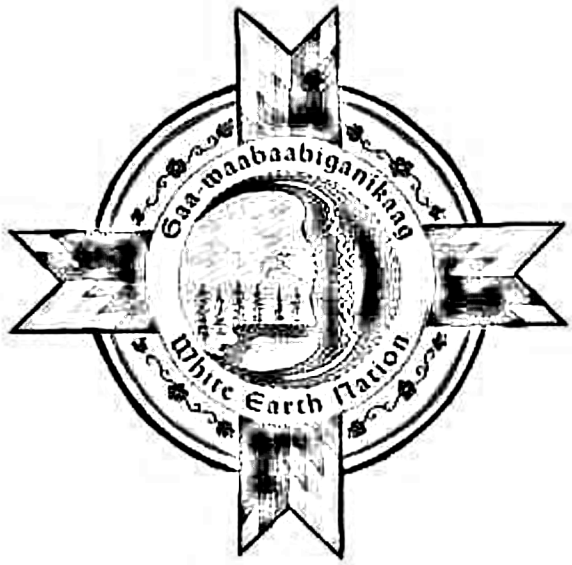
White Earth Reservation



Environmental Code

WHITE EARTH RESERVATION TRIBAL COUNCIL
A/K/A WHITE EARTH BUSINESS COMMITTEE
WHITE EARTH BAND OF CHIPPEWA INDIANS

Resolution No. 057-15-002

WHEREAS, the White Earth Reservation Tribal Council is the duly elected governing body of the White Earth Reservation pursuant to Article IV, Section 1, of the Revised Constitution of the Minnesota Chippewa Tribe, as amended, and organized under Section 16, of the Act of June 18, 1934 (18 Stat. 984), and

WHEREAS, the White Earth Reservation Tribal Council, also known as the White Earth Reservation Business Committee, is the duly authorized governing body of the White Earth Band, and

WHEREAS, the White Earth Reservation Tribal Council is the duly elected governing body of the White Earth Reservation and is organized under Section 16 of the Act of June 18, 1934 (48 Stat. 984) as amended and pursuant to the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe, and

WHEREAS, the White Earth Reservation Tribal Council has established the Natural Resources Department, which consists of: Conservation/Enforcement, Environmental Affairs, Water Quality, Cultural Resources/Archives, Forestry, Land Office, Zoning, Fisheries, Wildlife, Wild Rice and Agriculture, and Pesticides/Emergency Management, and

WHEREAS, it is the intent of the White Earth Reservation Tribal Council to effectively, efficiently and properly manage the natural resources of the Reservation, and

WHEREAS, the White Earth Reservation Tribal Council adopted an Environmental Code on January 31, 2011, pursuant to RTC Resolution No. 057-11-001, which provided for the protection, management, enforcement and enhancement of all Natural Resources within the reservation boundaries, and

WHEREAS, the White Earth Reservation Hazardous Substances Code provides an amendment to the Environmental Code that will further and enhance the Reservation Tribal Council's goal of effectively, efficiently and properly managing the Reservation's natural resources.

THEREFORE, BE IT RESOLVED, that the White Earth Reservation Tribal Council does hereby adopt the White Earth Reservation, Hazardous Substance Code as Chapter 12 of the White Earth Reservation, Environmental Code for the effective management and enforcement of hazardous substances within the Reservation boundaries, and that the Hazardous Substance Code will be effective January 1, 2015.

We do hereby certify that the foregoing resolution was adopted by a vote of 4 for, 0 against, 0 silent, a quorum being present at a special meeting of the White Earth Reservation Tribal Council held on November 24, 2014 in White Earth, Minnesota.

Erma Vizenor, Chairwoman

Tara Mason, Secretary-Treasurer

WHITE EARTH RESERVATION BUSINESS COMMITTEE
WHITE EARTH BAND OF CHIPPEWA INDIANS

Resolution No. 057-23-025

WHEREAS, the White Earth Reservation Business Committee is the duly elected governing body of the White Earth Reservation pursuant to Article VI, Section 1, of the revised constitution of the Minnesota Chippewa Tribe, as amended, and organized under Section 16, of the Act of June 18, 1934 (48 Stat. 984), and

WHEREAS, the White Earth Reservation Business Committee is the duly authorized governing body of the White Earth Band, and

WHEREAS, the White Earth Reservation Business Committee adopted the White Earth Reservation Environmental Code for the protection, management, enforcement and enhancement of all natural resources within the Reservation boundaries, and

WHEREAS, the White Earth Reservation Business Committee established the White Earth Division of Natural Resources (WEDNR) to protect, restore and regulate the natural resources of the Band in order to ensure environmental and human health and spiritual, cultural and economic sustainability of the Band, and

WHEREAS, the WEDNR requests approval of its updates to the Band's Pesticide and Chemical Ordinance and Enforcement Response Policy as well as its Memorandum of Agreement on Pesticide Applicator Certification with the United States Environment Protection Agency (EPA), Region 5 and Minnesota Department of Agriculture, and

WHEREAS, the White Earth Reservation Business Committee supports and approves the WEDNR's revised Pesticide and Chemical Ordinance, revised Enforcement Response Policy and Memorandum of Agreement on Pesticide Applicator Certification with the United States Environment Protection Agency (EPA), Region 5 and Minnesota Department of Agriculture as necessary to protect, restore and regulate the natural resources of the Band in order to ensure environmental and human health and spiritual, cultural and economic sustainability of the Band.

THEREFORE BE IT RESOLVED, that the White Earth Reservation Business Committee hereby authorizes the WEDNR's Memorandum of Agreement on Pesticide Applicator Certification with the United States Environment Protection Agency (EPA), Region 5 and Minnesota Department of Agriculture and approves the revised Pesticide and Chemical Code and Enforcement Response Policy.

BE IT FURTHER RESOLVED, that the White Earth Reservation Business Committee hereby authorizes the Director of Natural Resources and Pesticide Coordinator to sign any and all necessary contracts and documents pursuant to the above matters after legal review.

We do hereby certify that the foregoing resolution was adopted by a vote of 4 for, 0 against, 0 silent, a quorum being present at a special meeting of the White Earth Reservation Business Committee held on June 1, 2023 in White Earth, Minnesota.

Michael A. Fairbanks, Chairman

Michael LaRoque, Secretary/Treasurer

WHITE EARTH RESERVATION BUSINESS COMMITTEE
WHITE EARTH BAND OF CHIPPEWA INDIANS
Resolution No. 057-25-001

WHEREAS, the White Earth Reservation Tribal Council is the duly elected governing body of the White Earth Reservation pursuant to Article IV, Section I, of the revised constitution and bylaws of the Minnesota Chippewa Tribe, as amended, and organized under Section 16, of the Act of June 18, 1934 (48 Stat. 984), and

WHEREAS, the White Earth Reservation Business Committee is the duly authorized governing body of the White Earth Band, and

WHEREAS, the White Earth Reservation Business Committee established the White Earth Division of Natural Resources (WEDNR) to protect, restore, and regulate the natural resources of the Band in order to ensure environmental and human health, and spiritual, cultural, and economic sustainability of the Band, and

WHEREAS, the White Earth Reservation Business Committee approves WEDNR's recommendation to revise the White Earth Environmental Code Pesticide and Chemical Code §300.00 – 300.14 to better conform with federal law regarding record keeping requirements for pesticide applicators and dealers, and

WHEREAS, pursuant to Resolution Number 057-24-036 the White Earth Reservation Business Committee has posted the revisions for public comment, received and responded to comments on the proposed revisions, now

THEREFORE BE IT RESOLVED, that the White Earth Reservation Business Committee hereby amends the Pesticide and Chemical Code to Sections 300.00-300.14 to better conform with federal laws and regulations on record keeping requirements.

We do hereby certify that the foregoing resolution was adopted by a vote of 3 for, 0 against, 0 silent, a quorum being present at a regular meeting of the White Earth Reservation Business Committee held on October 25, 2024 in Mahnomen, Minnesota.

Michael A. Fairbanks, Chairman

Michael LaRoque, Secretary/Treasurer

WHITE EARTH RESERVATION BUSINESS COMMITTEE
WHITE EARTH BAND OF CHIPPEWA INDIANS
Resolution No. 057-26-007

WHEREAS, the White Earth Reservation Business Committee is the duly elected governing body of the White Earth Reservation pursuant to Article VI, Section 1, of the revised constitution of the Minnesota Chippewa Tribe, as amended, and organized under Section 16, of the Act of June 18, 1934 (48 Stat. 984), and

WHEREAS, the White Earth Reservation Business Committee is the duly authorized governing body of the White Earth Band, and

WHEREAS, it is the intent of the White Earth Reservation Business Committee to effectively, efficiently, and properly manage the natural resources of the Reservation, and

WHEREAS, the White Earth Reservation Business Committee has established the Division of Natural Resources, which consists of: Conservation/Enforcement, Environmental, Forestry, Land, Fisheries, Wildlife, Wild Rice, Agriculture, Parks and Recreation, Permitting, and Emergency Management, and

WHEREAS, the White Earth Reservation Business Committee previously revised the White Earth Pesticide and Chemical Code under Resolution No.057-23-025, as amended under Resolutions No. 057-24-036 and 057-25-001, to better conform with federal laws regarding record keeping requirements for pesticide applicators and dealers within the exterior boundaries of the Reservation and to enter a memorandum of agreement with the Environmental Protection Agency and the Minnesota Department of Agriculture as well as to protect, restore, and regulate the natural resources of the Nation in order to ensure environmental and human health, spiritual, cultural, and economic sustainability of the Nation, and

WHEREAS, the White Earth Division of Natural Resources is the expert agency within the White Earth Nation with the delegated authority to protect, restore, and regulate the natural resources of the Nation and is charged with implementing, enforcing, and carrying out the provisions of the Pesticide and Chemical Code, and

WHEREAS, as most recently amended, the Pesticide and Chemical Code recognized licensure and certifications only from the State of Minnesota for persons who sell, purchase, process, transport, handle, store, apply, dispose of, or otherwise use a Pesticide within the White Earth Reservation, and

WHEREAS, the White Earth Division of Natural Resources believes it is in the best interests of the Nation to ensure environmental and human health, and spiritual, cultural and economic sustainability of the Nation to allow for the recognition of licensure and certifications from both the State and the Federal government because there are instances where only the federal government may provide such persons licensure or certification, and

WHEREAS, the Divisional Director of the White Earth Division of Natural Resources, in coordination with the White Earth Legal Department, has recommended revised language for the Pesticide and Chemical Code implementing its administrative determination and proposed amendment, and the White Earth Reservation Business Committee has reviewed and approves of the proposed amendment, now

THEREFORE, BE IT RESOLVED, that the White Earth Reservation Business Committee hereby amends the Pesticide and Chemical Code as follows to reflect this determination by the White Earth Division of Natural Resources that recognition of licensure and certification by the appropriate jurisdiction to allow for both State and Federal credentials is appropriate.

