers are further limited to the following:

- a) *Individual household containers* must be of the type and volume approved by the DNR.
- b) *Business and drop box containers* must be of the type and volume approved by the DNR and compatible with the collection vehicle used by the designated program, agents, or contractors.

**Aquifer-** A geological formation, group of formations, or portion of formation capable of yielding significant quantities of groundwater to wells or springs.

**Bulky wastes-** A large bulky items of refuse, such as car bodies, appliances, furniture, trees and stumps and other oversized wastes not suitable for disposal in waste collection containers.

**Carcass-** Any dead animal or portion of any dead animal.

**CERCLA-** Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9601 et seq.), as amended by the Superfund Amendments and Reauthorization Act of 1986 and the Small Business Liability Relief and Brownfields Revitalization Act of 2002 and any subsequent amendments.

**Certification-** an official document attesting to a status or level of achievement.

**Closure-** The termination of the receiving, handling, recycling, treatment, or disposal of solid waste at an approved site, and includes all operations necessary to close and reclaim a solid waste management unit or facility and prepare the facility for post-closure maintenance. Closure shall be conducted in compliance with applicable Tribal Laws and federal regulations within the Reservation boundary. Closure actions may include, but are not limited to, sloping filled areas to provide adequate drainage, applying final cover, providing erosion control measures, grading and seeding, installing monitoring devices, constructing surface water control structures, installing gas control systems, and measures necessary to secure the site. Any waste transported off the Reservation must also meet State disposal requirements.

**Collection-** The gathering of solid or hazardous waste at the place of generation by an approved collection agent, and transfer to a transfer station or the place of final utilization, reuse, or disposal.



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**Commercial waste-** All solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, no matter what the ownership structure, excluding residential waste, industrial waste, and special waste.

**Construction waste-** Inert refuse, materials and rubble associated with the construction, remodeling, and repair of such objects as roads, buildings, or similar structures.

**Controlled substance-** Any imminently hazardous chemical substance or mixture with respect to which the EPA Administrator has acted pursuant to Section 7 of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

**Days-** Calendar days unless otherwise stated in the Title 16. Business days are Tribal government business days.

**Demolition waste-** Solid waste, largely inert waste, resulting from the demolition of or razing of buildings, roads, and other man-made structures.

**Discharge-** The accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, injecting, or dumping of waste into or on any land or water.

**Disposal-** The discharge, abandonment, deposit, injection, dumping, or placing of any solid or hazardous waste into or on any soil, air, or water, intentional or otherwise.

**Disposal Site-** A site, location, tract of land, landfill site, or premises used or intended to be used for partial and or total waste disposal.

**Facility-** All contiguous land and structures, other appurtenances, and improvements on land which include one or more solid waste management units. A facility may or may not be used solely for solid or hazardous waste management.

**Fee-** The monetary charge for the permitting, collection, transportation or disposal of solid waste or hazardous waste.

**Garbage-** Putrescible material including, but not limited to rejected animal parts, fruit and vegetable wastes resulting from the use, handling, preparation, cooking and consumption of food or storing of meat, fish, fowl, fruit or vegetables, including wastes from markets, storage facilities, and processing plants.

**Groundwater-** Water occurring in the zone of saturation in an aquifer below the land surface in a geologic unit in which soil pores are filled with water and the pressure of that water is equal to or greater than atmospheric pressure.

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**Hazardous Substance-** Any substance designated pursuant to section 311(b)(2)(A) of the Clean Water Act (CWA); any element, compound, mixture, solution, or substance designated pursuant to Section 102 of CERCLA; any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (SWDA) (42 U.S.C. § 6901 et seq.); any toxic pollutant listed under section 307(a) of the CWA; any hazardous air pollutant listed under section 112 of the Clean Air Act (42 U.S.C. § 7412 et seq.); and any imminently hazardous chemical substance or mixture with respect to which the U. S. EPA Administrator has taken action pursuant to Section 7 of the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.).

**Hazardous Wastes-** Solid waste or combination of solid wastes which, because of its quantity, concentration or physical, chemical, or infectious characteristics may:

- a) Pose a substantial present or future hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise mismanaged, as determined by the FSST; or
- b) Meet the specifications, description or listing as a hazardous waste in 40 CFR Part 261 pursuant to Section 3001 of the Solid Waste Disposal Act (42 U.S.C. § 6901 et seq.), as amended.

**Industrial waste-** Waste may include, but is not limited to, residues or spills of any industrial or manufacturing process and waste resulting from the following: fertilizer/agricultural chemicals; inorganic chemicals; leather and leather products; organic chemicals; plastic, resin, fiberglass, or carbon-fiber based products; transportation equipment; and the combustion of municipal waste or regulated infectious waste.

**Inert waste-** Solid waste that does not readily decompose which will not generally contaminate water or generate a contaminated leachate. Inert waste does not serve as food for vectors. Inert waste includes but is not limited to: construction and demolition material such as metal, wood, bricks, masonry, and cement concrete; asphalt concrete; and tree branches.

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**Infectious waste-** Medical waste that contains any disposable equipment, instruments, utensils, human tissue, laboratory waste, blood specimens, or substances that carry pathogenic organisms from rooms of patients who have been diagnosed or are suspected of having a communicable disease; disposable substances that carry pathogenic organisms; and surgical operating room pathogenic specimens or substances that carry pathogenic organisms.

The following do not constitute infectious waste:

- 1) Hazardous waste;
- 2) Household waste or household-type waste generated in a facility;
- 3) Ash from incineration of regulated medical waste;
- 4) Residues from treatment and destruction processes once the waste has been both treated and stored;
- 5) Human corpses, remains, and anatomical parts that are intended for interment or cremation;
- 6) Etiologic agents being transported interstate pursuant to applicable shipping requirements;
- 7) Samples of regulated medical waste transported off-site for enforcement purposes by the EPA, the State, or the Tribe; and
- 8) Animal carcasses or body parts that result from the diagnosis and treatment of animal diseases.

**Institutional Controls-** Temporary or long-term restrictions on the use of a site or property established by the Executive Committee and/or the appropriate responsible governmental entity or entities due to actual or potential existing levels of hazardous substances, pollutants or contaminants in soils, water or groundwater above background.

**Landfill-** An area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land treatment unit, surface impoundment, injection well, or waste pile.

**Land treatment-** The controlled application of solid waste, excluding application of animal manure, into the surface soil to alter the physical, chemical, and biological properties of the waste.

**Leachate-** Liquid that has passed through waste or emanating from land disposal cell or solid waste and contains soluble, dissolved, suspended, miscible materials and/or microbial contaminant waste products from the solid waste.

**Liquid-** Any material that will pass through a 0.45 micron filter at a 75 psi pressure differential.

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**Litter-** Any discarded, used, or unconsumed substance or waste, including any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic, or paper containers or other packaging construction material, abandoned motor vehicle, motor vehicle parts, furniture, oil, carcass of a dead animal, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly;

**Littering-** The improper disposal, depositing, release, or placing of any solid waste by any person, acting on his own or on behalf of a firm, corporation governmental subdivision or agency in any location, other than an approved solid waste collection, storage, treatment or disposal container or area within lands subject to the jurisdiction of the FSST.

**Manufactured home-** A structure, transportable in one or more sections, which is eight feet or more in width or forty feet or more in length in the traveling mode, or is three hundred twenty or more square feet when erected on a site; which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities; and which contains in it the plumbing, heating, air conditioning and electrical systems. The term includes any structure which has been certified by the secretary of housing and urban development as having complied with the National Manufactured Housing Construction and Safety Standards Act of 1974 as amended and in effect on January 1, 1984 (Also see Mobile home).

**Mobile home-** A movable or portable unit, designed and constructed to be towed on its own chassis (comprised of frame and wheels), and designed to be connected to utilities for year-round occupancy. The term includes:

- a) Units containing parts that may be folded, collapsed, or telescoped when being towed and that may be expanded to provide additional cubic capacity; and
- b) Units composed of two or more separately towable components designed to be joined into one integral unit capable of being separated again into the components for repeated towing (See Manufactured home).

**Motor Vehicle Salvage Yard-** See Automobile Salvage Yard

**Nuisance-** Any act or condition created by a person(s) which results in an inconvenience to or affects the health of the public.

**Oil product-** Any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casing head gasoline, natural-gas gasoline, kerosene, benzene, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

**Open burning-** The burning of solid waste in an open area, field, pile, or in any other manner.

**Open dump-** Any disposal site that is not in full compliance with the Title 16 and 40 CFR Part 257 or 258,

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as amended.

**Operator-** The person responsible for the overall operation of a facility or part of a facility.

**Owner-** The person who owns a facility or part of a facility and/or the property owner.

**Pesticide-** Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant.

**Petroleum-contaminated soils-** Any soil containing an oil product, petroleum product, produced oil, crude oil, or other oily wastes.

**Pile-** Any non-containerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage and that is not a containment building.

**Pollutant or contaminant-**

- a) 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 illness, disease, death, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in biological organisms or their offspring. The term pollutant or contaminant shall also 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; or
- b) Pollutant or contaminant also means any pollutant or contaminant that may present an imminent and substantial danger to the environment, public health or welfare of the Tribe or any person within lands subject to the jurisdiction of the FSST.

**Pollution-**

- a) the condition caused by the presence of any solid waste, hazardous waste, or substance in or on soil, air, or water; 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
- b) 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.

**Premises-** A tract or parcel of land with or without habitable buildings.

**Putrescible-** Organic matter that is capable of being decomposed by micro-organisms and that can result in the formation of foul-smelling products.

**RCRA-** The Resource Conservation and Recovery Act of 1976, an amendment to the Solid Waste Disposal Act, 42 U.S.C. § 6901 et seq.

**Recyclable material-** A solid waste material that has been segregated for recycling or converted into a



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raw material, substitute for a raw material, or a commodity.

**Recycling-** Collecting, sorting, or recovering material that would otherwise be solid waste and performing all or part of a method or technique, including processing, to create a recyclable material.

**Release-** 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). The normal application of fertilizer is excluded.

**Sanitary landfill-** A land disposal facility that is 40 CFR Part 257 and 258 compliant, at which solid waste is disposed.

**Sludge-** Any solid, semi-solid or liquid waste consisting of a mixture of solids and water, oils, or other liquids generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects.

**Solid waste-** Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, and agricultural operations, oil and gas exploration or production, mining or mining ore beneficiation activities and from community activities, solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Clean Water Act, as amended to January 1, 2011, or source, special nuclear or by- product material as defined by the Atomic Energy Act of 1954, as amended to January 1, 2011.

**Solid Waste Management Facility-** A commercial, governmental, institutional, or Tribal facility which is authorized by the FSST to accumulate, store, treat, transfer or otherwise manage solid waste other than in approved solid waste collection containers or boxes or areas.

**Integrated Solid Waste Management Plan (ISWMP)-** The ISWMP has been adopted by the FSST Executive Committee for the management of solid waste, and defines the objectives, goals, procedures, responsibilities, as well as present and future management of the Solid Waste Management Program.

**Source control-** The construction or installation and start-up of actions necessary to prevent the continued release of hazardous substances or pollutants or contaminants (primarily from a source on top of or within the ground, or in buildings or other structures) into the environment.

**Special waste-** Solid waste that is not a Hazardous Waste as defined herein and is:

- a) Solid waste that causes corrosion or decay or otherwise reduces or impairs the integrity of containment structures or storage container
- b) Solid waste that, if mixed or commingled with other solid waste, produces violent reaction, heat, pressure, fire or explosion, toxic by-products, reaction products, or otherwise poses a threat to the health and safety of solid waste workers, handlers and/or transporters, that require a higher level of containment, is a hazardous material, or impairs the integrity of containment features;

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- c) Solid waste that otherwise requires specific storage, management, transportation, or disposal requirements to protect public health or the environment; or
  - d) Solid waste that is prohibited from disposal at available solid waste disposal facilities.

Such waste can be designated by the DNR as a Special Waste and may require special storage, management, transportation, or handling.

**Storage-** The confining, containing, holding, or stockpiling of solid waste for a limited period prior to collection, treatment, transportation, utilization, processing, recovery, or final disposal.