THEREFORE, BE IT FURTHER RESOLVED, the White Earth Reservation Business Committee has determined public comment is not required at this time due to the administrative nature of this amendment that does not substantively modify the Code, however the White Earth Reservation Business Committee fully expects public comment at a later date when the White Earth Division of Natural Resources recommends substantive amendments to the Environmental Code.

We do hereby certify that the foregoing resolution was adopted by a vote of 4 for, 0 against, 0 silent, a quorum being present at a regular meeting of the White Earth Reservation Business Committee held on December 29, 2025 in Mahnomen, Minnesota.

Michael A. Fairbanks, Chairman

Michael LaRoque, Secretary/Treasurer

Record of Revision

Date	Resolution Number	Reason for Amendment
1/31/2011	057-11-001	NA-Original Enactment
11/24/2014	057-15-002	To Include the Hazardous Substance Code
6/1/2023	057-23-025	Revise Tribal Farm Chemical Code to Pesticide and Chemical Code
10/25/24	057-25-001	Amend Pesticide and Chemical Code
12/29/25	057-26-007	Administrative Amendment to Pesticide and Chemical Code

White Earth Reservation Environmental Code

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WHITE EARTH RESERVATION
ENVIRONMENTAL CODE

PREAMBLE

The White Earth Band of Ojibwe (Gaa-waababiganikaag), a sovereign nation, for the purpose of securing our rights and powers inherent in our Sovereign status as reinforced by the laws and the treaties with the United States is entrusted to protect the land base, the natural resources, treaty rights, and the culture and identity of our members.

It is the responsibility of the White Earth Band of Ojibwe, as a sovereign nation, through reasonable regulations and management activities, to manage and protect the Reservation's resources and environment by efficient and effective ways to insure that these resources and environment are managed and protected in a manner as to allow maximum usage while yet maintaining a population at a level capable of regeneration.

It is for these and other purposes that the White Earth Band of Ojibwe Tribal Council enacts the following Environmental Code pursuant to their inherent powers and the authority of the Minnesota Chippewa Tribal Constitution, Article 1, Section 3.

The White Earth Environmental Code shall apply to any person(s) who pollute, dump, or cause destruction to the environment within the exterior boundaries of the White Earth Reservation. The United States established a Federal Indian Policy, which supplements tribal authority to regulate land, water and air within exterior boundaries, recognizes a tribe's right to enact stringent regulations in furtherance of national and tribal for environmental conservation over tribal and non-tribal land including non-Indian fee land.

The White Earth Natural Resources Department, in carrying out their assigned duty to protect or manage natural resources, shall be exempted from the restrictions herein stated to the extent necessary to fulfill their assigned tasks or job duties.

W.E.E.C. 100.00 General Information and Provisions

W.E.E.C. 100.01 Name of Code

This Code shall be known as the White Earth Reservation Environmental Code and may be referred to as the Environmental Code and may be abbreviated as the W.E.E.C. All rules and regulations contained herein may be cited by the names given in the ruled headings. The Preamble shall not be considered part of this Code.

W.E.E.C. 100.02 Prior Inconsistent Ordinances Repealed

Any and all Codes of the Reservation Tribal Council which conflict in any way with the provisions of this Code are hereby repealed, to the extent that they are inconsistent with or conflict with, or are contrary to the spirit and/or purpose of the Code.

W.E.E.C. 100.03 Amendment of the Environmental Code

The Environmental Code may be amended by the Reservation Tribal Council by adoption of a resolution stating such changes. Additions to this Environmental Code shall become part thereof for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and organization thereof.

W.E.E.C. 100.04 Severability

If any provision of this Code or the application of any provisions of this Code to any person or circumstances is held invalid, the remainder of this Code shall not be affected thereby.

W.E.E.C. 100.05 Compatibility with Other Code Requirements

Where the provisions of this Code impose greater restrictions than those of any other ordinance or regulation, the provisions of this Code shall be controlling. Where the provisions of any statute, other ordinance or regulation propose greater restrictions than this Code, the provisions of such statute, ordinance or regulation shall be controlling.

W.E.E.C. 100.06 Exclusiveness of Offense

No conduct constitutes an offense unless so declared by this Code or by any other tribal resolution or Code. Offenses may be an omission of a requirement or special provision or engaging in a prohibited act.

W.E.E.C. 100.07 Effective Date

This Code shall apply to all offenses as herein defined occurring on or after its effective date including amendments, seasons, limits and other regulations established by the Director of Natural Resources or Reservation Tribal Council.

W.E.E.C. 100.08 Jurisdiction

The jurisdiction of the White Earth Tribal Court shall extend to all aspects of the Environmental Code and shall extend to all Lands, Waters and Residents within the original boundaries of the Reservation.

The jurisdiction of the White Earth Tribal Court shall extend to all aspects of the Environmental Code and shall extend to all enrolled members of the Minnesota Chippewa Tribe, and to all members of a federally recognized tribe.

The jurisdiction of this Code shall be criminal in nature and the penalties assessed for any violation of any prohibited act contained herein or amendatory thereof shall be in the form of dollar amount fines and/or incarceration and/or loss and/or revocation or resource taking permits and/or seizure of vehicles, boats, guns, fishing equipment and any and all other equipment used during the course of a violation of alleged violation of this Code.

This Code shall also include penalties which are civil in nature which include monetary civil penalties, as well as injunctive relief.

W.E.E.C. 100.09 Enforcement

Notwithstanding any other provision of law, an authorized official or any other persons authorized by the White Earth Reservation Tribal Council that has been deemed to enforce all or part of this Code.

W.E.E.C. 100.10 Authority

The foregoing shall not be deemed to limit or restrict the Natural Resources Department, or any other person(s) who represents the White Earth Reservation Tribal Court System from taking other appropriate action, including issuance of cease and desist orders, and giving notification to the representative of Federal, Tribal, State, County or municipal government agencies.

W.E.E.C. 101.00 General Provisions and Prohibited Acts

Subd.1) It is deemed a prohibited act, for the purpose of this Code, for any person, political entity, business entity, or governing body, or any of the aforementioned persons, entities, or bodies, to interfere with the lawful enforcement of this Code.

Subd.2) It is deemed a prohibited act to flee, attempt to flee, or fail to stop for an Officer when requested by word, red lights or siren while in the performance of his/her duties.

Subd.3) It is deemed a prohibited act to assault or attempt to assault, or in any manner endanger the health or safety of an Officer or Natural Resources Department worker engaged in the lawful enforcement of this Code or in the performance of his/her duties.

Subd.4) It is prohibited to aid, abet, or help any person who is committing or attempting to commit any act prohibited by this Code. This includes both active and passive acts, and failures to act, which result in a violation of this Code.

Subd.5) It is a prohibited act to tend, disturb, move, damage, obstruct, or interfere with any equipment, activity or person of the White Earth Conservation and/or Natural Resources Department in the performance of the equipments functions or the person's assigned task or duty.

Subd.6) It is prohibited to hinder, resist arrest, or obstruct a Conservation Officer in the performance of his/her duties.

Subd.7) It is prohibited to falsely impersonate a Conservation Officer.

Subd.8) Committing perjury to prevent lawful enforcement of this code, either for the benefit of you or another person, is strictly prohibited.

Subd.9) Giving false information to a law enforcement officer is prohibited.

Subd.10) Violation of this Code may result in a fine, reimbursement of costs incurred, and/or revocation of Natural Resources Harvest Permit, other Tribal licensing, and/or other Tribal privileges.

W.E.E.C. 102.00 Definitions

Subd.1) **Abandoned:** Deserted, vacant, neglected, left empty, not being used or lived in.

Subd.2) **Accelerated Erosion:** Erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

Subd.3) **Accessory Building or Structure:** Any building or structure that is an accessory to the principal use of the property.

Subd.4) **Accessory Use:** A use or an accessory to a permitted or conditional use.

Subd.5) **Agency:** A federal government department such as but not limited to: Bureau of Indian Affairs, Indian Health Service or Environmental Protection Agency or an agency of the State of Minnesota.

Subd.6) **Agricultural Building or Structure:** Any building or structure that is used for agricultural purposes, existing or erected on land primarily used for agriculture, with the exception of a dwelling.

Subd.7) **Agricultural Commodity:** Shall mean any plant or part thereof, or animal product produced by a person (including but not limited to farmers, ranchers, vineyardists viticulturist, plant propagators, Christmas tree growers, agriculturists, floriculturists, orchardists, foresters, and landscape gardeners) primarily for sale, consumption, propagation, or other use.

Subd.8) **Agricultural Materials:** Shall mean any pesticide, fertilizer of chemical mixture applied to the land in the course of the production of an Agricultural commodity.

Subd.9) **Agriculture:** The art or science of cultivation of the soil, the growing of soil crops, horticulture of crops, and forestry in the customary manner, the accessory raising of livestock and poultry, also packing, treating, or storing the produce raised on the premises.

Subd.10) **Aircraft:** Shall mean any machine designed to travel through the air.

Subd.11) **Animal:** The term "animal" means all vertebrate and invertebrate species including but not limited to all mammals, birds, fish, and shellfish.

Subd.12) **Antenna:** Any structure or device used for the purpose of collecting or radiating electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whips.

Subd.13) **Antisiphon Device:** Equipment or a device used to prevent the backflow or backsiphonage of agricultural chemicals or mixtures of agricultural chemicals and water to the groundwater or surface water from the application of agricultural chemicals through irrigation systems and includes, but is not limited to, a reduced pressure zone backflow preventer, single or

double irrigation system supply check valve, system interlock, low pressure shutdown device, and supply tank safeguard.

Subd.14) **Applicant:** A property owner or agent of a property owner who has filed an application for a stormwater management permit.

Subd.15) **Arterial Road:** Being a main road with many branches.

Subd.16) **As-builts:** Drawings and documentation specifying the final in-place location, size, and type of all system components. These records identify the results of materials testing and describe conditions during construction. As-builts contain a certified statement.

Subd.17) **Authorized Personnel:** The foregoing shall not be deemed to limit or restrict the Natural Resources Department, or any other person(s) who represents the White Earth Reservation or Tribal Court System from taking other appropriate action, including issuance of cease and desist orders, and giving notification to the representative of Federal, Tribal, State, County or municipal government agencies.

Subd.18) **Baffle:** A device installed in a septic tank for proper operation of the tank and to provide maximum retention of solids, and includes vented sanitary tees and submerged pipes in addition to those devices that are normally called baffles.

Subd.19) **Band:** The White Earth Band of Chippewa Indians.

Subd.20) **Berm:** A narrow ledge or shelf, or raised bank or path, as along the top or bottom of a slope or around the perimeter of property.

Subd.21) **Bluff:** A topographic feature such as a hill, cliff, or embankment having any of the following characteristics:

a) The slope rises above the ordinary high water level of the water body;
b) The grade of the slope from the toe of the bluff to any point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
c) An area otherwise within a bluff with an average slope of less than 18 percent over a distance for 50 feet or more, measured on the ground, shall not be considered part of the bluff.

Subd.22) **Bluff Impact Zone:** A bluff and land located within thirty (30) feet from the top of the bluff.

Subd.23) **Boathouse:** A structure designed and used solely for the storage of boats or boating equipment.

Subd.24) **Bodies of Water:** Shall mean;

a) Any lake, pond, river, steam, creek, drainage ditch bank and shore of, or

b) Any irrigation ditch or canal containing water for more then 60 days during the spring and summer months of the agriculture season.

Subd.25) **Buffer:** Physical barrier that separates different land uses or mitigates a risk associated with a land use or structure, including vegetated buffers, topographic buffers, setback or distance buffers.

Subd.26) **Buffer Zone:** Shall mean unused parts of land between adjoining properties.

Subd.27) **Building:** Any structure for the shelter, support or enclosure of persons, animals, or property. A structure used for essential services is not a building, i.e. utility.

Subd.28) **Building Code:** The Tribal Building Code or other applicable International Building Code.

Subd.29) **Building Height:** The vertical distance from the average elevation of the adjoining ground level to the top of the highest point of the structure.

Subd.30) **Campground:** A parcel of land designed, constructed and administrated for the placement of recreation vehicles, tents or trailers.

Subd.31) **Certificate of Compliance:** A document written after a compliance inspection, certifying that a system is in compliance and signed by a qualified employee or licensee.

Subd.32) **Certified Applicator:** The term "certified applicator" means any individual who is certified under the Federal Insecticide Fungicide Rodenticide Act (FIFRA) as authorized to use or supervise the use of any pesticide which is classified for restricted use.

Subd.33) **Certified Statement:** A statement signed by a licensee or qualified employee certifying that work was completed in accordance with applicable requirements.

Subd.34) **Cesspool:** An underground pit or seepage tank into which raw sewage is discharged and from which the liquid seeps into the surrounding soil, bedrock, or other soil materials.

Subd.35) **Channel:** A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

Subd.36) **Check Valve:** A device designed and constructed to effectively provide a positive, absolute closure of an irrigation pipeline or conduit or an agricultural chemical injection line that positively prevents the flow of a mixture of agricultural chemicals or agricultural chemicals and water to an irrigation pipeline, water supply, injection device, or supply tank when operation of the irrigation system pumping plant or agricultural chemical injection unit fails or is shut down.

Subd.37) **Chemigation:** A device or combination of devices having a hose, pipe, or other conduit directly connected to a water supply through which a mixture of agricultural chemicals and water, are injected or drawn into and applied to land, crops, or plants.

Subd.38) **Cluster Development:** A pattern of planned unit development or subdivision development which places housing units into compact groupings while providing a network of commonly-owned or dedicated open space.

Subd.39) **Commercial Applicators:** See Certified Applicator.

Subd.40) **Commercial, Industrial, Public and Semipublic Uses:** Shall mean any other uses of shore land that is not privately owned.

Subd.41) **Commercial Use:** The use of land or buildings for the retail sale, lease, rental or trade of products, goods or services.

Subd.42) **Compliance Inspection:** Any evaluation, investigation, inspection, or other such process to make conclusions, recommendations, or statements regarding the condition of an individual sewage treatment system. Compliance inspections must be conducted by a qualified employee or under a license independent of the owner and the installer.

Subd.43) **Conservation Habitat Lakes:** Lakes with quality natural features where limited development and access may occur. Characteristics include pristine surroundings and natural appearing environment. Most of these lakes are used for resource habitat or harvest: therefore access is limited to semi-primitive non-motorized and semi-primitive motorized vehicles. May have some residential planned development within setbacks. No commercial development.

Subd.44) **Conservation Officer:** Shall mean any person licensed under White Earth Tribal Laws and/or 25 CFR who is duly authorized and/or employed by the White Earth Reservation Tribal Council to provide enforcement of Tribal conservation laws.

Subd.45) **Cultural Resources:** Prehistoric or historic areas of cultural value which may consist of sites, objects, historic standing structures, sacred and burial locations and areas where traditional practices, resources or cultural properties are used, located or collected.

Subd.46) **Deck:** An above grade, uncovered, unscreened platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a dwelling unit, principal use or site.

Subd.47) **Declaration of Emergency:** To notify restricted use applicators by means of radio and or television or other available means after an emergency pest situation has been determined by the Pesticide Coordinator. Emergencies may only be declared by the Pesticide Coordinator and/or the Tribal Chairman.

Subd.48) **Dedication:** The deliberate appropriation of property by its owner for general public use.

Subd.49) **Demolition Waste:** Solid waste, largely inert waste, resulting from the demolition of or construction of buildings, roads and other man-made structures.

Subd.50) **Designated Registered Professional:** An individual who is included on the agency's ISTS professional register with specialty area endorsements that correspond to the license, who has been designated by the individual's employer as its representative for work to be done on an individual sewage treatment system, and who is subject to the obligations of a license and has a restricted license due to the need for experience, or has been licensed by the Tribe.

Subd.51) **Detention:** The temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

Subd.52) **Detention Facility:** A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

Subd.53) **Developer:** A person who undertakes land disturbance activities.

Subd.54) **Disclosure:** Any conclusions or statements regarding an ISTS made by the owner of a property served by an ISTS which meets the following requirements: (a) Before signing an agreement to sell or transfer real property, the seller or transferor must disclose in writing to the buyer or transferee information on how sewage generated at the property is managed, and if that management system is permitted by the agency or if it is not permitted and therefore subject to applicable requirements. A seller or transferor who fails to disclose the existence or known status of an ISTS at the time of sale, and who had reason to know of the existence or known status of the system, is liable to the buyer or transferee for costs relating to bringing the system into compliance with applicable regulations and for reasonable attorney fees for the collection of costs from the seller or transferor, unless otherwise agreed to in writing before the close of the sale. Such action must commence within two years after the date of purchase or transfer.

Subd.55) **District:** A section of the Reservation for which the regulations governing the height, area, use of buildings and premises are the same.

Subd.56) **Docks and Piers:** Shall mean a man-made structure projected into the bodies of water.

Subd.57) **Dog Kennel:** Shelter and/or enclosure where dogs are bred, trained and/or boarded for commercial purposes, excluding shelter and/or enclosure for pets. Determination of the need for a kennel permit will be made upon time of application, based on information provided by applicant.

Subd.58) **Drainage Easement:** A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

Subd.59) **Duplex:** A dwelling structure that has two dwelling units attached by common walls and have separate sleeping, cooking, eating, living, and sanitation facilities.

Subd.60) **Dwelling:** Any building or part thereof which is designed or used exclusively for habitation purposes by one or more persons, either permanently, or transiently; including motel,

hotel, resort rooms and cabins. A mobile home or park home shall be considered a dwelling. A travel trailer, recreational vehicle or tent shall not be considered a dwelling for purposes of this Code.

Subd.61) **Dwelling, Multiple Family:** A dwelling structure that has more than two dwelling units attached by common walls each of which has separate sleeping, cooking, eating, living, and sanitation facilities.

Subd.62) **Dwelling, Single Family:** A dwelling structure that is the sole principle structure on a lot or home site assignment, which has common cooking, eating and living facilities which is operated as a single housekeeping unit as distinguished from a boarding house, club house, fraternity house or hotel.