**Surface impoundment-** A human-made excavation, diked area, or natural topographic depression designed to hold an accumulation of solid waste which is liquid, liquid bearing, or sludge for containment, treatment, or disposal. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

**Tank-** A stationary device, designed to contain an accumulation of waste which is constructed primarily of non-earthen materials (e.g., concrete, steel, or plastic) which provide structural support.

**Transfer station-** A temporary holding facility for solid waste for interim collection and transfer to a landfill or other facility.

**Transporter-** Any person, contractor, or facility operator who transports solid waste to solid waste facilities on or off the Reservation.

**Treatment-** Any method, technique, or process including neutralization designed to change the physical, chemical or biological character or composition of a solid or hazardous waste or leachate to neutralize or render such waste or leachate amendable for safe transport, amendable for safe recovery, amendable for safe storage or disposal or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste to render it non-hazardous. The term does not include resource recovery.

**Used oil-** Any oil that has been refined from crude oil, or any synthetic oil, that has been used and because of such use is contaminated by physical or chemical impurities.

**Vector-** A living animal, insect or other anthropoid which transmits or can transmit an infectious disease from one organism to another.

**Waste pile-** Any non-containerized accumulation of non-flowing solid waste.

**White Good-** Any household appliance, including but not limited to, refrigerators, freezers, stoves, and ranges, cook top burners, air conditioners, washers, dryers, space heaters, swamp coolers, hot water heaters and furnaces.

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## CHAPTER 8 - REFERENCES

Brookings Landfill (2025). Disposal fees and requirements at Brookings Landfill. Retrieved April 2025 from <https://cityofbrookings-sd.gov/257/Fees>.

Federal Emergency Management Agency. 2025. *Disaster Declarations for States and Counties*. Retrieved April 2025 from: <https://www.fema.gov/data-visualization/disaster-declarations-states-and-counties>.

*Flandreau, South Dakota: The heart of eastern South Dakota!* Retrieved March 2025 from: <https://www.cityofflandreau.com/>

Flandreau Santee Sioux Tribe. 2025. Retrieved March 2025 from: <https://fsst-nsn.gov/>

Hansen, Donald S. *Water Resources of Lake and Moody Counties, South Dakota*. U.S. Geological Survey Water-Resources Investigations Report 84-4209. 1986. Retrieved March 2025 from: <https://pubs.usgs.gov/wri/1984/4209/report.pdf>

Hansen, Donald S. *Appraisal of the Water Resources of the Big Sioux River Aquifer, Moody County, South Dakota*. U.S. Geological Survey Water-Resources Investigations Report 87-4057. 1988. Retrieved on March 2025 from: <https://pubs.usgs.gov/wri/1987/4057/report.pdf>

Hauling Agreement (2010): *Solid Waste Hauling Agreement and Specifications for Solid Waste Hauling Agreement* between the Flandreau Santee Sioux Tribe and Contractor ENG Services.

National Oceanic and Atmospheric Administration (NOAA) Regional Climate Centers. 2025. AgACIS for Moody County. Retrieved on March 2025 from: <https://agacis.rcc-acis.org/?fips=46101>

South Dakota State University (SDSU) 2025. Mesonet- Archives. Retrieved March 2025 from <https://climate.sdstate.edu/archive/>.

South Dakota Department of Environment and Natural Resources. *South Dakota Geology*. Retrieved on May 28, 2020 from: <http://www.sdgs.usd.edu/geologyofsd/geosd.html>

South Dakota Department of Public Safety. 2023. *Emergency Services*. Retrieved March 2025 from: <https://dps.sd.gov/emergency-services>

U.S. Census Bureau (2000, 2010, 2025). *United States Census Bureau – Data & Maps – Tables & Maps*. Retrieved March 2025 from: [https://data.census.gov/table/ACSDP1Y2017.DP05?q=United+States&table=DP05&q=010XX00US&lastDisplayedRow=29&vintage=2017&layer=state&cid=DP05\\_0001E&tid=ACSDP1Y2017.DP05](https://data.census.gov/table/ACSDP1Y2017.DP05?q=United+States&table=DP05&q=010XX00US&lastDisplayedRow=29&vintage=2017&layer=state&cid=DP05_0001E&tid=ACSDP1Y2017.DP05).

U.S. Census Bureau (2023). *My Tribal Area – Flandreau Reservation*. Retrieved March 2025 from: <https://www.census.gov/tribal/>.

U.S. Census Bureau. 2024. Facts for Features: National Native American Heritage Month: November 2024. Retrieved March 2025 from <https://www.census.gov/newsroom/facts-for-features/2024/aian-month.html>

U.S. Environmental Protection Agency (EPA). 2025. Developing Tribal Integrated Waste Management

---

Plans. Retrieved in April 2025 from:

<https://www.epa.gov/tribal-lands/developing-tribal-integrated-waste-management-plans>

U.S. Environmental Protection Agency (EPA). 2024. *Ecoregion Download Files by State - Region 8*. Retrieved March 2025 from: <https://www.epa.gov/eco-research/ecoregion-download-files-region>.

U.S. Geological Survey. 1998. Ecoregion of North and South Dakota. Retrieved March 2025 from <https://store.usgs.gov/product/21629>.

Personal Communication:

Flandreau Santee Sioux Tribe. 2025. Historical and present information on the Tribe and Tribe's Solid Waste activities obtained from staff at the Natural Resources Department including Mark Allen (FSST General Assistance Program Manager), Elizabeth Wakeman (FSST Brownfields Director) and Terrance Elder (FSST 106/319 Water Quality Specialist).

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## APPENDIX A - PERMIT APPLICATION



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## APPENDIX B – TITLE 16 ENFORCEMENT FLOWCHART





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## APPENDIX C - PERMIT FEE'S & FINE AMOUNTS



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## APPENDIX D - WASTE HAULING AGREEMENT WITH ENG SERVICES



**FSST TITLE 16:  
SOLID WASTE AND  
HAZARDOUS WASTE  
MANAGEMENT  
ORDINANCE**

## **TITLE 16**

### **SOLID WASTE AND HAZARDOUS WASTE MANAGEMENT ORDINANCE**

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## CHAPTER 1. PRELIMINARY PROVISIONS

### Section 16-1-1. Purpose and Scope.

- (a) Name of Title. This Title will be known and may be cited as Volume V, Title 16 of the Flandreau Santee Sioux Tribal Law and Order Title and the Flandreau Santee Sioux Tribe (FSST) Solid and Hazardous Waste Management Title (FSST-SHWMT).
- (b) Purpose. To provide, within the jurisdiction of the Flandreau Santee Sioux Reservation and other lands within the Tribe's jurisdiction, for the establishment of a comprehensive solid and hazardous waste management program to protect the health, safety, and well-being of residents; to regulate the storage, collection, transportation, disposal, treatment, and management of solid and hazardous waste; to remediate any releases of a hazardous substance pollutant or contaminant to protect the human health, public sanitation, environment, and general aesthetics; and to inform and educate persons of the need to participate fully in efforts to reduce the generation of solid and hazardous waste.
- (c) Scope. This Title will apply to all individual persons, groups of individuals, households, commercial businesses, manufacturing, construction, schools, governmental, and other public facilities, and any persons engaged in the storage, collection, transfer, recycling, disposal, and treatment of solid and hazardous waste on land within the Tribe's jurisdiction. This Title applies to any entity that does business, or has business on land within the Tribe's jurisdiction, including all oil and gas exploration and development, and other types of mining and mineral extraction, processing, or other beneficiation activities.
- (d) Prior Inconsistent Ordinances Repealed. Any and all ordinances of the FSST which conflict in any way with the provisions of this Title are hereby repealed to the extent that they are inconsistent with or conflict with, or are contrary to the spirit and/or purposes of this Title. All prior ordinances and resolutions of the FSST Executive Committee (Executive Committee) dealing with the same subject matter as this Title and Title are repealed as of the effective date of this Title.
- (e) Severability. If any provision of these Regulations or the application thereof to any person or circumstances is held invalid, such invalidity will not affect any other provisions or applications of these Regulations that can be given effect without the invalid provision or application thereof, and to this end the provisions of these Regulations are severable.
- (f) Effective Date. This Title will be in full force and effect on the date of formal approval and adoption by the Executive Committee and review as required by the Constitution and will remain in effect until repealed or amended by the Executive Committee. Existing facilities or persons subject to the permitting or other requirements of this Title will comply with the requirements and deadlines for such existing facilities in this Title.
- (g) Appropriations. Nothing in this Title will cause the FSST elected officials or the Department of Natural Resources (DNR) Director to expend funds in excess of appropriations or other available funds.

## **Section 16-1-2. Authority, Jurisdiction and Applicability.**

- (a) Constitutional Authority. This Title is adopted pursuant to the authority vested in the Executive Committee under the Constitution of the FSST. The FSST is a Federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act with a Constitution and By-laws approved by the Secretary of Interior and Commissioner of Indian Affairs. Article III, Section 1 of said Constitution and By-laws provides that the governing body of the Tribe will be the Executive Committee and pursuant to Article VIII, Section 1(f) of said revised Constitution and By-laws, the Executive Committee to promulgate ordinances governing and regulating the conduct of all individuals on lands subject to FSST jurisdiction. The FSST possesses the inherent sovereign authority to enact this Title and no part of this Title constitutes a waiver of the sovereign immunity of the Tribe.
- (b) Jurisdiction. This Title will apply to all lands, air, surface water, and ground water within the Tribe's jurisdiction to the extent consistent with Federal law, including rights-of-way running throughout the Reservation and other lands under the jurisdiction of FSST.
- (c) Applicability. This Title will also be applicable to:
  - (1) Any person or company that has entered into a consensual agreement with the Tribe or its members; or
  - (2) Any non-member where the conduct of the non-member threatens or has some direct effect on the political integrity, economic security, health or welfare of the Tribe or member; or
  - (3) Any member where the conduct of the member threatens or has some direct effect on the political integrity, economic security, health or welfare of the Tribe or member; and
  - (4) Any person subject to FSST Civil Actions pursuant to the FSST Law and Order Title.
- (d) Other Laws.
  - (1) *Applicable Law and Regulations*. Compliance with this Title and regulations promulgated hereunder does not relieve a person of the obligation to comply with other applicable laws and regulations. Where there is a gap in the Tribal law, regulations or Titles, the Federal regulations cited in this Title will be incorporated by reference, as determined applicable by the FSST or its designees. If any part of a Federal law, Title or regulation cited or adopted by reference in this Title is modified, any modifications are automatically incorporated by reference and become part of this Title, and supersede any of the provisions that were modified. The FSST reserves the right to be more stringent than the Federal regulations or laws cited or adopted in this Title.



- (2) *Citation or Use of Language from Other Laws.* Citation to statutory or administrative language, definitions, procedure, or provisions of Federal or State law in this Title does not establish jurisdiction, which otherwise does not exist, in such Federal or State government. Nothing in this Title may be deemed a waiver of the FSST sovereign immunity, and if any Court of competent jurisdiction construes this provision as conflicting with any other provision in this Title, then this express retention of sovereign immunity will control and prevail.
- (3) *Consistency with Other Laws.* This Title is intended to be consistent with the minimum Federal requirements provided by Federal law to include, but not be limited to, Clean Water Act; Safe Drinking Water Act; Resource Conservation and Recovery Act; Clean Air Act; Toxic Substances Control Act; Federal Insecticide, Fungicide, and Rodenticide Act; the Comprehensive Environmental Response, Compensation and Liability Act; and the National Environmental Policy Act.

### **Section 16-1-3. Organization and Duties.**

#### **(a) Executive Committee.**

- (1) *Solid Waste Management.* The Executive Committee will be responsible for the DNR and the oversight of the FSST Solid Waste Management Program (Program).
- (2) *Integrated Solid Waste Management Plan (Integrated Plan).* Upon recommendation of the DNR, the Executive Committee will commission and approve an Integrated Plan to implement this Title. The Executive Committee will review the Program and Plan on an annual basis and make amendments to the plan, as needed.
- (3) *Grant of Franchises.* Upon recommendation of the DNR, the Executive Committee may grant and regulate franchises for the purpose of collection, transfer and disposal of solid waste for those lands and facilities subject to the jurisdiction of the FSST. Such franchises may be granted for a specific area or facility(s). Such franchise may not be granted for a longer period than ten years.
- (4) *Agreements with other political subdivisions and persons.* The Executive Committee may enter into agreements with counties, municipalities, townships, governmental agencies, private persons, trusts, or with any combination thereof to provide a solid waste management services for all lands or facilities subject to FSST jurisdiction or any portion thereof.
- (5) *Fees, Charges, and Permit Requirements.* The Executive Committee may levy and collect fees and charges and require permits, as recommended by the DNR and Brownfields Program for the implementation, oversight, permitting, compliance and enforcement of this Title. The fees, charges, and permits will be based on a fee schedule set forth in a FSST Resolution and the Integrated Plan.