Subd.63) **Easement:** A right or privilege afforded any entity to make limited use of another's real property. An easement is an encumbrance against the property, but does not include all the rights to the property.

Subd.64) **Endangered Species:** Shall mean those plants or animals declared to be an endangered species by the Federal Government.

Subd.65) **Environment:** Shall mean water, air, land, and the interrelationship which exists between them.

Subd.66) **Environmentally Sensitive Areas:** Lands that may include wellhead protection zones, surface waters, such as lakes, ponds, seasonal or perennial rivers / streams, springs, and wetlands and their shorelines and buffer zones, beaches, bluffs, slopes subject to instability and erosion; special soil types and soils unsuitable for building foundations or road beds, essential habitat for animal and / or plants important to the band or may be determined by the White Earth Natural Resources Department.

Subd.67) **Erosion and Sediment Control Plan:** A plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

Subd.68) **Essential Services:** Overhead or underground electrical, gas, steam or water transmission distribution systems and structures, or collection, communication, supply or disposal systems and structures, used by public utilities, rural electric cooperatives, public cooperatives or governmental departments or commissions. Also such distribution systems and structures as are required for protection of the public health, safety, or general welfare, including towers, poles, wires, mains, drains, microwave relay towers, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories in connection therewith, but not including buildings.

Subd.69) **Extractive Use:** The removal of any sand, gravel, stone, coal, clay, peat, subsoil, topsoil or mineral from the land for sale.

Subd.70) **Failing System:** Any system that poses an imminent threat to public health and safety or that discharges sewage to a seepage pit, cesspool, drywell, or leaching pit and any system with less than three feet of soil or sand between the bottom of the distribution medium and the saturated soil level or bedrock.

Subd.71) **Feedlot, Animal:** A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these parts.

Subd.72) **Fee in Lieu:** A payment of money in place of meeting all or part of the storm water performance standards required by this Code

Subd.73) **FIFRA:** The Federal Insecticide, Fungicide, and Rodenticide Act.

Subd.74) **Flood Plain:** Shall mean the level of land that may be submerged by floodwaters and an area built up by stream deposition.

Subd.75) **Floor Area:** The sum of the gross horizontal area of the several floors of a building measured from the exterior walls, including basements and attached accessory buildings.

Subd.76) **Floor Area Ratio (F.A.R.):** The gross floor area of all structures on a lot divided by the gross lot area.

Subd.77) **Forest Management:** Shall mean management practices by the Bureau of Indian Affairs, Forestry Division and the White Earth Reservation Natural Resources Department.

Subd.78) **Game Farm:** A privately owned operation for the commercial hunting or display of game species in a controlled environment. Game species are privately acquired from licensed captive game stock sellers and are not from "wild stock" and are not considered wild game. Game species can be used for hunting, buying, selling, propagating, brokering or trading to other licensed game farms for the purpose of hunting or exhibiting species for educational or promotional purposes.

Subd.79) **Green Space:** Privately owned property permanently dedicated by covenant or deed restriction to vegetate ground coverage with allowance for use as recreational facilities, tree coverage, water course, sewage disposal or similar uses. Public property permanently dedicated to park, vegetative buffer, tree coverage or water courses.

Subd.80) **Greywater:** Sewage that does not contain toilet wastes.

Subd.81) **Grower:** Shall mean person or persons in possession of the property for the purpose of farming operations.

Subd.82) **Hazard:** A probability that a given pesticide will have an adverse effect on man or the environment in a given situation, the relative likelihood of danger or ill effects being dependent on a number of interrelated factors present at any given time.

Subd.83) **Hazardous Acts:** Shall mean;

a) Passive Act - Shall mean an act that unintentionally has become hazardous to the health and/or the environment of the surrounding area(s).
b) Active Act - Shall mean an act that intentionally has become hazardous to the health and/or the environment of the surrounding area(s).

Subd.84) **Hazardous Waste:** Solid waste meeting the criteria established for hazardous waste in Federal Law, 40 C.F.R Sec. 261, that is flammable, corrosive, radioactive, toxic or reactive.

Subd.85) **High Water Level:** Shall mean the boundary of bodies of waters and wetlands, and shall be an elevation delineating the highest water level which, has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the high water level is the operating elevation of the summer pool.

Subd.86**) Holding Tank:** A tank for storage of sewage until it can be transported to a point of approved treatment and disposal.

Subd.87) **Home Occupation:** A use of commercial nature conducted by an occupant entirely within the dwelling or accessory buildings which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the residential character thereof. Involves providing a service to people or organizations with no exterior evidence of the secondary use except for a sign allowed by this Code. Generates less than ten auto trips per week. No more than two employees including owner.

Subd.88) **Homesite Assignment:** A parcel of land assigned via Tribal Resolution to an adult (age 18 or older) enrolled member of the White Earth Reservation. The purpose of a homesite assignment is for the assignee's year round residential use.

Subd.89) **Hospital or Medical Waste:** All laboratory wastes, including but not limited to cultures of etiological agents, which pose a substantial threat to health due to their volume and virulence. Pathological specimens, including human or animal tissues, blood elements, excreta, and secretions that containing etiologic agents, and attendant disposal fomites. Surgical specimens, including human or animal parts and tissues removed surgically, or at autopsy. Human dialysis waste materials, including arterial lines and dialysate membranes. Carcasses of animals infected with etiological agents that may present a substantial hazard to public health if improperly managed. Equipment, instruments, utensils, or any other material that is likely to transmit etiological agents. Sharps, needles and lancelets which have not been contained for disposal in leak-proof, rigid, puncture-resistant containers such as cartons or metal cans which

are taped closed or tightly lidded to preclude loss of contents under sever compaction conditions. Any other material that is likely to transmit etiologic agents, or presents a significant danger of infection, because it is contaminated with, or may reasonably be expected to be contaminated with, etiological agents.

Subd.90) **Hotspot:** An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

Subd.91) **Hydrologic Soil Group (HSG):** A Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.

Subd.92) **Imminent threat to public health or safety:** Situations with the potential to immediately and adversely impact or threaten public health or safety. At a minimum, ground surface or surface water discharges and any system causing sewage backup into a dwelling or other establishment shall constitute an imminent threat.

Subd.93) **Impact Areas:** Shall mean any area that will be affected by visual, aesthetic value, degradation, or impelling or compelling effect on the environment.

Subd.94) **Impervious Cover:** Any material that substantially reduces or prevents the infiltration of water. Impervious surfaces include, but are not limited to: streets, roofs, sidewalks, driveways, parking lots, and similar facilities and areas covered with gravel, concrete, bituminous, compacted sand, lime rock, clay or other surfaces that substantially reduce or prevent the infiltration of water.

Subd.95) **Impervious Surface:** Any material that substantially reduces or prevents the infiltration of water. Impervious surfaces include, but are not limited to: streets, roofs, sidewalks, driveways, parking lots, and similar facilities and areas covered with gravel, concrete, bituminous, compacted sand, lime rock, clay or other surfaces that substantially reduce or prevent the infiltration of water.

Subd.96) **Incident Response Plan:** A written document addressing floods, fires, tornados, transportation accidents, storage container ruptures, leaks, spills, emission discharges, escape plans, disposal, or other events that releases or immediately threatens to release an agricultural chemical accidentally or otherwise into the environment, and may cause unreasonable adverse effect on the environment.

Subd.97) **Indian Country:** Indian Country is defined in Title 18 U.S. Code 1151

Subd.98) **Individual Sewage Treatment System or ISTS:** A sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof that uses subsurface soil treatment and disposal. Individual sewage treatment system includes holding tanks and privies.

Subd.99) **Industrial Stormwater Permit:** An National Pollutant Discharge Elimination System (NPDES) permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

Subd.100) **Industrial Use:** The use of land or buildings for the production, manufacturing, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Subd.101) **Infiltration:** The process of percolating stormwater into the subsoil.

Subd.102) **Infiltration Facility:** Any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above grade or below grade.

Subd.103) **Irrigation Systems:** A device or combination or devices that supplies water for agricultural and horticultural purposes to land, crops, or plants by means of pipes, hoses, sprinklers, drippers, ditches, furrows, or other devices that are connected directly to a source of ground or surface water

Subd.104) **ISTS Professional:** A person who conducts site evaluations or designs, installs, alters, repairs, maintains, pumps, or inspects all or part of an individual sewage treatment system and is required to comply with applicable requirements.

Subd.105) **Junk:** Materials including, but not limited to, used or abandoned barrels or drums; dismantled or inoperative industrial or commercial equipment or machinery; household rubbish, debris or garbage; junk vehicles (as herein defined); and any of the following old, scrap or used items: metal, rags, paper, cardboard, plastic, rubber products, glass products, lumber products including pallets, appliances, motors, batteries and industrial or commercial fixtures.

Subd.106) **Junk Vehicles:** Motor vehicles or trailers which are wrecked, abandoned, dismantled, disabled, inoperative, or which do not have a valid license plate attached thereto, or parts of such motor vehicles or trailers.

Subd.107) **Junk Yard:** A site where junk (as herein defined) is bought, sold, exchanged, discarded, stored, kept or allowed to accumulate. (This definition does not include properly licensed sanitary landfills or any location where the processing of used, discarded or salvaged materials are part of a manufacturing operation located on the same property or contractors' storage yards).

Subd.108) **Jurisdictional Wetland:** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Subd.109) **Label and Labeling:**

a) The term Label means the written, printed or graphic matter on or attached to the pesticide or device or any of its containers.

b) The term Labeling means all labels and all other written material, printed or graphic matter:

1) Accompanying all the agricultural material/pesticides or device at any time; or

2) To which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the U.S. EPA, the United States Department of Agricultural and Interior, the Department of Health, Education and Welfare, State experiment stations, State agricultural colleges and similar federal and state institutions or agencies authorized by law to conduct research in the field of pesticide.

Subd.110) **Land:** Shall mean all land, water areas and permanent structures within the exterior boundaries of the White Earth Reservation.

Subd.111) **Land Alteration:** Any change in the surface of the land.

Subd.112) **Land Disturbance Activity:** Any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation,, or any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

Subd.113) **Land Office:** Shall mean that person(s) who is appointed by the White Earth Reservation Tribal Council to purchase and manage the Reservation land base.

Subd.114) **Landowner:** The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Subd.115) **Land Site:** Shall mean any building that is used to store, mix, or prepare Agricultural material.

Subd.116) **Licensee:** The person to whom a license under Minnesota Rules, part 7080.0705 is issued, or any person receiving an applicable license by the Tribe. The designated registered professional is subject to the same obligations as the licensee. The license must be applicable to the work being performed.

Subd.117) **Lien Holder:** A person or entity that has legal right to keep or sell someone else's property as security for a debt.

Subd.118) **Lot:** A lot in a plat recorded in the office of the county recorder or registrar of titles or a parcel of land created and conveyed, using a specific legal description, for a building site.

Subd.119) **Lot Area:** The total horizontal area within the lot lines.

Subd.120) **Lot Area per Dwelling Unit:** The lot area required for each dwelling unit per dwelling structure.

Subd.121) **Lot, Corner:** A lot having frontage on two of its sides or frontage on two intersecting streets. The greater dimension of a corner lot is its depth, and its lesser dimension is its width.

Subd.122) **Lot Depth:** The measurement of a lot from the front lot line to the rear lot line.

Subd.123) **Lot, Interior:** A lot that is located between other lots or between corner lots separated by a lot line.

Subd.124) **Lot, Sewered:** A lot that has access to publicly owned sewer service.

Subd.125) **Lot, Unsewered:** A lot that does not have access to publicly owned sewer service.

Subd.126) **Lot Width:** The measurement of a lot measured at either the side lot lines. Maintenance Agreement: means a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of storm water management practices.

Subd.127) **Manufactured Home:** A factory built home that is constructed under a federal building code administered by the U.S. Department of Housing and Urban Development (HUD). Manufactured homes may be single or multi-section and are transported to the site and installed.

Subd.128) **Manufactured / Modular Home:** A non-mobile housing unit that is fabricated at a central factory and transported to a building site where it is permanently affixed. A structure, not affixed to or part of real estate, transportable in one or more sections, and includes the plumbing, heating, air conditioning, and electrical systems contained in it.

Subd.129) **Methods of Application:**

a) Ground Method - Shall mean application by use of a tractor, motorized equipment, back pack or other method used to apply agricultural material from the ground to the ground.
b) Air Method - Shall mean application by aircraft to the ground.

Subd.130) **Mobile Home:** A factory-built living unit more than eleven (11) feet in width, equipped with the necessary service connections to be readily movable as a unit on its own wheels and axles. Mobile homes are designed to be used as a dwelling unit with or without a permanent foundation.

Subd.131) **Mobile Home Park:** A parcel of land under single ownership, or with individually owned lots, designed, constructed, and administered for the placement of Mobile Homes.

Subd.132) **Natural Environment Lakes:** A small, often shallow lake with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for planned development such as high water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

Subd.133) **Natural Resources Program:** Shall mean program mangers or coordinators working within the wildlife, fisheries, zoning, forestry, land, pesticides, environmental or water quality programs of the White Earth Reservation.

Subd.134) **Non-Conforming Structure or Use:** A structure or use lawfully in existence on the effective date of this Code, but which does not conform to the regulations for the district in which it is located or amendments thereto.

Subd.135) **Nonpoint Source Pollution:** Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

Subd.136) **Non-resident:** Any person who does not have a permanent place of abode on the Reservation, except as hereafter provided. Non-resident does not mean any temporal or seasonal resident, and does not mean any place of business, for purposes of solid waste generated at the business.

Subd.137) **Non-target Organism:** A plant or animal other then the one against which the pesticide is applied.

Subd.138) **Notice of Noncompliance:** A document written and signed by a qualified employee or licensee after a compliance inspection which gives notice that an individual sewage treatment system is not in compliance.

Subd.139) **Offset Fee:** A monetary compensation paid to a local government for failure to meet pollutant load reduction targets.

Subd.140) **Off-Site Facility:** A stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

Subd.141) **Open Space:** Land used for outdoor recreation, resource protection, amenities, safety or buffer, including structures incidental to these open space uses, but excluding yards required by this Code and land occupied by dwellings or impervious surfaces not related to the open space. Space designated as reserved from development.

Subd.142) **Order:** An instruction issued by a judge or a court of law.

Subd.143) **Ordinary High Water Level:** The boundary of water basins, watercourses, public waters, and public waters wetlands, and: (1) the ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial; (2) for watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and (3) for reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Subd.144) **Patio:** Uncovered, unscreened platform of wood or cement without railings. It may adjoin a dwelling or be unattached and free standing.

Subd.145) **Permit:** A building, construction, sanitary, planning, zoning, or other such permit issued for new construction, replacement, repair, alteration, or extension of an individual sewage treatment system, including artificial drainage and collector systems. Permit also means a permit issued for the addition of a bedroom or bathroom on property served by an individual sewage treatment system.

Subd.146) **Permitting Authority:** Any unit of government, state agency, or any authorized representative who administers or enforces Codes or laws or rules through permits.

Subd.147) **Person:** Shall mean any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not, including a person acting in fiduciary or representative capacity, and further including any governmental agency.

Subd.148) **Pesticide:** (1) Any substance or mixture of substances intended to prevent, destroy, repel or mitigate any pest, (2) Any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant, causing the leaves or foliage to drop from a plant, or artificially accelerating the drying of plant tissue, or accelerating or retarding the rate of growth or maturation or otherwise altering the behavior of plants or the product thereof.

Subd.149) **Pesticide Coordinator:** That person who is appointed by the White Earth Tribal Council to enforce the Tribal Farm Chemical Code, and who shall be the inspector, certifier, and enforcement officer of all pesticide use within the exterior boundaries of the White Earth Indian Reservation.

Subd.150) **Pests:** Shall mean any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other micro-organism, located in an area when and where they are not wanted.

Subd.151) **Planned Unit Development:** A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, and a mix of structure types and land uses.

Subd.152) **Planned Unit Developments, Commercial:** Uses that provide transient, short-term lodging spaces, rooms, or parcels and their operation are essentially service orientated. These shall include but not be limited to hotel/motel accommodations, resorts, recreational vehicle and camping parks and other primarily service oriented activities.

Subd.153) **Plat:** An illustration or map showing actual or planned features, such as lot boundaries and streets.

Subd.154) **Plot:** A tract other than one unit of a recorded plat occupied and used or intended to be improved by the erection of buildings.

Subd.155) **Porch:** Covered platform, enclosed or partially enclosed and attached to structure.

Subd.156) **Portable Structure:** Any structure including those mounted on wheels or portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses. Not to include mobile homes.

Subd.157) **Principle Use:** Principle use of the building or land on which it sits.

Subd.158) **Private Applicator:** A certified applicator who uses or supervises the use of any pesticide which is classified for restricted use for the purposes of producing any agriculture commodity on property, owned or rented by him of his employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

Subd.159) **Privy:** An aboveground structure with an underground cavity, which is used for the storage or treatment and disposal of toilet wastes, specifically excluding water for flushing and greywater.

Subd.160) **Putrescible Waste:** Solid waste which contains material capable of being decomposed by microorganisms.

Subd.161) **Qualified employee:** An employee of state or local government who conducts site evaluations or designs; installs, maintains, pumps, or inspects individual sewage treatment systems as part of employment duties and is registered on the ISTS professional register with specialty area endorsements applicable to the work being conducted. A qualified employee may be an apprentice if the individual has specialty area endorsements applicable to the work to be completed, has fulfilled the contractual requirement under Minnesota Rules, part 7080.0815, subpart 1, item B or C, and has been issued performance restrictions, or has been licensed by the Tribe.

Subd.162) **Recharge:** The replenishment of underground water reserves.

Subd.163) **Records:** Shall mean written documentation of all uses of restricted use pesticides (where applied, date applied, time applied, amount applied per acre, estimated wind speed and direction of the wind).

Subd.164) **Recreational Development Lakes:** Medium-sized lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences and recreationally-oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use.

Subd.165) **Recreational Vehicle Park:** A parcel of land designated with individual lots, designed, constructed, and administrated for the placement of Recreation Vehicles or Mobile Homes.

Subd.166) **Recreation Vehicle:** A vehicle with or without motor power designed for travel under its own power, or constructed and equipped as a temporary living quarters while traveling or during hunting, fishing or vacation season. The term "Recreation Vehicle" shall include but not limited to camp bus, motor homes, snowmobiles, boats, all-terrain vehicles and motorcycles.

Subd.167) **Redevelopment:** Any construction, alteration or improvement exceeding square feet in areas where existing land use is high density commercial, industrial, institutional or multi-family residential.

Subd.168) **Refuse:** Items or materials discarded or rejected as useless or worthless; trash or rubbish.

Subd.169) **Restricted Areas:** Shall mean any and all of the following locations within the exterior boundaries of the White Earth Reservation but not limited to the following:

a) All schools
b) Tamarac National Wildlife Refuge
c) Little Elbow Lake Park
d) Lower Rice Lake Wildlife and Waterfowl Refuge
e) All State approved Wildlife Areas
f) All State approved Wetland Areas
g) Any area where endangered species are located
h) Federal Forested Areas

Subd.170) **Restricted Use Pesticide:** Shall mean any pesticide classified for restricted use by the Minnesota Department of Agriculture, or the Administrator of the U.S. EPA, or the White Earth Pesticide Coordinator.