All fees will be reviewed annually during the review of the Program and Integrated Plan.

- (6) *Acceptance of funds for solid waste or recycling facility or system.* The Executive Committee may accept and disburse funds derived from grants from the Federal or state governments, from private sources, from moneys that may be appropriated from the general fund, or a combination thereof for the installation and operation of a solid waste management system or facility, recycling facility, or any portion of such a system or facility.
- (7) *More Restrictive Standards.* The Executive Committee may by ordinance or resolution adopt standards for the location, design, construction, and maintenance of solid waste disposal sites and other waste management facilities more restrictive than those in this Chapter, the Federal standards in the US Title of Federal Regulations (CFR).

(b) Department of Natural Resources (DNR)

- (1) *Organization of the DNR.* The DNR is led by a Director, or in the matters of solid and hazardous waste, the Brownfields Program Director, as appointed by the Executive Committee. The DNR and Brownfields Program will manage all aspects of the Program, ensuring compliance and enforcement of this Title, carrying out the directives of the Executive Committee, and preparing the annual report. The Brownfields Program will make quarterly reports to DNR, the Executive Committee, and the U.S. EPA on the status of the program.
- (2) *Assistance and Coordination.* The DNR will assist and may receive assistance from other Tribal departments or programs in the execution of their duties, ensuring the compliance with this Title and in protection of the health, welfare and environment of the residents of the FSST lands and members of the FSST. The DNR will cooperate with state (as appropriate) and Federal agencies in the development, implementation and maintenance of the Program activities, such as permitting, inspection, compliance, enforcement, training, and regulatory programs. The DNR may advise, consult, and cooperate with other agencies and instrumentalities of the state, other states, and the Federal government and with affected groups and industries in the implementation of solid waste disposal programs.
- (3) *Power to administer grants and loans.* Upon direction by the Executive Committee, the DNR will administer such loans and grants from the Federal government and from other sources as may be available to the program in fulfillment of this Title and Chapter.
- (4) *Integrated Solid Waste Management Plan (Integrated Plan).* The DNR will be responsible for drafting, implementing and updating, as needed, the Integrated Plan. The DNR will submit the draft Integrated Plan to the Land Committee and Executive Committee for initial approval. Once approved, the DNR will provide

the Land Committee and Executive Committee an annual report on the Program and recommend amendments, as needed, to the Integrated Plan. The DNR may engage other agencies or consultancies to assist in the preparation and updates of the Integrated Plan.

- (5) *Solid Waste Training and Information.* The DNR will collect, prepare, and disseminate information and conduct educational and training programs that assist in the implementation of this Title and Chapter. The work plan for training and information dissemination will be outlined in the Integrated Plan, the annual report will provide information on all the training and informational programs conducted in fulfillment of the Program.

#### **Section 16-1-4. Integrated Solid Waste Management Plan (Integrated Plan).**

- (a) Contents of Integrated Plan. The Integrated Plan is intended to guide current and future waste management practices, evaluate priorities and options, and identify resources for the Program. The Integrated Plan will include the following information:
  - (1) Introduction
  - (2) Community Service Area, including population, demographics, community assets/resources, households, population projections, economy, climate, geography, and geology and natural resources
  - (3) Solid Waste Management Program Structure and Administration
  - (4) Current and Proposed Waste Management Practices, including current waste generators; amount and composition of waste; estimated future waste generation growth; public awareness, training and information; unmanaged waste sites; collection, transfer, disposal of solid, household, special and hazardous waste; waste reduction and recycling practices; facilities; partnerships; and proposed waste management practices
  - (5) Funding, Sustainability, and Long-Term Goals
  - (6) Approval of the Plan by the Executive Committee
- (b) Approval of Plan. The Integrated Plan will be submitted to the Executive Committee by the DNR for approval.
- (c) Maintenance of Plan. The DNR will review, implement, and maintain the Integrated Plan. The DNR will prepare an annual report to the Executive Committee, including recommendations for amendments to the Integrated Plan, as needed.

## **Section 16-1-5. Definitions.**

As used in this Title, the words and terms below will have the following meanings (Note: the singular includes the plural and vice versa and the masculine includes the feminine and vice versa):

### **(a) Tribal Organizational Definitions.**

- (1) “Brownfield Program” means the FSST Brownfields Program provided for under Section 128(a) of 42 U.S.C. § 9601 et seq. (CERCLA). The FSST Brownfields Program mission is to empower Tribal community and other stakeholders in environmental protection working together in a timely manner to educate, prevent, assess, safely cleanup and safely reuse brownfields. This program includes the Tribal Response Program.
- (2) “Department of Natural Resources” (DNR) means the Department responsible to provide and ensure the proper management of all Tribal lands held in trust by the United State Government. Through optimal resource management improve the overall conditions and values of Tribal lands, whereby increasing the economic and general welfare of all Tribal people. This DNR ensures that Tribal lands held in trust are protected from waste and degradation, and environmental hazards. In fulfillment of these responsibilities, the DNR manages the Solid Waste Management Program or Program.
- (3) “Executive Committee” means the Executive Committee of the Flandreau Santee Sioux Tribe.
- (4) “FSST” means the Flandreau Santee Sioux Tribe including any department or agency thereof, or any business entity owned and operated by the FSST.
- (5) “General Assistance Program (GAP)” means the Environmental Protection Agency GAP, which has enabled Tribes to achieve significant progress in establishing their environmental programs and have facilitated productive government-to-government partnerships for Tribes and EPA, including the establishment of baseline technical, administrative, and legal capacity for Tribal environmental protection programs that respond to environmental issues affecting Tribal lands.
- (6) “Responsible authority” means the Director of a Tribal program or department with authorities and responsibilities as delineated in this Title or the Executive Committee.
- (7) “Reservation” means the lands subject to the jurisdiction of the Flandreau Santee Sioux Tribe.
- (8) “Solid Waste Management Program (Program)” is a program within the DNR. It is the Program responsible to provide and ensure the proper management of all solid waste, including the collection, storage, and disposal of solid waste. It is

responsible for providing technical support and recommendations to the DNR Director, that is consistent with the requirements of this Title and the Integrated Plan.

(9) “Tribal Response Program” means the FSST Program office responsible for the investigation and remediation of a release, or threat of release, of a hazardous substance, pollutant or contaminant, including controlled substances, petroleum products and mining materials as provided for in this Title, in coordination with other Tribal programs and as provided for under Section 128(a) of 42 U.S.C. § 9601 et seq. (CERCLA). This program includes the Brownfields Program.

(10) “Tribe” means the Flandreau Santee Sioux Tribe.

(b) General Definition of Terms. All general terms used in this Title, unless the context otherwise plainly requires, will be defined in the Integrated Plan.

## **CHAPTER 2. SOLID WASTE MANAGEMENT AND PROHIBITED ACTIVITIES.**

### **Section 16-2-1. Solid Waste Management Policy.**

The protection of the health, safety, and welfare of the FSST members and other residents and the protection of the environment require the safe and sanitary disposal of solid waste. An effective and efficient solid waste disposal program protects the environment and the public and provides the most practical and beneficial use of the material and energy values of solid waste. While recognizing the continuing necessity for the existence of landfills, alternative methods of managing solid waste and the reduction in the reliance upon land disposal of solid waste are encouraged. To promote these goals, the following solid waste management hierarchy, in descending order of preference, is established as the solid waste management policy of the FSST:

- (a) Volume reduction at the source.
- (b) Recycling and reuse.
- (c) Use for energy production, if appropriate.
- (d) Disposal in landfills or combustion for volume reduction outside the exterior boundaries of the reservation. No solid waste may be disposed of or combusted on lands subject to the jurisdiction of the FSST.

In the implementation of this solid waste management policy, the FSST will establish and maintain a cooperative Federal, state and local program to encourage comprehensive solid waste management.

### **Section 16-2-2. Unauthorized or Prohibited Activities.**

- (a) Illegal or Open Waste Dumping. It is unlawful to dispose of solid waste in a manner inconsistent with the provisions of this Title. No person may dump, deposit, drop, throw, discard, leave, cause or allow such activities, leaving litter or waste upon any public or private property or upon or into any river, lake, pond, or other stream or body of water subject to the jurisdiction of the FSST. No person may transport by any means garbage or refuse from any dwelling, residence, place of business, farm, or other site to and deposit such material in, around, or on top of trash barrels or other receptacles placed at roadside rest areas or recreation areas.
- (b) Littering. Littering from a motor vehicle, or any other method of transportation, is prohibited. No person may dump, deposit, drop, throw, discard, or otherwise dispose of litter from any motor vehicle or any other method of transportation, upon any public highway, upon any public or private property or upon or into any river, lake, pond, stream, or body of water within the jurisdiction of the FSST except as permitted by law.
- (c) Waste Burning. No person may burn solid waste without a Permit from the Program and approved by the Executive Committee. The Permit will be consistent with the provision of this Title.

- (d) Waste Accumulation. No person may allow litter to accumulate upon real property, of which the person charged is the owner or tenant in control, in such a manner as to constitute a public nuisance or in such a manner that the litter or waste may be blown or otherwise carried by the natural elements onto the property of another person or the FSST.
- (e) Wrecked, Junked or Unserviceable Vehicles. No person or business may conduct, maintain, or operate a motor vehicle wrecking or recycling facility, or junkyard, or store, process or recycle inoperative or unused motor vehicles of a type required to be licensed, or parts of such, without a Permit. Every person or business which processes or recycles such inoperative or unused automobiles, trucks or other motor vehicles or parts will obtain a business license from the FSST as required.
- (1) Possession of unregistered or unserviceable vehicles at a single location in excess of three (3) vehicles of a type required to be licensed is presumed to operate a motor vehicle wrecking, recycling or salvage facility, requiring a Permit.
  - (2) No person may establish, operate, or maintain a motor vehicle storage, wrecking or salvage facility, any portion of which is within one thousand (1,000) feet of the nearest edge of the right-of-way of any interstate, state or U.S. highway, county, BIA or Tribally maintained road, except:
    - i. Those that are screened by natural objects, planting, fences or other appropriate means satisfactory to the Program, so as not to be visible from the main traveled way of any such road; and
    - ii. Those that not visible from the main-traveled way of any such road.
- (f) Unauthorized Waste Management Facilities. Unauthorized construction or operation of a commercial waste management, storage, treatment or disposal site or facility is prohibited.
- (g) Unauthorized Waste from Outside the Reservation or Other FSST Lands. No person or entity may dispose waste of any kind from outside the reservation on reservation lands or other FSST lands.
- (h) Misleading Representations. It will be a violation of this Title 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 Title or permits issued there under.



## **CHAPTER 3. SPECIAL AND INDUSTRIAL WASTES MANAGEMENT.**

### **Section 16-3-1. Designation of Special and Industrial Wastes.**

A specific type of solid waste may be designated as a Special or Industrial Waste by the Executive Committee upon recommendation of the DNR and Brownfields Program. The Special or Industrial Waste will be subject to the requirements of this Title, or other specific storage, management or disposal requirements. Every person, commercial establishment, government agency or facility or industrial facility who generates, treats, manages or stores Special or Industrial Waste as described below within the lands subject to the jurisdiction of the FSST will obtain applicable Permits and comply with this Title.

### **Section 16-3-2. Management of Special and Industrial Wastes.**

The following Special and Industrial Wastes, that are not hazardous waste as defined in Chapter 4, will be managed as specified below and may be not stored, transferred, treated, disposed of or discharged within the lands subject to the jurisdiction of the FSST except at a designated and authorized transfer, treatment, storage or recycling facility specifically approved and permitted by the FSST. No Special or Industrial Wastes may be disposed of on lands subject to the jurisdiction of the FSST.

All Permits will be approved by the Executive Committee upon recommendation of DNR and will be required for Special and Industrial Waste collection, transportation, management or storage, whether the activity is a Tribal, personal or commercial enterprise.

### **Section 16-3-3. Types of Special and industrial Waste and Management Requirements.**

- (a) Septic Tank Pumping's and Sewage Sludge. Such waste and other sanitary wastes are designated as a special waste. A Permit is required for the commercial management, transportation and disposal of such wastes.
- (b) Used or Waste Oil. Used or waste motor or lubrication oil is designated as a special waste and must be collected or transported for disposal to any solid waste collection, transfer or storage unit or facility that is in full compliance with 40 CFR Part 279 and this Title. A Permit is required for intermediate storage and recycling of these materials and all such materials are appropriately segregated for recycling.
- (c) Major Appliances. When discarded or deemed a waste, appliances (also known as “white goods”) such as stoves, dish washers, refrigerators, washing machines, clothes dryers, water heaters, are designated as Special Wastes. The owner or resident of a residential property is responsible for proper storage or disposal of such item(s) as required under this Title. A Permit is required for the commercial collection, transportation, and disposal of Major Appliances Special Wastes. Refrigeration or air conditioning units must have the refrigerant (i.e. Freon) removed by a certified technician in conformance with applicable U.S. EPA and state regulations prior to or recycling. A Permit is required for the temporary storage, including segregation for recycling, of such wastes. All activities concerning such waste must be in compliance with the Title.

- (d) Lead-acid batteries. When discarded or deemed a waste, such batteries are designated as a Special Waste. Disposal of lead acid batteries on land subject to the jurisdiction of the FSST is prohibited. Batteries must be recycled in accordance with this Title or disposed of by delivery to an automotive battery retailer or wholesaler, or to a collection or recycling facility authorized under this Title or the State of South Dakota. A Permit is required for an automotive battery retailer or wholesaler to manage the waste batteries within lands subject to the jurisdiction of the FSST. An automotive battery retailer may not dispose of a used lead acid battery except by delivery to the agent of a battery wholesaler, to a battery manufacturer, to a collection or recycling facility authorized under this Title or the laws of the State of South Dakota, or to a secondary lead smelter permitted by the U.S. Environmental Protection Agency. Each battery improperly disposed of will constitute a separate violation.

A person selling lead acid batteries at wholesale, retail or offering lead acid batteries for retail sale within lands subject to the jurisdiction of the FSST will:

- (1) Apply for and successfully obtain a permit from the Executive Committee, upon recommendation of the DNR; and
  - (2) Accept, at the point of transfer, in a quantity at least equal to the number of new batteries purchased per year, used lead acid batteries from customers, if offered by customers; and
  - (3) Post written notice which will be at least eight and one-half (8 1/2) inches by eleven (11) inches in size and will contain the universal recycling symbol and the following language:
    - i. "It is illegal to discard a motor vehicle battery or other lead acid battery";
    - ii. "Recycle your used batteries"; and
    - iii. "Tribal Laws require us to accept used motor vehicle batteries or other lead acid batteries for recycling in exchange for new batteries purchased."
  - (4) Failure to post the required notice will be a violation of this Title.
  - (5) Any person accepting batteries in transfer from an automotive battery retailer will be allowed a period not to exceed one hundred twenty (120) days to remove batteries from the retail point of collection.
- (e) Infectious institutional wastes, medical wastes, laboratory wastes and surgical operating room pathological specimens and disposal fomites. Such wastes are designated as Special Waste. Disposal of such wastes on land subject to the jurisdiction of the FSST is prohibited. A Permit must be obtained to handle such waste. These Special Wastes may be generated by a medical service provider, any authorized health professional, emergency rooms, or mortuary service provider. This Special Waste must be bagged in Bio/Medical Waste bags or containers obtained from the Indian Health Service, other authorized medical provider, or FSST that are clearly marked with the appropriate

symbols and warnings. Regulated infectious waste may not be subject to mechanical stress or compaction during loading, unloading, and transit.

- (f) Farm and Ranch Wastes, including Pesticide and Herbicide Wastes. No provision of this Title may be construed so as to prohibit a farmer or rancher from disposing of solid waste from normal farming operations or ordinary domestic activities upon his own land, provided such disposal does not create a nuisance or a hazard to public health, does not violate a local ordinance, will not unlawfully pollute ground or surface waters or does not violate the water or air pollution control laws of the United States.

Agricultural waste and products will be managed and stored as to minimize nuisance, flies, rodents and odor, and will not result in the contamination of ground or surface water sources. Such wastes that create a public nuisance or threaten the quality of ground or surface waters may be designated as a Special Waste by the DNR and may require a Permit.

Surplus agricultural pesticides or herbicides and/or pesticide or herbicide containers intended for disposal are designated as a Special Waste if not regulated as a hazardous waste pursuant to this Title. Every person, commercial or industrial facility who handles surplus agricultural pesticides or herbicides and/or pesticide or herbicide containers will:

- (1) Comply with this Title and 40 CFR Part 262. Surplus pesticides or herbicides may not be discarded within the exterior boundaries of the Reservation in any manner which endangers humans, animals, 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; or
  - (2) A farmer or rancher disposing of waste pesticides from his own use which are hazardous wastes will triple rinse each emptied pesticide container in accordance with 40 CFR 261.7(b)(3) and may dispose of the pesticide residues on his own farm or ranch in a manner consistent with the disposal instructions on the pesticide label in a manner that does not endanger human health or the environment. The DNR may impose additional restrictions or requirements or prohibit such disposal to protect human health and the natural resources and environment of the lands subject to the jurisdiction of the FSST.
- (g) Dead Animals. Dead animals, to include livestock are designated as a Special Waste. A Permit is required to dispose of more than 10 head at one time. Such waste must be removed in a timely manner and be managed by renderers, disposed of at an authorized or permitted solid waste landfill or at an alternative location designated by the DNR AND BROWNFIELDS PROGRAM Director. Small pets will be buried or taken to an FSST approved transfer or disposal site. During an emergency, potentially large numbers of livestock may need to be managed as rapidly and as efficiently as possible. The FSST may issue an emergency Permit in coordination with and at the recommendation of the Program or DNR, for one-time disposal events based on various practical factors during emergency conditions. The FSST and other local, state and Federal agencies will work together with livestock owners to accomplish the efficient and environmentally sound

disposal of animal carcasses and related materials to minimize impacts to human and animal health and to water sources. Disposal under emergency Permits must be restricted to dead animals and associated, generally inert waste, unless otherwise authorized.

- (h) Used and Scrap Tires. Used or scrap tires are designated as a Special Waste. No such tires may be disposed of at any location other than at a facility or site approved or permitted under this Title or by the State of South Dakota. Tires may not be delivered to a facility or location within the lands subject to the jurisdiction of the FSST that is not in compliance with this Title or abandoned upon any street, alley, highway, public place or private premises. Anyone hauling scrap tires to unapproved disposal sites (ravines, coulees, dumps, gravel pits, tree rows, etc.) is in violation of this Title and subject to enforcement action. If scrap tires are taken to a location which comes under enforcement action, the transporter and/or the original generator(s) may also be liable for cleanup costs.
- (1) Individual persons may store outside up to a maximum of 4 tires for up to 90 days for personal use on their own property or residence.
  - (2) Commercial businesses, public/Tribal agencies and tire dealers may store the equivalent of a semi-truck load of whole or shredded scrap tires for transport to a recycling or disposal facility must obtain a Permit for the management of used and scrap tires. The Permit will address the location of temporary storage of tires, transportation, and information about an end-user who will process, recycle and/or dispose the materials in a manner that complies with the laws of the FSST.
- (i) Abandoned Mobile Home or Trailer. Mobile homes or trailers that are an unsafe structure, unfit for habitation, junked, partially dis-assembled, wrecked or non-operative and which are abandoned or not inhabited for more than 180 days may be declared a Special Waste by the DNR and must be managed accordingly and in full compliance with this Title. The property owner will be provided a Warning Letter by the DNR to properly repair, remove and/or dispose of the mobile home or trailer and any other applicable Tribal, state or Federal regulations within 30 days of such declaration. Failure to comply with this Warning Letter will result in further action by the Executive Committee. The right to a hearing may be provided to the property owner to allow for repair of the mobile home or trailer to make it safe and fit for habitation or to provide additional time to dispose of the mobile home or trailer.
- (j) Construction and Demolition Wastes. All construction or demolition wastes, and debris are considered a Special Waste and must be properly disposed in an approved Construction and Demolition Fill. A Permit must be obtained and the 1% fee on the gross cost of the project must be paid by the private or commercial entity, conducting the construction/demolition. Demolition of a structure over 100 square feet is subject to the Permit requirements of this Title.
- (k) Petroleum Contaminated Soils. Such wastes are considered Special Wastes. Petroleum-contaminated soils include wastes from petroleum operations, such as above or below ground storage tanks, saltwater, crude oil, waste oil, or other oil or gas field exploration

or production or liquid wastes may not be disposed of on lands subject to the jurisdiction of the FSST. Any individual or commercial entity removing petroleum-contaminated soils must obtain a Permit. All such wastes must be disposed in a solid waste management facility which accepts petroleum-contaminated soils, to include soils from removal of underground storage tanks, above ground or underground storage tanks or related piping or systems leakage or spills, or oil and gas exploration or production facilities for storage prior to treatment or disposal are subject to the requirements of this Title.

- (1) Misleading Representations. It will be a violation of this Title 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 Title or permits issued there under.

## **CHAPTER 4. HAZARDOUS WASTE AND BROWNFIELDS MANAGEMENT.**

### **Section 16-4-1. Hazardous Waste Disposal.**

No hazardous waste disposal will be conducted within lands subject to the jurisdiction of the FSST.

### **Section 16-4-2. Hazardous Waste Management and Treatment Requirements.**

All hazardous waste, as defined in this Title, and not excluded from regulation as a hazardous waste under 40 CFR § 261.4(b) and that exhibits any of the characteristics of hazardous waste identified in 40 CFR Part 261 Subpart C to include: ignitability; corrosivity; reactivity; or toxicity; or is listed in 40 CFR Part 261 Subpart D; and has not been excluded from the lists in Subpart D under 40 CFR §§260.20 and 260.22 will be generated, managed, stored, treated or transported in compliance with this Title and 40 CFR Parts 262 thru 273.

### **Section 16-4-3. Tribal Hazardous Waste Standards.**

The FSST reserves the right to be more stringent than the Federal regulations cited above to include any Federal statutory or regulatory exemptions from the above regulations.

### **Section 16-4-4. Types of Hazardous Waste.**

- (a) Asbestos and Asbestos Containing Materials. Asbestos and asbestos-containing materials are considered a Special Waste. Handling of regulated asbestos-containing material must be performed by certified asbestos personnel, as certified by the State of South Dakota. No disposal of asbestos and asbestos containing materials is allowed on lands subject to the jurisdiction of the FSST. A Permit must be obtained and the 1% fee on the gross cost of the project and must be paid by the commercial entity contracted for the removal, transportation and disposal of asbestos and asbestos containing materials, conducted in compliance with the applicable requirements of this Title, the Clean Air Act (42 U.S. C. §§ 7401-7671) and U.S. EPA guidelines.

Asbestos disposal must be coordinated with the landfill approved to receive asbestos and asbestos containing materials. Friable asbestos-containing material must be disposed into landfills that have agreed to accept the material and have appropriate facilities, procedures, equipment and training for managing such waste. Prior to shipping, friable asbestos-containing material must be wetted. Friable asbestos-containing material must be placed in leak-tight containers and be properly labeled.

- (b) Coal Combustion Ash or Fly Ash. Large quantities (over nine (9) cubic feet) of wastes generated primarily from the combustion of coal or other fossil fuels is considered a Special Waste. A Permit will be required to store, treat, dispose, or used for solidification or other treatment processes on lands subject to the jurisdiction of the FSST. This Special Waste designation will also include Cement Kiln Dust.