Subd.171) **Right-of-Way:** A strip of land over which facilities such as utilities, highways or railroads are built. Right-of-way transfers ownership of the strip of land from the grantor (land owner) to the grantee (applicant for right-of-way).

Subd.172) **Riparian:** Bordering on a body of public water.

Subd.173) **Road:** A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway road, avenue, boulevard, lane, place, cart way or however otherwise designated.

Subd.174) **Roads, Driveways, and Parking Areas:** Shall mean a public right-a--way or an area that is designated as a path or lot for primary access by pedestrians and vehicles to abutting properties.

Subd.175) **Salvage Yard:** Land or buildings where products resulting from disassembling or wrecking of automobiles or other vehicles are purchased, sold, exchanged, stored, cleaned, packed or handled, except that the storage of three (3) or more inoperative motor vehicles for a period in excess of three (3) months is a junk yard. Any collection of three or more junked vehicles, or a combination of ferrous or nonferrous materials together with one or more junked motor vehicles, or a collection of any salvage, shall be considered a salvage yard.

Subd.176) **SDS and NPDES Permits:** State Disposal System (SDS) and National Pollutant Discharge Elimination System (NPDES) permits issued by the agency to regulate individual sewage treatment systems.

Subd.177) **Secondary Containment:** A structure or structures used enclosed primary containment to prevent leaks before entering into the environment.

Subd.178) **Seepage pit, or leaching pit, or dry well:** An underground pit into which a sewage tank discharges effluent and from which the liquid seeps into the surrounding soil.

Subd.179) **Semipublic Use:** The use of land by a private, nonprofit organization, other than a church, to provide a public service that is ordinarily open to persons other than the organization's members.

Subd.180) **Septic Tank:** Any watertight, covered receptacle designed and constructed to receive the discharge of sewage from a building sewer, separate solids from liquid, digest organic matter, and store liquids through a period of detention.

Subd.181) **Setback:** The minimum horizontal distance between a building, structure, sewage treatment system, or other facility and an ordinary high water level, top of the bluff, road, highway, property line, or other facility.

Subd.182) **Sewage Treatment System:** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in this Code or within the Tribal Individual Septic System Code.

Subd.183) **Shore Impact Zone:** Area immediately adjacent to lake or river that is critical to preserving water quality, wildlife habitat and visual screening of the developed area farther back from shore. A line parallel to it at a setback of 50% of the normal structure setback.

Subd.184) **Shore Land:** Shall mean located within the following distance from bodies of water: 1,000 feet from the high water level of a lake, pond, or flowage; 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, whichever is greater. The limits of shore lands may be reduced whenever the waters involved are bound by topographic divides which extent landward from the waters for lesser distance.

Subd.185) **Shore Land Overlay District:** For one tier development purposes, land located within the following distances from a water source or body: 500 feet from the ordinary high water mark of a lake, pond, wetland or flowage and, 300 feet from a river or stream, or the landward extent of a flood plain.

Subd.186) **Sign:** A structure or graphics upon a structure for the display of advertising or identifying the owner or occupant or use of the premises.

Subd.187) **Solid Waste:** All waste, garbage, rubbish, offal, trash and other discarded solid waste material resulting from residential, commercial, agricultural, industrial, community, and other human activities, including liquid waste contained within solid waste, including hazardous waste, but does not include sewage and human wastes.

Subd.188) **Solid Waste Operator:** The Reservation Tribal Council or employee or appointee for the operation and maintenance of solid waste collection and disposal sites on the Reservation.

Subd.189) **Stairways, Lifts, and Landings:** Shall mean a man-made alternative means or structure for achieving access to lakeshore areas.

Subd.190) **State:** The State of Minnesota.

Subd.191) **Steep Slopes:** Land where agricultural, forestry, commercial, or urban activity or development is either not recommended or described as poorly suited due to slope steepness and the site soil characteristics, as mapped and described in available soil surveys or other technical reports, unless appropriate design and construction techniques, farming and forestry practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are land having average slopes over 12 percent, as measured over horizontal distance of 50 feet or more, that are not bluffs.

Subd.192) **Stop Work Order:** An order issued which requires that all construction activity on a site be stopped.

Subd.193) **Storm Water Management:** The use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

Subd.194) **Storm Water Retrofit:** A stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

Subd.195) **Storm Water Runoff:** Flow on the surface of the ground, resulting from precipitation.

Subd.196) **Storm Water Treatment Practices (STPs):** Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

Subd.197) **Story:** The portion of a building included between the surface of a floor and the surface of the next floor above it or, if there is no floor above, the space between the floor and the ceiling next above it.

Subd.198) **Structural Alterations:** Any construction change in a building or structure.

Subd.199) **Structure:** Anything constructed or erected. Does not include utilities such as propane tanks, TV antennas and satellite dishes.

Subd.200) **Subdivision:** Any tract of land that is to be or which has been divided into three or more lots or parcels for the purpose of sale, lease, rent, or development including planned unit development.

Subd.201) **Surface Water Flooding:** The 100-year flood plain along rivers and streams as defined by the Tribal Department of Natural Resources, or in the absence of such data, as defined by the largest flood of record; on lakes, high water levels as determined or recorded by the Tribal Department of Natural Resources or, in the case of no Tribal Department of Natural Resources record, by local records or experience. Other surface water flooding or high water areas should be determined by local information.

Subd.202) **Topographic Changes:** Shall mean the alteration of the landscape by changing the elevations, levels, and slope of an area.

Subd.203) **Townhouse:** One of a row of houses joined by common side walls.

Subd.204) **Transfer Station:** The existing solid waste collection site owned by the White Earth Reservation for the purpose of collecting, transporting, and disposing of solid waste.

Subd.205) **Tribal Land:** All lands, fee or trust status, that is owned or managed by the White Earth Tribal Council.

Subd.206) **Tribe:** Shall mean White Earth Reservation, Reservation, White Earth Band of Chippewa Indians, White Earth Band of Ojibwe, Band, or White Earth Nation.

Subd.207) **Twin Home:** A duplex where each unit is on a separate lot with the lot line constituting a common wall between units. Each unit of a twin home shall be considered a single family dwelling for the purpose of computing the area and width requirements for a lot.

Subd.208) **Uninhabitable:** Dilapidated or in a state of disrepair. A structure deemed 'not fit to live in by White Earth Authorized Personnel.

Subd.209) **Unreasonable Adverse Effect on the Environment:** Any unreasonable risk to man or the environment taking into account the economic, social, and environmental cost and benefits.

Subd.210) **Use:** The purpose to which land, premises, or a structure thereon is designated, arranged, intended, or for which it may be occupied or maintained

Subd.211) **USEPA:** The United States Environmental Protection Agency.

Subd.212) **Variance:** A modification or variation of the provisions of the Code, as applied to a specific piece of property.

Subd.213) **Vegetation Alterations:** Shall mean changing the natural vegetation in an area by clearing, cutting, chemical use or burning.

Subd.214) **Waste Material:** Material resulting from or used in demolition, industrial or commercial manufacturing, fabrications, servicing, processing or trimming.

Subd.215) **Watercourse:** A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

Subd.216) **Water Quality Volume (WQv):** The storage needed to capture and treat 90% of the average annual stormwater runoff volume. Numerically (WQv) will vary as a function of long term rainfall statistical data.

Subd.217) **Weed:** The term "weed" means any plant that grows where not wanted. A plant that is not valued where it is growing and is usually of vigorous growth.

Subd.218) **White Earth Housing Authority:** The White Earth Housing Authority of the White Earth Reservation.

Subd.219) **White Earth Reservation:** Also refer to "Reservation", shall mean the White Earth Reservation as established by an Act of March 19, 1867, 16 Stat. 719, is a government agency incorporated into the Minnesota Chippewa Tribe through the revised constitution and bylaws enacted pursuant to Section 16 of the Indian Reorganization Act of 1934.

Subd.220) **White Earth Reservation Planning Commission:** A Commission appointed by the White Earth Reservation Tribal Council to promote the orderly development of the Reservation.

Subd.221) **White Earth Reservation Tribal Council:** The Duly elected Governing body of White Earth Reservation, organized under Section 16 of the Act Of June 18, 1934 (48 Stat. 984) as amended and pursuant to the revised Constitution and By-Laws of the MN Chippewa Tribe.

Subd.222) **White Earth Tribal Court:** The Reservation Court established by the White Earth Band of Ojibwa Judicial Code, Title I, Section 1, enacted November 3, 1997 and shall have the authority and responsibility for adjucating violations of these regulations

Subd.223) **Wild and scenic river land use district:** Those lands designated by the White Earth Reservation Tribal Council as the protected land corridor along those rivers or river segments designated as wild, scenic, or recreational rivers.

Subd.224) **Wilderness/Sensitive Lakes:** Lakes with natural features in undisturbed areas having non-motorized access. Examples of permitted use would be for hiking or canoeing. The setting is primitive or pristine with an unmodified natural environment with no residential planned development nor commercial land development.

Subd.225) **Wildlife:** All organisms that are neither human nor domesticated animals living things and especially mammals, birds, and fishes that are neither human nor domesticated

Subd.226) **Yard:** The space between a lot line and a building. Restrictions stipulate the minimum side or rear yard area, and the percentage of the area of the building lot that may be occupied by the building.

Subd.227) **Zero lot line:** A development approach in which a building is sited on one or more lot lines. Conceivably, three of the four sides of a building could be on the lot line. The intent is to allow more flexibility in site design and to increase the amount of usable open space on the lot.

W.E.E.C. 200.00 Wetlands Code

This section of the Environmental Code is known as the Wetlands Code.