- (c) Radioactive Wastes or Technically Enhanced Naturally Occurring Radioactive Materials (TENORM). Wastes that are or contain radioactive materials or are Technically Enhanced Naturally Occurring Radioactive Materials (TENORM) at concentrations greater than 185 becquerel per kilogram (5 pico-Curies/gram or pCi/g) may not be dumped, spilled, leaked, burned or otherwise stored or disposed of within the lands subject to the jurisdiction of the FSST. TENORM includes naturally occurring radioactive material whose radionuclide concentrations are increased by or as a result of past or present human practices. TENORM does not include background radiation or the natural radioactivity of rocks or soils. TENORM does not include "source material" and "byproduct material" as both are defined in the Atomic Energy Act of 1954, as amended (AEA 42 USC §2011et seq.) and relevant regulations implemented by the NRC. Such wastes will be collected and/or transported for disposal off lands subject to the jurisdiction of the FSST. All radioactivity levels will be measured using methods and procedures approved by the DNR.

#### **Section 16-4-5. Brownfields Tribal Response Program (“Brownfields Program”).**

The Brownfields Program is part of the DNR and as such, may investigate, assess, respond 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 or oil and gas exploration or production activity materials that may pose a threat to public health, welfare or the environment. This may include the verification of the performance and results of a response or remedial action and the certification of the results or completion of such action.

#### **Section 16-4-6. Remedial Actions by the Brownfields Program in Circumstances Posing an Imminent Threat.**

If a release of a hazardous substance, pollutant or contaminant result from the management, handling, treatment, storage, transportation or disposal of a solid, special or hazardous waste, hazardous material, petroleum product, controlled substance or from mining or oil and gas exploration or production activity poses an imminent threat to life or public health, the Brownfields Program may:

- (a) Perform such activities as are necessary to address the threat in cooperation with any other Tribal, state, or Federal department agency;
- (b) Conduct inspections and investigations as provided for in this Title; and
- (c) Expend any available funds to perform any assessment, cleanup, abatement, and/or remedial activities required to mitigate the threat, subject to the approval of the Executive Committee.

#### **Section 16-4-7. Remedial Actions by the Brownfields Program for Failure to Perform.**

Remedial action may be taken by the Brownfields Program in the absence of, or in addition to, assessment, cleanup, abatement, or remedial activities by the site owner, operator or other



persons in cooperation with any other Tribal, state, or Federal department or agency in the event that the activities subject to a Tribal Order or Voluntary Remediation Agreement are not satisfactorily performed or completed or where the Brownfields Program must take prompt action to prevent hazards to human health or the environment at a site where a responsible party, or other appropriate state or Federal authority, fails to act promptly.

#### **Section 16-4-8. Liability of Owners, Operators and Other Persons.**

Whenever the Brownfields Program 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 Brownfields Program 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.

#### **Section 16-4-9. Recovery of Expenditure of Tribal Funds.**

In any case under this Section where the Brownfields Program expends funds to investigate, assess, remediate, conduct oversight or contain contamination resulting from a spill or a release, and where the Brownfields Program has identified a responsible party, the responsible party will reimburse the Brownfields Program. 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 Brownfields Program as described above, the person or persons who committed or allowed the improper disposal, action or release will be liable to Brownfields Program for the reasonable costs actually incurred in cleaning up any solid or special waste, hazardous waste or hazardous material, abating the effects thereof, monitoring , implementing engineering controls or taking other remedial action. The amount of such costs will be recoverable in a civil action in Tribal Court, together with the costs of suit incurred by FSST in recovering such monies. A judgment ordering the payment of these costs to FSST may bear interest.

Funds generated as a result of enforcement proceedings will be used to carry out environmental education in classrooms, Tribal programs, and local agencies on FSST. Educational materials may include information on reuse, reduce, recycle and requirements for the management and disposal of solid and hazardous waste. Materials may also include information on the Brownfields Program. Funds may be used to retain additional training by attending meetings/trainings directly related to Brownfields, Solid, and Hazardous Waste Management.

#### **Section 16-4-10. Remedial Action and Enforcement Orders.**

Whenever the Brownfields Program 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 Executive Committee upon

recommendation of the DNR and Brownfields Program may issue an Order, pursuant to this Title and Chapter, to take emergency action, cease or desist and/or require the person or responsible party to take corrective or remedial action necessary to abate any hazard, pollution, or nuisance or to protect public health and safety and the environment. Any person will, upon such order, 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 Brownfields Program pursuant to this Section.

#### **Section 16-4-11. 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 lands subject to the jurisdiction of the FSST the persons causing the release or the originating facility's or vehicle's owner or operator must implement the requirements of this Section to include:

- (a) Timely and Appropriate Action. The persons 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 Section and the Brownfields Program may result in enforcement action pursuant to this Title and other Tribal Laws or Titles and/or referral to appropriate state or Federal agencies.
- (b) Notification Requirements. Notification to the U.S. EPA is required where an accidental spill or release of a hazardous substance, pollutant or contaminant has occurred within the lands subject to the jurisdiction of the FSST; 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 Superfund Amendments and Reauthorization Act (SARA), Title III, § 304 (1986); or
  - (5) The Brownfields Program requires a notification of a release to be made.
- (c) Responsibility to Notify of a Release. The owner or operator of a facility or a vehicle believed to be the source of such a release of a hazardous substance, pollutant or contaminant must notify the Brownfields Program, Tribal Police and appropriate Federal authorities within twenty-four hours (24).
- (d) Notification Information Required. All notifications and reports of an accidental release or spill of any hazardous substance or pollutant will 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 accident);
  - (3) Name of facility/vehicle owner contact if different than reporting person;
  - (4) Time and type of incident, for example spill, release, fire;
  - (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 will immediately notify the Brownfields Program of information that changes the accuracy of the initial report. As directed by the Brownfields Program, the responsible person will 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 Title and the Brownfields Program to address the immediate and long-term impacts of the release or spill to include all necessary containment, remediation, assessment of impacts and long-term monitoring.

#### **Section 16-4-12. Remediation Standards.**

Any voluntary or involuntary remedial action conducted by an owner, operator or responsible party or a state or Federal government agency or by the Brownfields Program, will:

- (a) Be protective of human health, safety and the environment. A remedy will be considered to be protective of human health if it reduces risk to humans of acute and chronic toxic exposures to contaminants to levels that do not pose a significant risk to human health. A remedy will be considered to be protective of the environment if it adequately reduces risk of significant adverse impacts to the ecology 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 or Federal 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 or Federal institutional controls must also be approved by the Executive Committee pursuant to this Title;

- (b) Attain Standards Established by the FSST. A remedy will attain standards established under this Section for air, soil, water and ground water affected by the release, unless the Brownfields Program sets an alternate standard. No standard set under this Section for a contaminant will be set at a level or concentration lower than the background level for that contaminant. A remedy must attain standards or alternate standards by the end of the remediation period set forth in an Order or a Remediation Agreement. A remedy will 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 Federal act, law, Title, rule or regulation; or
  - (2) Meets site-specific, risk-based standards approved by the Executive Committee upon recommendation of the DNR and Brownfields Program for the eligible site based on exposure factors. Exposure factors for hazardous substances, pollutants or contaminants in groundwater will assume that groundwater may be used as a drinking water source, provided that no standard set under this Section for a contaminant will 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 Brownfields Program will assume uses consistent with the class of use prior to contamination of the groundwater. Exposure factors for soils may take into consideration current and future land use.
- (c) Maintain Source Control. The remedy will 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 will 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 Executive Committee upon recommendation of the DNR and Brownfields Program under this Section, or the soil standards under this Section; and
  - (2) comply with any applicable Federal or Tribal standard for management of wastes generated as a consequence of the remedy.
- (d) Remedy Waste Management. A remedy will 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 Title and any applicable state or Federal requirements.
- (e) Remedy Selection. The Brownfields Program will choose a remedy, or combination of remedies, from among those remedies that meet the requirements of this Section, as applicable. In choosing a remedy, the Brownfields Program will consider:
- (1) 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

Brownfields Program will consider the expected life cycle performance of any engineering controls, monitoring systems and institutional controls;

- (2) The extent to which the remedy results in a reduction of toxicity, mobility or volume of contaminants;
- (3) The degree to which remedies incorporate treatment or removal of contaminants to lower long-term risk to human health and the environment;
- (4) The time required for each remedy to attain standards for air, soil, water and ground water specified in this Section, as applicable. A remedy involving monitored natural attenuation may be considered whether or not the Brownfields Program has made a determination of technical impracticability. Monitored natural attenuation will be deemed effective if there is clear and convincing evidence that natural attenuation is occurring and will be completed within a reasonable time period;
- (5) Any adverse impacts which may be caused by a remedy, and will take into consideration:
  - i. The gravity of any projected impact and the cost and availability of measures to mitigate the impact;
  - ii. The extent and nature of contamination and practicable capabilities of remedial technologies, and whether achieving standards is technically impracticable;
  - iii. Reasonably anticipated future land uses or use restrictions in a Tribal institutional control area;
  - iv. Consistency of remedies with the nature and complexities of releases of contaminants;
  - v. Consistency of the remedies with cultural and traditional values of the FSST; and
  - vi. 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 16-4-13. Public Participation.**

For any FSST conducted or required Remedial Action the Brownfields Program will implement a public participation plan. In implementing the plan, the Brownfields Program will consult with and consider the public participation needs of interested parties, including but not limited to all known adjacent property owners of record of land, responsible Tribal or Federal government agencies and local public interest groups. The FSST residents will be notified thru public notice

in appropriate locations and local publications of remedial actions planned and conducted under this Section.

The Brownfields Program the Brownfields Program will provide an opportunity for a public meeting on a planned Remedial Action and the meeting will be held if the Brownfields Program finds sufficient public interest.

#### **Section 16-4-14. Public Record.**

The Brownfields Program will establish and maintain a Public Record of response actions conducted by the Brownfields Program, or conducted by another party, or Tribal or government agency, with oversight by the RP, that is updated at least annually. The contents are found in the Integrated Solid Waste Management Plan. The Public Record will include, at a minimum:

- (a) A record of sites 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 Brownfields Program or the FSST as part of the remedy;
- (d) Other such information as deemed appropriate by the Brownfields Program; and
- (e) The public will have access to all documents and related materials that the owner/operator of a site or property and/or the Brownfields Program are relying upon to make response action decisions or conduct the site activities to include the:
  - (1) Notification of a Release
  - (2) Spill Reports
  - (3) Assessment Report(s)
  - (4) Remedial Agreement or Action Plan and related documents
  - (5) Notification of Completion of a Response Action
  - (6) Certification of Completion of a Response Action; and
  - (7) Post Response Action/Monitoring Plan (if required).

#### **Section 16-4-15. Verification and Documentation of Completion.**

The Brownfields Program may review any reports or documentation or conduct any necessary site investigations, to include site sampling and analysis, to verify that the response or remedial action has met the requirements and standards of this Title and the FSST. The Brownfields Program may issue either of two (2) letters to a responsible party, person or government agency to document that a response action is complete: A Certificate of Completion; or A No Further Action (NFA) letter. Both assurances may give site owners, operators, prospective purchasers, or other responsible party or government agency certainty about the extent of their remediation liability. If a Certificate of Completion or No Further Action letter is issued the Brownfields Program will record a notice of such action in the appropriate office of the FSST, the BIA and/or the County with the deed or other official document(s) of record for the site or property and will file such notice no later than ten (10) business days after the date of issuance.

- (a) 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 will be the duty of any successor in property interest to maintain such bond or financial assurance.
- (b) No person or entity will change any engineering or institutional controls contained in a Remediation Agreement, NFA letter or Certificate of Completion without the prior written consent of the Executive Committee upon recommendation of the DNR and Brownfields Program. Before a change may be made, the Brownfields Program will review the contamination at the site and any new requirements will 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 Executive Committee upon recommendation of the DNR and Brownfields Program will modify or terminate any prior Remediation Agreement, NFA letter or Certificate of Completion.

#### **Section 16-4-16. Certification of Completion.**

Certificates of Completion must be requested from FSST in writing. A Certification of Completion may be issued by the Brownfields Program for sites that have been remediated according to the terms and conditions in an approved Voluntary Remediation Agreement, Order or Permit. The Certification of Completion may state that, at the time the certificate is issued, all remediation requirements necessary to protect human health and the environment have been successfully completed and that Brownfields Program currently has no plans to further evaluate the site or to impose additional remediation requirements. In addition, a Certificate of Completion does not limit the DNR and Brownfields Program ability to undertake enforcement actions or to impose penalties for violations of this Title.

- (a) a Certificate of Completion does not relieve the responsible party from applicable Tribal, state or Federal environmental permitting requirements;
- (b) a Certificate of Completion 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. Partial Certificates of Completion will contain disclaimers explaining that the coverage of the liability assurance is limited to the specific area, contaminants, or media addressed

and that the DNR and Brownfields Program ability to require additional remediation is not limited for other areas, contaminants, or media;

- (c) if a Certificate of Completion is requested because the responsible party believes no cleanup is necessary, information must be provided to the DNR and Brownfields Program documenting that the site (or portion of a site) for which the certificate is requested has been characterized in accordance with the site characterization performance criteria in the Remediation Assessment Agreement and that contaminants of concern either have not been released or are below required cleanup levels;
- (d) The Brownfields Program may reopen a Certificate of Completion based on the provisions in the certificate and/or:
  - (1) The site owner fails substantially to comply with the terms and conditions of the certificate; or
  - (2) Contamination is discovered that was present on the site but was not known to the owner/responsible party or the DNR and Brownfields Program on the date the certificate was issued; or
  - (3) An imminent and substantial endangerment to human health or the environment is discovered; or
  - (4) The Brownfields Program determines that the site remedy has failed to meet remediation objectives; or
  - (5) The Brownfields Program determines that the certificate was based on fraud, material misrepresentation, or failure to disclose material information.
- (e) The Brownfields Program may issue a Conditional Certificate of Completion where:
  - (1) A monitored natural attenuation remedy is approved and DNR and Brownfields Program determines that no exposure to contaminated media is reasonably expected to occur during the period of monitored natural attenuation. The Certificate of Completion will be conditioned on the volunteer's continued compliance with the monitoring requirements associated with the Remediation Agreement, site uses not changing during the period of natural attenuation, and confirmation sampling to show that cleanup levels are achieved when the period of natural attenuation is complete;
  - (2) An alternative (i.e., restricted use) soil cleanup levels are approved in conjunction with a use control area determination. In these circumstances, the certificate of completion will be conditioned on continued compliance with the requirements of the use control area; or
  - (3) A technical impracticability determination is made for cleanup of soil or water in accordance with this Title, provided the volunteer achieves alternative cleanup levels established by the Brownfields Program. The Certificate of Completion



will be conditioned on the volunteer's continued compliance with any controls on land use to prevent human or environmental exposure to contaminated media.

#### **Section 16-4-17. Covenant not to Sue.**

Consistent with the re-openers and termination clauses in the Remediation Agreement, the Brownfields Program may, upon request, provide the property owner or prospective purchaser a covenant not to sue subject to the review and approval of the Executive Committee and legal counsel. Any covenant not to sue will extend to subsequent owners.

#### **Section 16-4-18. No Further Action Letter ("NFA").**

If the Brownfields Program determines that no further remediation is required on a property or site; the DNR and Brownfields Program may, upon request, issue a No Further Action (NFA) Letter to a responsible party, person or government agency and/or a prospective purchaser or lessee to document that a response action is complete pursuant to this Title and any Tribal Order or permit requiring such action, and that no further action may be required. The NFA letter may provide site owners, operators, prospective purchasers, or other responsible party or government agency certainty about the extent of their remediation liability. The letter may state that, at the time the letter is issued, all remediation requirements necessary to protect human health and the environment have been successfully completed and that Brownfields Program currently has no plans to further evaluate the site or to impose additional remediation requirements. The DNR and Brownfields Program may reopen a No Further Action determination at any time if an imminent and substantial endangerment to human health or the environment is discovered; or the DNR and Brownfields Program determines that the monitored natural attenuation remedy is not effective in meeting the standards for a No Further Action letter under this Section. Special conditions and/or re-openers may be included in the NFA letter when:

- (a) The property or site requires engineering or institutional controls or other use restrictions to meet the standards in this Section; or
- (b) Monitored natural attenuation over a reasonable period of time is appropriate and that no exposure to contaminated media is reasonably expected during the period of natural attenuation. The No Further Action letter may require that the current use of the property continue during the period of natural attenuation and also may require that testing be conducted to confirm that standards are met.

#### **Section 16-4-19. Institutional Controls.**

An institutional control area or site to establish long-term restrictions or controls on the use of the site or property may be created or modified by a resolution of the Executive Committee and/or a responsible government agency in order to provide temporary or long-term protection of public health and the environment. The DNR and Brownfields Program, an owner or lessee of a site or property or a government agency responsible for a site or property or the Executive Committee may propose long-term restrictions or controls on the use of a site or property.

- (a) Any affected party, the Brownfields Program or any appropriate governmental entity or entities, as appropriate, may petition for the creation of such an institutional control area. Such petitioner for creation or modification of an institutional control area will:
- (1) Provide data, information, reports and any other information required in a Remediation Assessment Agreement and/or Remediation Agreement under this Section;
  - (2) Document written notice of the petition to all property owners 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 will identify the property, generally describe the petition and proposed use restrictions, direct that comments may be submitted to the Executive Committee 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 will be held no sooner than thirty (30) days after the first publication of the notice.
  - (4) The Executive Committee will approve or deny such petition for an institutional control area in accordance with applicable Tribal policies, rules, regulations and procedures.
  - (5) The Executive Committee may condition its approval of the petition upon the determination by the DNR and Brownfields Program that a remedy can be selected that meets the requirements of this Section and is consistent with the petition.
  - (6) Before a voluntary remediation, applicant and the DNR and Brownfields Program 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 Section.
  - (7) The restrictions in an institutional control area are enforceable by the Executive Committee or the DNR and Brownfields Program Director by injunction, mandamus or abatement, in addition to any other remedies provided by Tribal law or Title.
  - (8) Institutional controls or use restrictions will run with the land and be binding upon successors in land ownership and/or leases.
  - (9) A violation of any use restriction or institutional control will be deemed a violation of this Title, and the DNR and Brownfields Program Director or Executive Committee 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.

- (10) Nothing in this Section will contravene or limit the authority of any Tribal, Federal, county, city or government agency to regulate and control the property under their jurisdiction.

**Section 16-4-20. Re-openings or Terminations of Agreements.**

- (a) Re-openings. The Executive Committee upon recommendation of the DNR and Brownfields Program may reopen 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 DNR and Brownfields Program on the date of the Remediation Agreement or when the Brownfields Program 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; or
  - (5) The monitored natural attenuation remedy is not effective in meeting the standards under this section.
- (b) Terminations. The Executive Committee upon recommendation of the DNR and Brownfields Program 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) Notice of Action. If a Remediation Agreement, covenant not to sue, Certificate of Completion or No Further Action letter is reopened or terminated, the DNR and Brownfields Program will record a notice of such action in the appropriate Tribal, BIA and/or county office with the deed for the site or other appropriate official land document and will 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 16-4-21. Disputes and Appeals.**

If a person and the Brownfields Program are 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 Brownfields Program's decision to the Executive Committee. The Executive Committee decision may be appealed to the Tribal Court. All hearings conducted under this Section will be conducted pursuant to the FSST Law and Order Code and applicable Administrative Procedures.

#### **Section 16-4-22. Remediation Fees Assessment.**

- (a) The Executive Committee may implement a fee system and schedule of fees, subject to the approval of the Executive Committee, which are applicable to the applicant for a Remediation Assessment Agreement, Remediation Agreement, Certificates of Completion or No Further Action letter authorized under this Section. Fees will cover all reasonable direct and indirect costs of the Brownfields Program.
- (b) The DNR and Brownfields Program will give written notice of the amount of the fee assessment to the applicant.
- (c) The applicant for the Remediation Assessment Agreements, Remediation Agreements, Certificates of Completion and No Further Action letters authorized under this Section may appeal the fee assessment to the Executive Committee within thirty (30) days of receipt of the notice.

## **CHAPTER 5. WASTE STORAGE, COLLECTION, TRANSFER AND TRANSPORTATION.**

### **Section 16-5-1. Waste Storage.**

Solid waste will be deposited and stored in the following manner:

- (a) There will be provisions for storage which will accommodate the volume of solid waste anticipated which may be easily cleaned and maintained, and which will allow for efficient, safe collection and prevent spillage and littering.
- (b) All solid wastes (or materials which have been separated for the purpose of recycling) will be stored in such a manner that they do not constitute a fire, health, or safety hazard or provide food or harborage for vectors and will be contained or bundled so as not to result in spillage.
- (c) Solid waste will be stored in an approved waste collection service or FSST provided container or in a manner that will confine the waste in one area, and not create a public nuisance or attract vectors.
- (d) Bulky rubbish such as tree trimming, newspaper, weeds and large cardboard boxes will be handled as directed by the DNR.
- (e) Storage of bulky wastes will include, but is not limited to, removing all doors from large household appliances or storing or covering the item(s) to reduce the problems of an attractive nuisance, and the accumulation of solid waste and water in the bulky items.

### **Section 16-5-2. Waste Containers and Receptacles.**

- (a) The owner, agent or occupant of every dwelling, business establishment or other premises where refuse accumulates will provide a sufficient number of suitable and FSST approved containers for receiving and storing of refuse and will keep all refuse therein or use such containers provided by the Waste Collection Service. The owner, agent or occupant of every dwelling, business establishment or other premises where refuse accumulates, will be responsible for the safe and sanitary storage of all solid waste accumulated at that premise until it is removed;
- (b) Approved and provided containers will be maintained in a manner consistent with this Title and acceptable to the DNR. Containers that are broken or otherwise fail to meet the requirements of this Title will be replaced;
- (c) Drop-box containers will be periodically disinfected and will be steam cleaned and painted as deemed necessary by the DNR.
- (d) Approved individual containers will be stored off the ground on racks or stands or in designated locations and easily accessible for collection by the collection service or authorized franchisees or representatives.

- (e) A property which is available to the public or for the transaction of business to include commercially operated parks, campgrounds, drive-in restaurants, automobile service stations, business parking lots, car washes, shopping centers, marinas, boat launching areas, industrial parking lots, boat moorage and fueling stations, piers, beaches and bathing areas, airports, roadside rest stops, drive-in movies, and shopping malls will provide receptacles for wastes. This will also apply to property available to the public for assemblage or recreation to include any property that is Tribally owned or operated.
- (f) In order to assist the public in complying with this Chapter, the owner or person in control of any property which is available to the public as a place for assemblage, the transaction of business, recreation, or as a public way will cause to be placed and maintained receptacles for the deposit of litter, of sufficient volume and in sufficient numbers to contain the litter which can be expected to be generated by the numbers of people customarily coming on or using the property. A receptacle will be maintained in a manner to prevent overflow or spillage of litter from the receptacle.
- (g) A temporary site or location may be designated by the FSST, the DNR or any of its agencies or departments, for the collection of waste and placement of waste containers or receptacles. Such a site will be used for less than 90 days and be:
  - (1) Located at a site or location that does not create a public health or safety hazard, a public nuisance, or a fire hazard;
  - (2) Approved by proper Tribal officials;
  - (3) Managed by the responsible Tribal agency or department, or land owner/leasee, who will remove and properly dispose of all waste when the emergency or temporary situation no longer exists.

### **Section 16-5-3. Solid Waste Collection Services and Practices.**

- (a) Collection Service. All Tribal residents will be required to subscribe to a refuse collection service or its Collection Service Provider, permitted by FSST, or Tribal residents may take their own trash to an FSST designated and approved collection, transfer or disposal site if available. A collection or disposal fee may be charged by the FSST.
- (b) Collection Schedules.
  - (1) The collection of solid waste will be on a timely basis but no less than once every seven (7) days barring adverse weather conditions or other conditions or equipment failure beyond the control of the collection service.
  - (2) All FSST operated solid waste collection or transfer sites will be open during days and hours set by the DNR and will remain open on special occasions such as Pow Wows, for disposal of waste, debris and refuse as allowed by this Title.