W.E.E.C. 201.00 Wetland Water Quality Standards

Subd.1) The White Earth Reservation is considering the value of wetlands and subject to protection under the water quality standards. This interpretation is supported by the 1986 Clean Water Act, Section 401, Wetland and Certification, Section 404 Regulatory Authority, and Section 518 (e) Tribes treatment as a state, and 1983 Minnesota Chippewa Tribe, Ordinance 8, Natural Resource Protection.

Subd.2) The following characteristic uses of wetlands within variation of the affected wetlands, shall be protected:

a) Storm and flood water retention.
b) Hydrologic cycle maintenance.
c) Filtration of storage of sediments, nutrients or toxic substances.
d) Shoreline protection.
e) Habitat for aquatic organisms in the food web.
f) Habitat for resident and transient wildlife species.
g) Recreational, cultural, educational, scientific and natural aesthetic values and uses.
h) Water supply.
i) Groundwater exchange.
j) Wildlife habitat.
k) Fish.
l) Habitat and harvesting.
m) Commerce and navigation.

W.E.E.C. 202.00 Water Quality Criteria

Subd.1) The following criteria shall be used to assure the maintenance or enhancement of the functional values. Federal Guidelines will be referenced to set limits or other criteria:

a) Liquids fill or other solids or gas may not be present in amounts which may cause significant adverse impacts to wetlands.

b) Floating or submerged debris, oil or other material may not be present in amounts which may interfere with public rights or interest or which may cause significant adverse impacts to wetlands.

c) Materials producing color, odor, taste or unsightliness may not be present in amounts, which may cause significant adverse impacts to wetlands.

d) Concentrations or combinations of substances which are toxic or harmful to human, animal or plant life may not be present in amounts which individually or cumulatively may cause significant adverse impacts to wetlands.

e) Hydrological conditions necessary to support the biological and physical characteristics naturally present in wetlands shall be protected to prevent significant adverse impacts.

f) Existing habitats and the populations of wetland animals and vegetation shall be maintained.

g) Fecal organisms, no measurable change from natural conditions.

h) Ph, no measurable change from natural conditions.

i) Solid material that may settle shall not be introduced or allowed to accumulate in a wetland such that they directly or indirectly degrade the wetland.

j) Aesthetic values shall not be reduced by dissolved, suspended, floating or submerged matter not attributed to natural causes.

k) Toxic, radioactive, or deleterious material concentrations shall be below those, which may adversely affect characteristic water uses.

l) Natural physical and biological characteristics shall be maintained and protected so that there is no significant degradation of characteristics uses.

m) Nutrients shall not be introduced or allowed to accumulate in a wetland such that they degrade the wetland.

Subd.2) Wetlands within or with direct hydrologic connection to areas of special natural resource interest are reviewed more critically

W.E.E.C. 203.00 Wetlands in areas of special natural resource interest:

- Cold water communities.
- Tribal, state and federal designated wild and scenic rivers designated riverways and designated scenic urban waterways.
- Environmentally sensitive areas and environmental corridors identified in area-wide water quality management plans.
- Habitat used by federally designated threatened or endangered species.
- Park, forests, trails and recreation areas.
- Tribal, state and federal fish and wildlife management areas.
- Designated or dedicated natural areas.
- Wild Rice waters.
- Any other surface waters identified as outstanding or exceptional resource waters.

W.E.E.C. 204.00 Implementation

Subd.1) Water Quality Standards for wetlands will be implemented upon completion of baseline data collection from the White Earth Natural Resources Department and subsequently on the date passed by the resolution from the White Earth Reservation Tribal Council.

Subd.2) Based on a series of narrative criteria intended to protect the functional values and uses of wetlands. The narrative criteria allow the Reservation to make an assessment of the nature of a proposed project and its potential impacts on wetlands.

W.E.E.C. 205.00 Applicability

Activities subject to the requirements include:

a) Tribal permits, as specified.
b) Water quality certification.
c) Development and management projects.
d) New or increased point source discharges to wetlands.
e) Mining is considered under separate requirements.
f) Does not apply to activities exempted from tribal, state and Federal regulation, for example, certain agricultural and silvicultural activities under 404(g) Clean Water
g) Act, Permit for Dredged or Fill Material.
h) Not applicable to local wetland zoning decisions.

W.E.E.C. 206.00 Department Determinations

Determination of compliance with the standards is based on:

a) The water dependency of the proposal.
b) Practicable alternatives.
c) Maintenance, protection, restoration, or enhancement of the wetlands functional values by the proposed activity.
d) Cumulative effects.
e) Secondary impacts.
f) Any potential adverse impacts to wetlands in areas of special natural resource interest.

W.E.E.C. 300.00 PESTICIDE AND CHEMICAL CODE

W.E.E.C. 300.01 Title

This section of the White Earth Environmental Code is known as the Pesticide and Chemical Code. References herein to the "Code" refer to the Pesticide and Chemical Code.

W.E.E.C. 300.02 Scope

The Pesticide and Chemical Code applies to all Producers, Distributors, Sellers, Purchasers, Transporters, Handlers, Storers, Applicators, Dealers or Disposers of Pesticides on land within the exterior boundaries of the White Earth Reservation. This Code also applies to applications of Fertilizer using Chemigation.

W.E.E.C. 300.03 Definitions

Subd. 1) Antisiphon Device has the meaning provided in W.E.E.C. § 102.00, Subd. 13.
Subd. 2) Applicator means a Person who is required to have a private or commercial applicator certification or license under Minnesota Statute 18B et seq.
Subd. 3) Band has the meaning provided in W.E.E.C. § 102.00, Subd. 19.
Subd. 4) Body of Water has the meaning provided in W.E.E.C. § 102.00, Subd. 24.
Subd. 5) Certification means a certification required under Minnesota Statute § 18.36.
Subd. 6) Check Valve Device has the meaning provided in W.E.E.C. § 102.00, Subd. 36.
Subd. 7) Chemigation has the meaning provided in W.E.E.C. § 102.00, Subd. 37.
Subd. 8) Dealer means a Person who distributes a Pesticide within the exterior boundaries of the White Earth Reservation to an end user. This action would commonly be called a retail sale.
Subd. 9) Defoliant means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.
Subd. 10) Desiccant means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.
Subd. 11) Distributor means a Person selling, bartering, shipping, delivering for shipment, receiving, delivering for use, or offering to deliver Pesticides within the exterior boundaries of the White Earth Reservation.
Subd. 12) Endangered Species has the meaning provided in W.E.E.C. § 102.00, Subd. 64.
Subd. 13) Fertilizer means a substance containing one or more recognized plant nutrients that is used for its plant nutrient content and designed for use in promoting plant growth.
Subd. 14) License means a license required under Minnesota Statutes § 18.29-18.35.
Sub. 15) Non-Target Organisms has the meaning provided in W.E.E.C. § 102.00, Subd. 137.
Subd. 16) Person has the meaning provided in W.E.E.C. § 102.00, Subd. 147.
Subd. 17) Pesticide Coordinator has the meaning provided in W.E.E.C. § 102.00, Subd. 149.
Subd. 18) Pesticide has the meaning provided in W.E.E.C. § 102.00, Subd. 148.
Subd. 19) Pesticide Labeling means labeling meeting the requirements of 40 C.F.R. § 156.10.
Subd. 20) Plant regulator means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant

inoculants, and soil amendments. Also, the term "plant regulator" shall not be required to include any of such of those nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health, and propagation of plants, and as are not for pest destruction and are nontoxic, nonpoisonous in the undiluted packaged concentration.
Subd. 21) Registration means registered with the Environmental Protection Agency in accordance with the requirements of 40 C.F.R. § 152 et seq.
Subd. 22) Reservation Business Committee means the duly elected governing body of the White Earth Reservation pursuant to Article VI, Section 1, of the revised constitution of the Minnesota Chippewa Tribe, as amended and organized under Section 16 of the Act of June 18, 1934 (48 Stat. 984).
Subd. 23) Restricted Area means Band forests, Minnesota state forests, Tamarac National Wildlife Refuge, Hamden Slough National Wildlife Refuge, Wildlife Management Areas, Waterfowl Production Areas, Aquatic Management Areas and Scientific and Natural Areas.
Subd. 24) Restricted-entry Interval ("REI") means the time after the end of a Pesticide application during which entry to a treated area is restricted.
Subd. 25) Restricted Use Pesticide ("RUP") has the meaning provided in W.E.E.C. § 102.00, Subd. 170.
Subd. 26) Right-Of-Way has the meaning provided in W.E.E.C. § 102.00, Subd. 171.
Subd. 27) Spray Drift means the movement of pesticide dust or droplets through the air at the time of application or soon after, to any site other than the area intended.
Subd. 28) Volatilization means the movement of pesticide vapors through the air. Volatilization is different than pesticide movement by Spray Drift.
Subd. 29) Wetland means an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
Subd. 30) White Earth Department of Natural Resources or Department means the agency with delegated authority from the White Earth Reservation Business Committee to protect, restore and regulate the natural resources of the Band and Band members in order to ensure environmental and human health and spiritual, cultural and economic sustainability of the Band.
Subd. 31) White Earth Reservation has the meaning provided in W.E.E.C. § 102.00, Subd. 219.

W.E.E.C. 300.04 Authority of the White Earth Department of Natural Resources and the Pesticide Coordinator

The White Earth Department of Natural Resources and Pesticide Coordinator, pursuant to the Department's delegated authority to protect, restore and regulate the natural resources of the Band in order to ensure environmental and human health and spiritual, cultural and economic sustainability of the Band are authorized to implement and enforce the provisions of this Code.

W.E.E.C. 300.05 Unlawful Acts It shall be unlawful under this Code for any Person to:

Subd.1) Interfere with the lawful enforcement of this Code.