- (c) Collection Service Fees. All private service collection fees will be determined through an open competitive bidding process, recommended by DNR, and approved by the Executive Committee.
- (d) Non-payment of Collection Fees. Non-payment of waste collection or transfer fees resulting in a termination of waste collection services will be a violation of this Title and may result in action being taken by the DNR. Action may include the discontinuation of other utilities provided by the Tribe or other civil penalties.
- (e) Collection Standards. Solid waste will be deposited, stored and collected in a manner that prevents spillage and littering. Should spillage and/or littering occur, the waste will be cleaned up by the responsible person(s) within 24 hours and returned to the vehicle, appropriate facility or container. Property owners, lessees, residents and home owners are the responsible party for releases, littering or spillage of solid waste from their residence or property until such wastes are collected by the authorized collection service.
- (f) Waste Rejection. The Collection Service Franchisee(s) reserves the right to refuse any and all materials at the pick-up point, collection sites, transfer stations, or any other solid waste facility based upon the characteristics of the waste or the generator's failure to properly screen the waste for hazardous or special waste as defined under this Title.
- (g) Material Separation. The DNR and Brownfields Program or the Collection Service Franchisee(s) reserves the right to require screening and separation of any waste materials deemed necessary to identify and separate hazardous or special waste prior to collection or acceptance at a solid waste management or transfer facility.
- (h) Site Access. All Tribal, community or commercial solid waste collection sites must be provided with an all-weather access road, suitable for travel by loaded vehicles; and must be fenced with access provided only through one control entry point.

#### **Section 16-5-4. Waste Transportation.**

- (a) Containment During Transport. All vehicles used for collection and transportation of refuse, to include private vehicles, will be loaded and moved in such a manner that the contents, including ashes, will not fall, leak or spill from vehicles. Open top vehicles or vehicles with attached or towed open top containers will be covered with a tarp or other covering while in transit on public roads to ensure load security and prevent the release of any debris or liquids. Any releases, littering or spillage from such vehicles are the responsibility of the vehicle owner or operator and the generator and must be cleaned up within 24 hours of such release or spillage.
- (b) Commercial Waste Haulers. Commercial vehicles used for the collection and transportation of solid waste, including refuse or garbage, will have covered, watertight, metal bodies of easily cleanable construction, and will be cleaned frequently to prevent a nuisance, and will be maintained in good repair.

## **CHAPTER 6. GENERAL SOLID WASTE MANAGEMENT REQUIREMENTS, PERMITS, AND FEES.**

### **Section 16-6-1. Commercial Waste Management.**

No commercial solid or hazardous waste management, storage, treatment, transfer or disposal facilities will be located within the jurisdiction of the FSST.

### **Section 16-6-2. Waste Management Permits.**

- (a) A Permit from DNR is required for the following activities or facilities pursuant to this Title. Procedures in obtaining a Permit and the applicable Permit Fee is in the Integrated Plan. If a Permit is denied by DNR, it will be referred to the Executive Committee for final action:
  - (1) Commercial Motor Vehicle Salvage Yard
  - (2) Commercial waste Collection and Transportation
  - (3) Construction Waste Management
  - (4) Demolition Waste Management (structures greater than 100 sq. ft.)
  - (5) Waste/Used Oil Collection and Storage
  - (6) Open Burning
  - (7) Septic Waste Pumping and Hauling
  - (8) Used or Scrap Tire Storage
  - (9) Prime Contractor Waste Management Permit Fee

### **Section 16-6-3. Waste Management Permit Fees.**

- (a) The Executive Committee, upon recommendation of DNR, will set fees by resolution, which will be published in the Integrated Plan, which is reviewed annually by the Land Committee and Executive Committee. The fees will be commensurate with costs to issue and monitor activities undertaken by the Permit.
- (b) The Executive Committee may exempt fixed income, disabled or other persons from such fees for solid waste management and/or determine alternative ways for such persons to pay for Permit.
- (c) The DNR may declare free days for the collection and disposal of waste, debris and refuse in furtherance of clean-up days and other civic purposes.
- (d) Each Permittee will keep complete and accurate records in such form as the Executive Committee may require.



#### **Section 16-6-4. Prime Contractor Waste Management Permit Fee.**

The FSST will charge a Permit Fee for “Prime Contractors” for demolition or construction projects. The Permit Fee will be payable to the FSST and will be for the sum of 2% of the total gross amount of the contract. Such a Permit Fee will be noticed as part of the request for bids process. For the purposes of this requirement a “Prime Contractor” is the prime contractor for construction or demolition projects funded by a Federal agency, Tribal Government, or other commercial construction. This does not apply to private residential or agricultural property construction or demolition.

#### **Section 16-6-5. Non-payment of Permit Fees.**

Non-payment of any required FSST Permit fee may be grounds for denial or revocation of a Permit and/or a contract. Non-payment of required fees will be a violation of this Title and permittee may be subject to civil penalties. The Executive Committee will have the primary jurisdiction to hear matters regarding the non-payment of fees established pursuant to this Title.

#### **Section 16-6-6. Revenues from Permit Fees.**

- (a) Fees collected under this Chapter will be deposited in a special account established for the Program for the permitting, inspection, code enforcement and oversight of solid waste management and facilities as well as response to environmental hazards and emergencies.
- (b) The expenditure of all above revenues from fees will be subject to the review and oversight of the Executive Committee.

#### **Section 16-6-7. Emergency Permits.**

The Executive Committee, upon recommendation by DNR, may issue an emergency permit for one-time waste management or disposal events based on various practical factors during emergency conditions. Application for such permits will be made pursuant to this Title. The Executive Committee, DNR, and other Tribal, local, state and Federal agencies will work together to accomplish the efficient and environmentally sound disposal of solid and/or hazardous waste and related materials so as to minimize impacts to human health, the environment and to water resources. Disposal under emergency permits must be restricted to generally inert or other solid wastes from a specific site or area and for a specific period of time.

#### **Section 16-6-8. Waste Management Siting.**

The Executive Committee may declare by resolution, or find in a specific case, that a specified geographical area of Tribal lands possesses special or unique characteristics subject to specific requirements, and the Executive Committee may prohibit the installation or establishment of specific types or sizes of solid waste collection, storage or other facilities in these specified geographical areas based on these findings.

#### **Section 16-6-9. Perpetual Responsibility for Solid Waste and Liability for Pollution.**

Any nation, Tribe, state, municipality, county, or other political subdivision which has solid waste generated within its boundaries stored, treated or otherwise managed in lands subject to the jurisdiction of the FSST will be responsible in perpetuity for the solid waste and liable in perpetuity for any pollution or other deleterious effect caused by it.

## **CHAPTER 7. COMPLIANCE AND ENFORCEMENT.**

### **Section 16-7-1. Authority, Duties and Responsibilities.**

The Brownfields Program, under the direction of DNR or the Executive Committee, is hereby designated as the lead Tribal Agency for all purposes under this Title and will administer and enforce these Codes. As appropriate, the DNR, Brownfields Program, and Executive Committee will have and may exercise the following authorities, duties and responsibilities in assuring compliance with and enforcement of this Title:

- (a) Take all administrative action necessary as provided for in this Title related to civil enforcement of the provisions of this Title;
- (b) Investigate alleged violations of any provisions of this Title and take administrative or civil enforcement actions described in this Chapter;
- (c) Upon complaint by any person, which establishes reasonable grounds, or upon its own motion, the Brownfields Program will investigate the activities of any person or permittee to ensure compliance with this Title.
- (d) The Brownfields Program may at reasonable times enter onto any solid waste management facility, open dump or property where solid waste is present for investigating any potential violation of this Title and Chapter. The Brownfields Director may request the Tribal Police lead the investigation. In conducting these investigations, the Brownfields Director may take samples of the waste, soils, air, or water or may, upon issuance of an Order, require any person to take and analyze samples of such waste, soil, air, or water.
- (e) In conducting an investigation of a FSST permittee or permitted activity, the Brownfields Director will refer to Tribal Police, requesting them, without reasonable notice, if necessary, to enter into the permittee's place of business, operation, or facility, to inspect any books or records of the permittee, to inspect any of the permittee's property, or sites of possible pollution, and to take samples;
- (f) If Brownfields Program finds that any violation of this Title by a person knowingly made any false statement, representation or certification, or knowingly falsified, tampered with or rendered inaccurate any required monitoring device, the Brownfields Program may refer the matter to the DNR, Executive Committee, U.S. EPA, Tribal Police, or Federal law enforcement officials;
- (g) Any authority vested in the DNR and Brownfields Program by this Title may be delegated to such FSST officers, agents, departments or other staff as the DNR and Brownfields Program may designate; and such individuals may have all other authorities, duties and responsibilities as stated herein.
- (h) The DNR and Brownfields Program will communicate with the Executive Committee, the public, and the U.S. EPA as appropriate, regarding compliance and enforcement

activities in a manner and containing such information as the Executive Committee approves, excluding any confidential or privileged information.

#### **Section 16-7-2. Enforcement Actions.**

The Executive Committee, upon recommendation of the DNR and Brownfields Program, may initiate and execute the following enforcement actions to ensure compliance with this Title:

(a) Informal Compliance Actions. The Executive Council, upon recommendation of the DNR and Brownfields Program, may initiate informal actions to inform a party of violations of this Title, and how to correct such violations, where such violations are minor and do not pose an imminent risk to public health or the environment or are not habitual in nature. Such informal actions may include a verbal warning, an informal compliance conference and/or a written Warning Letter. Failure of a party or person to take timely action or achieve complete compliance with this Title, may result in a formal enforcement action pursuant to this Chapter.

(b) Formal Enforcement Actions.

(1) *Notice of Non-Compliance or Citation for Minor Violations*. A “minor” violation poses or may pose a relatively low risk of exposure of humans or other environmental receptors to hazardous substances, pollutants or contaminants; and/or the actions have or may have a small adverse effect on the regulatory purposes of this Title. In the event of a minor violation(s), the Executive Committee, upon recommendation of the DNR and Brownfields Program, will request the Tribal Police to serve the alleged violator, in person or by certified mail, with a Notice of Non-Compliance or a Citation. The Notice of Non-Compliance or Citation will further state:

- i. the alleged violator of the Title;
- ii. which provisions of this Title are allegedly not being complied with;
- iii. the action(s) that must be taken to correct such non-compliance; and
- iv. the time frame or deadline for taking such action(s).

In the event of non-compliance with any Notice of Non-Compliance or Citation, the Executive Committee, upon recommendation of the DNR and Brownfields Program, may issue a Notice of Violation (NOV) and/or Order the Cessation of such activity without additional notice to the alleged violator.

(2) *Notice of Violation (NOV) for Moderate or Major Violations*. A “moderate” violation poses or may pose a potential risk of exposure of humans or other environmental receptors to hazardous substances pollutants or contaminants; and/or the actions have or may have a significant adverse effect on the regulatory purposes of this Title. This may also include repeated minor violations. A “major” violation poses or may pose a substantial risk of exposure of humans or other

environmental receptors to hazardous substances, pollutants or contaminants; and/or the actions of the violator have or may have a substantial adverse effect on the regulatory purposes of this Title. This may also include repeated moderate violations.

- i. In the case of an apparent moderate or major violation of this Title the Executive Committee, upon recommendation of the DNR and Brownfields Program, will direct the Tribal Attorney to issue a NOV to the person(s) apparently responsible for the violation. The Executive Committee may request assistance from the U.S. EPA or other Federal authorities. Both a NOV and a Cease and Desist Order may be issued for a single incident. A NOV and/or a Cease and Desist Order should also contain how the violation can be remedied.
  - ii. Should no action be taken from the NOV and/or Cease and Desist Order within ten (10) working days, or the time specified in the NOV or Order, the Executive Committee will direct the Tribal Attorney to issue a Summons to appear at an administrative hearing conducted by the Executive Committee at a specified time and date. The Executive Committee may request assistance from the U.S. EPA or other Federal authorities.
- (3) *Administrative Orders.* In the event of any non-compliance with this Title, with any non-compliance with a Notice of Non-Compliance, Citation or NOV, the DNR and Brownfields Program may issue an Administrative Order for such non-compliance. The Executive Committee may request assistance from the U.S. EPA or other Federal authorities.
- i. An Administrative Order will state with reasonable specificity the nature of the violation(s), a time frame for compliance if applicable, outline specific remediation actions, if appropriate, and the right to a hearing before the Executive Committee.
  - ii. An Administrative Order will be hand delivered by the Tribal Police to the alleged violator or delivered via Certified U.S. Mail. An Administrative Order issued by Tribal Attorney will become final unless an appeal is filed with the Executive Committee for a hearing within thirty days of receipt of the order.
  - iii. A person subject such an Administrative Order will have all procedural rights at any administrative hearing held before the Executive Committee including the right to judicial review by the Tribal Court. The Executive Committee through the Tribal Attorney may file an action in Tribal Court to enforce Administrative Orders issued under this Title.

The U.S. EPA may execute an order depending on the severity of a “moderate or major” violation.

- (4) *Cease and Desist Orders.* If the Executive Committee has reason to believe that any person is in violation of any provision of this Title, any condition of any permit issued under this Title, or that any person is creating an imminent and substantial endangerment to the public health or the environment, the Tribal Attorney may file an action in Tribal Court requesting a Cease and Desist Order, a Temporary Restraining Order, a preliminary injunction or any other relief necessary to protect the public health or the environment.
- (5) *Abatement and Remedial Action Orders.* Any person who intentionally or accidentally allows or causes or any pollution or release of hazardous substances, pollutants or contaminants will, by Order of the Executive Committee, cease and desist from any improper action or violation(s), clean up any release, abate any hazard, pollution, or nuisance and otherwise comply with any directive, or corrective or remedial action order issued by the Tribal Attorney.

### **Section 16-7-3. Civil Fines and Penalties.**

Any person who fails to comply with any provision of this Title may be subject to civil fines or penalties as well as any other remedies set forth herein or by the DNR and Brownfields Program in implementing this Title.

- (a) Any person failing to obtain a Permit as required in this Title, will be subject to a fine ten (10) times the amount of the Permit Fee.
- (b) The Executive Committee may assess any person violating any provision of this Title a civil fine and/or impose an alternate penalty or remedy for each violation. A person against whom the Executive Committee assesses a fine may appeal in Tribal Court.
- (c) Any person found violating this Title may be subject to civil penalties of up to Five Thousand Dollars (\$5,000.00) per day for each day of such violation or continued violation of an Order to cease activity. Each day of noncompliance constitutes a separate violation for purposes of penalty assessments.
- (d) Any civil fines will be based upon the policies of the Tribe and the FSST Civil Penalty Policy, the potential for harm that has been or could be caused by the violation and the extent of deviation from the requirements of this Title.
- (e) The Tribal Police will personally, or via certified United States mail, first class, serve the alleged violator with notice of the penalty. The penalty will be due and payable to the DNR and Brownfields Program within twenty calendar (20) days of such notice. Failure to pay any penalties imposed will be considered an additional violation of this Title.
- (f) The Tribal Attorney, as directed by the Executive Committee, is authorized to file an Administrative Order against a person on behalf of the Tribe in the Tribal Court for civil penalties, including reasonable attorney's fees and costs. Any Administrative Orders or other civil action with penalties concerning moderate or major violation(s), as defined in the FSST Civil Penalty Policy, will be heard in the Tribal Court, and the alleged violator will be served and have an opportunity to be heard.

#### **Section 16-7-4. Alternate or Other Civil Penalties or Remedies.**

- (a) The Executive Committee, Tribal Attorney, or Tribal Court, at its discretion, may consider additional penalties or alternatives to an assessed civil fine such as:
  - (1) Community service;
  - (2) Work for the benefit of the Tribe;
  - (3) Restitution;
  - (4) Public publication and notice of the violations and the violator; and/or
  - (5) Other administrative action.
- (b) Such community service or work for the benefit of the Tribe will be not less than eight (8) hours, but not more than two hundred (200) hours.
- (c) The Executive Committee or the Tribal Court, at its discretion, may also consider additional penalties or alternatives to an assessed civil fine such as:
  - (1) *Exclusion.* Any person who is found by the Tribal Court to have committed any violation(s) under these Regulations may be excluded from the Reservation by the Court.
  - (2) *Suspension of Commercial Dealings and Consensual Activities.* Any person who commits any of the above prohibited acts, or whose employees or agents, during their employment, are found to have committed any violation(s) under this Title may have its rights to engage in commercial dealings or consensual activities with the FSST suspended or terminated.
- (d) In the event an alleged violator fails to act in accordance with an Administrative Order served pursuant to this Title, the Executive Committee may pursue one or more of the following remedies:
  - (1) Request the Secretary of the Interior to serve notices of intent to cancel any relevant lease pursuant to Federal law for using the leased premises for unlawful conduct or for an unlawful purpose, specifying the basis for the notice; and/or
  - (2) Take any other action deemed appropriate so long as the rights of due process guaranteed by the Indian Civil Rights Act, 25 U.S.C. §§ 1301 et seq., and the Constitution of the FSST not infringed upon.
- (e) Remedies Not Exclusive. The rights of the FSST with respect to a person under this Title, including the right to issue compliance orders, recover civil penalties, or civil damages for cleanup, abatement, corrective or remedial costs against a person, are not intended to be exclusive, and the Tribe reserves all other legal rights which it otherwise has against

any person, including the right to seek injunctive relief or seek relief in any court of competent jurisdiction.

#### **Section 16-7-5. Removal of Improperly Disposed Solid Waste.**

Any person cited for a violation of this Title for improper disposal or dumping will, in addition to any other penalty, remove the solid waste from where it was improperly disposed and will dispose of such solid waste in a manner consistent with this Chapter. However, at the direction of the Executive Committee, the DNR and Brownfields Program may provide for an alternative means of disposal if such disposal is consistent with the provisions of this Chapter. In addition, the DNR and Brownfields Program may employ special monitors to supervise such removal and disposal and may assess the costs of such supervision as costs against the person so cited.

#### **Section 16-7-6. Civil Damages.**

The Tribal Attorney, as directed by the Executive Committee, is authorized to bring a civil action on behalf of the Tribe or its members in the Tribal Court, or any other court of law, against any person who has committed any violation of these regulations, for all civil damages caused, including damages to the land or natural resources of the Tribe or its members, and for the reasonable costs actually incurred or to be incurred by the Tribe for cleaning up any pollutant or abating the effects thereof, together with the costs of suit, including reasonable attorney's fees. The Tribe's Legal Counsel must approve the filing of any civil action for damages before such action is filed. All civil damages will be paid to the Tribe. This includes any property, which is forfeited to the Tribe for payment of civil damages.

#### **Section 16-7-7. Payment and Disposition of Civil Fines.**

- (a) Non-payment of required civil fines will be a violation of this Title. Non-payment of any required FSST civil fine may be grounds for denial or revocation of a permit or a contract. The Executive Committee will have the primary jurisdiction to hear matters regarding the non-payment of civil fines established pursuant to this Title.
- (b) Revenues collected pursuant to this Title from fines and/or penalties, not including court costs, will be deposited in a DNR and Brownfields Program Special Account for the exclusive use of the DNR and Brownfields Program. Such funds will be designated for paying costs of ensuring compliance and enforcement of this Title to include public outreach and education, compliance assistance and remedial responses to environmental emergencies occurring on lands subject to the jurisdiction of the FSST and will only be expended for such purposes. This includes any property, which is forfeited to the Tribe for payment of civil penalties. The Executive Committee will provide oversight of the use of such funds.
- (c) Reasonable attorney's fees awarded in any civil action will be paid to the Tribe, if the attorney(s) is/are an employee(s) of the Tribe or will otherwise be paid according to the provisions of any retainer agreement. All costs of suit awarded in any civil action will be paid to the FSST.



#### **Section 16-7-8. Liability of Person(s) for Remedial Costs.**

- (a) If a release of a pollutant, contaminant or hazardous substance is not cleaned up in a timely manner, the effects thereof not abated, or any other necessary remedial action is taken by the DNR and Brownfields Program or the FSST, the person who committed such release or violation(s), will be liable to the Tribe for the reasonable costs actually incurred in cleaning up any pollutant, abating the effects thereof, or taking other corrective or remedial action, including all damages to the natural resources of the Tribe or its members.
- (b) The person who committed such release or violation(s) will be liable to the Tribe for the reasonable costs incurred in the immediate response and oversight of cleaning up any pollutant, contaminant or hazardous substance by the responsible party, their contractor or any other third party. The amount of such costs will be recoverable by the Tribe in a civil action brought by the Tribal Attorney at the direction of the Executive Committee, filed in the Tribal Court, together with the costs of suit, including reasonable attorney's fees. Any judgment ordering the payment of these costs to the FSST will bear interest at the rate of ten percent (10%) per annum.

#### **Section 16-7-9. Criminal Enforcement.**

All potential criminal violations of Tribal, state or Federal laws or regulations will be referred to the appropriate Tribal, or Federal agencies for investigation and appropriate action. The DNR and Brownfields Program will cooperate with such agencies as needed. The Executive Committee will be notified of all such referrals.

## **LEGISLATIVE HISTORY**

This Title was approved by the Flandreau Santee Sioux Executive Committee through Tribal Resolution 19-47 on July 23, 2019.

# *Flandreau Santee Sioux Tribe*

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## **RESOLUTION NO. 19-47**

**WHEREAS,** The Flandreau Santee Sioux Tribe (the “Tribe”) is a federally-recognized Indian Tribe organized pursuant to the Constitution and By-laws approved by the Secretary of Interior and Commissioner of Indian Affairs on April 24, 1936, amended February 7, 1941, further amended November 16, 1967, further amended November 14, 1984, and further amended May 17, 1997; and

**WHEREAS,** Article III of the Tribe’s Constitution and By-laws provides that the governing body of the Tribe shall be the Executive Committee; and

**WHEREAS,** Article VIII Section 1(e) of the Constitution vests the Executive Committee with the power to acquire, lease, or otherwise manage all lands or other assets, either real or personal, for the benefit of the Tribe as authorized by law except that where lands or assets are under the jurisdiction of the Federal government; and

**WHEREAS,** Article VIII Section 1(f) of the Constitution vests the Executive Committee with the power to promulgate and enforce ordinances governing and regulating the conduct of all persons on the reservation; and

**WHEREAS,** Article VIII Section 1(h) of the Constitution vests the Executive Committee with the power to adopt resolutions consistent with such Constitution and By-laws, regulating the procedure of the Executive Committee itself and of other tribal agencies, tribal officials or tribal organizations of the Tribe; and

**WHEREAS,** the Tribe owns and manages parcels of real property throughout South Dakota, with some property being held in trust by the United States Government and other property owned in fee-simple by the Tribe; and

**WHEREAS,** the preservation of Tribal Lands for the Tribal Membership and future generations is a priority of the Executive Committee, thereby prompting it to approve the attached “Solid Waste and Hazardous Waste Management Ordinance” under Title 16 of the FSST Law and Order Code; and

**WHEREAS,** Title 16 is intended to provide, within the jurisdiction of the Flandreau Santee Sioux Reservation and other lands within the Tribe’s jurisdiction, for the establishment of a comprehensive solid and hazardous waste management program to protect the health, safety, and well-being of residents; to regulate the storage, collection, transportation, disposal, treatment, and management of solid and hazardous waste; to remediate any releases of a hazardous substance pollutant or contaminant to protect the human health, public sanitation,

environment, and general aesthetics; and to inform and educate persons of the need to participate fully in efforts to reduce the generation of solid and hazardous waste; and

**NOW THEREFORE BE IT RESOLVED** that the Flandreau Santee Sioux Tribe Executive Committee hereby approves the content of the attached Title 16 entitled "Solid Waste and Hazardous Waste Management Ordinance"; and


**BE IT FURTHER RESOLVED** that the Legal Department is directed to make formatting changes so that this code is consistent with the FSST Law and Order Code, and to publish the code upon completion.

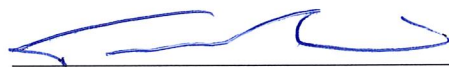
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### CERTIFICATION

The foregoing Resolution was duly enacted and adopted on this 35<sup>th</sup> day of July, 2019, by the Executive Committee of the Flandreau Santee Sioux Tribe during a duly called meeting with a quorum was present of 6 In Favor, 0 Opposed, 0 Abstaining, and 1 Not Voting, as follows:

Vice President, Andrew Weston:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
Secretary, Donalda Montoya:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
Trustee I, Kristie Bietz:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
Trustee II, David Kills-A-Hundred:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
Trustee III, Kenny Weston:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
Trustee IV, John Jason Armstrong:	<u>YES</u>	NO	ABSTAIN	NOT PRESENT
President, Anthony Reider ( <i>If Required</i> ):	YES	NO	ABSTAIN	NOT PRESENT

  
Donalda Montoya., Tribal Secretary

  
Anthony Reider, Tribal President