Subd.2) Disturb, move, damage, obstruct or interfere with any equipment or activities of the Pesticide Coordinator.

Subd.3) Sell, purchase, process, transport, handle, store, apply, dispose of or otherwise use a Pesticide within the White Earth Reservation without a duly authorized License or Certification from a jurisdiction as recognized and approved by White Earth Nation.

Subd.4) Make misrepresentations in applying for or renewing a License or Certification.

Subd.5) Fail to keep and submit records as follows:

a. Restricted Use Pesticide Application Records. In a reasonably accessible format, keep a record of Restricted Use Pesticide applications including the name and address of the person for whom the Restricted use Pesticide was applied; the name and certification number of the applicator that made the Restricted Use Pesticide application; the date and time of Restricted Use Pesticide application; amount of Restricted Use Pesticide applied (total and per acre); Restricted Use Pesticide dilution rate; total acreage of Restricted Use Pesticide application; specific type of Restricted Use Pesticide applied, including the brand or product name and Environmental Protection Agency registration number of the applied Restricted Use Pesticide; method of Restricted Use Pesticide application; location of Restricted Use Pesticide application; crop, commodity, stored product, or site to which the Restricted Use Pesticide was applied; and weather conditions, including wind speed. Application records must include a legible map identifying Bodies of Water and Rights-of-Way within one-quarter mile of Restricted Use Pesticide application site.
b. Restricted Use Pesticide Dealer records. In a reasonably accessible format, record and maintain at each individual dealership, records of each transaction where a Restricted Use Pesticide is distributed or sold to any person. Records of each such transaction must include all of the following information: name and address or principal place of business of each certified applicator to whom the Restricted Use Pesticide was distributed or sold; the certification number on certification document presented to the seller evidencing the valid certification of the certified applicator authorized to purchase a Restricted Use Pesticide; the expiration date of the applicator's certification; the category(ies) in which the applicator is certified relevant to the pesticide(s) sold; the product name and Environmental Protection Agency registration number of the Restricted Use Pesticide(s) distributed or sold in the transaction, including the applicable emergency or State special local need registration number; the quantity of the Restricted Use Pesticide(s) distributed or sold in the transaction; and the date of the transaction.
c. Record Retention and Requests for Record Production. Keep all records listed in Section 300.05 Subd.5 (a) and (b) in a reasonably accessible format and available for inspection by the Pesticide Coordinator upon request for a period of at least five years.

Subd.6) Make or maintain false or fraudulent records, invoices, or reports.

Subd.7) Apply or dispense any Pesticide on any Right-Of-Way without prior approval from the Pesticide Coordinator.

Subd. 8) Apply Pesticides where Endangered Species are located.

Subd. 9) Apply a Pesticide in a manner inconsistent with Pesticide Labeling.

Subd.10) Make false or misleading statements during any inspection carried out under this Code.

Subd.11) Sell or apply any Pesticide or mixture of Pesticides that do not have accurate and affixed branding or labeling.

Subd.12) Apply Pesticides in a manner that poses unreasonable negative impacts or health risks, including through exposure from Spray Drift or Volatilization, for Non-Target Organisms, including humans.

Subd.13) Sell or apply any Pesticide that is not Registered with the United States Environmental Protection Agency or whose Registration has been canceled or suspended.

Subd.14) Fail to report, by telephone and email, spills of Pesticides, measuring five or more gallons, to the Pesticide Coordinator within six hours. Email and telephone contact information for the Pesticide Coordinator are available here: https://whiteearth.com/divisions/natural_resources/contact.

Subd.15) Apply or dispense any Pesticide by aircraft or ground method within one-quarter mile of a School Area unless the following conditions are met:

a) No school activities are being conducted/ no children or staff are present.
b) Pesticide Coordinator has been notified and approved the Pesticide application at least forty-eight hours in advance. Notification to Pesticide Coordinator must include a provision for an emergency landing and emergency dispensing of Pesticides or RUPs in a manner which will not endanger persons or property.

Subd. 16) Apply or dispense any Pesticide by aircraft or ground method within one-quarter mile of a Restricted Area without prior approval, at least 48 hours in advance, from the Pesticide Coordinator.

Subd.17) Apply or dispense any Pesticide by aircraft or ground method within one-quarter mile of an operating school bus.

Subd.18) Apply or dispense any Pesticide by aircraft within one-quarter mile or by ground method within three hundred feet of a Body Of Water or Wetland without prior approval, at least 48 hours in advance, from the Pesticide Coordinator. Applications of Pesticides directly to Bodies of Water or Wetlands are prohibited without an approved plan from the Pesticide Coordinator.

Subd. 19) Use water directly from a Body of Water for mixing/loading Pesticides.

Subd. 20) Store empty Pesticide containers at a site within the exterior boundaries of the White Earth Reservation for more than one year unless prior authorization is obtained from the Pesticide Coordinator.

Subd. 21) Fail to notify persons or properly restrict entry of people and livestock into Pesticide-treated areas until the Restricted-entry Interval period associated with the Pesticide has lapsed.

Subd. 22) Apply Pesticides using Chemigation.

Subd. 23) Apply Fertilizer through Chemigation without a permit from the Minnesota Department of Agriculture and an effective Antisiphon Device or Check Valve that prevents backflow of fertilizer into water supplies during irrigation system failure or shut down. Before operation, Antisiphon Devices or Check Valve Devices must be approved by the Pesticide Coordinator.

W.E.E.C. 300.06 Civil Proceedings

In the event of a violation of this Code, the Pesticide Coordinator may institute civil proceedings in the White Earth Tribal Court against any Person committing violations of the Code for any appropriate remedies, including but not limited to, monetary relief, injunctive relief, seizure and forfeiture, and the posting of bonds or sureties to ensure compliance.

W.E.E.C. 300.07 Civil Administrative Penalties

Any Person who violates any provision of this Code may be assessed a civil administrative penalty of not more than $5,000 for each violation. Each day a violation exists constitutes a separate violation.

W.E.E.C. 300.08 Criminal Penalties

Any enrolled White Earth Band Member who knowingly violates any provision of this Code may be subject to a criminal penalty of not more than $10,000 per violation. Each day a violation exists constitutes a separate violation.

W.E.E.C. 300.09 Enforcement Actions by the Pesticide Coordinator

The foregoing shall not be deemed to limit or restrict the Pesticide Coordinator from taking any appropriate administrative or emergency action necessary to protect public health and safety and natural resources including but not limited to issuance of warning notices, corrective action orders, and stop-sale, use or removal orders.

W.E.E.C. 300.10 Right of Entry

For the purposes of carrying out this Code, the Pesticide Coordinator may enter premises at reasonable times. Advance notice is not required in cases in which there is a significant threat to human health or natural resources.

W.E.E.C. 300.11 Judicial Review

Subd. 1) Any Person affected by a notice, order or other final action taken or issued by the Pesticide Coordinator pursuant to this Code may request and shall be granted an evidentiary hearing on the matter before the White Earth Tribal Court. Such person shall file with the Court, a written petition requesting the hearing including name, address, telephone number and a brief statement of the grounds for the hearing. Such petition shall be filed within thirty days of the date a notice, order or other final action is taken or served. Parties to the hearing include the petitioner and the White Earth Department of Natural Resources. Parties may present evidence, cross examine witnesses, and submit post-hearing briefs. A record of oral proceedings shall be made.

Subd. 2) After the hearing, the White Earth Tribal Court shall sustain, modify, or reverse a notice, order or other final action taken by the Pesticide Coordinator based on the evidence provided at the hearing. The decision shall include findings of fact and conclusions of law and shall be issued in writing.

W.E.E.C. 300.12 Effective Date

This Ordinance shall take effect on the date of passage by the White Earth Reservation Business Committee.

W.E.E.C. 300.13 Severability

If any provision of this Code is held invalid, the remainder of this Code shall remain in effect.

W.E.E.C. 300.14 Amendments

This Code may be amended by the White Earth Reservation Business Committee through a duly adopted resolution. Additions to this Code shall become part of the Code thereafter for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and organization hereof.

W.E.E.C. 400.00 Solid Waste Disposal and Recycling Code

This section of the Environmental Code is known as the Solid Waste Disposal and Recycling Code.

W.E.E.C. 401.00 Findings

The White Earth Reservation Tribal Council recognizes that the sanitary and environmentally sound disposal of solid waste is important to the health, welfare and safety of the public and residents of the Reservation. The Tribal Council also recognizes that proper waste disposal is important to the protection of the Reservation environmental and natural resources. Inefficient, inappropriate, and unsanitary disposal of solid waste can have adverse impacts on the land and water of the White Earth Reservation. Waste items that can be recycled to reduce the amount of waste requiring final disposal should be recycled.

W.E.E.C. 402.00 Solid Waste Storage

Subd.1) Solid waste within the Reservation boundaries shall be handled, stored, collected, transported, transferred, processed and disposed of in accordance with the provisions of this Code.

Subd.2) All persons shall be responsible for the sanitary storage of all solid waste accumulated at the premises, business establishment or industry.

Subd.3) Solid waste shall be stored in durable, rust resistant, non-absorbent, water tight, rodent proof, and easily cleanable containers with a close fitting, insect-tight cover.

Subd.4) Unless otherwise provided for in a written rental agreement or lease, the tenant of any single unit detached residence and the landlord of any multi-unit residence shall be responsible for the provisions and maintenance of containers as specified in Subd.3) above.

Subd.5) Solid waste shall be transferred to the proper disposal site by the responsible party in a timely manner, to prevent noxious odors and other public nuisance conditions.

W.E.E.C. 403.00 Solid Waste Disposal

Subd.1) Prohibited wastes. The following materials will not be collected:

a) Hazardous Wastes as previously defined.
b) Hospital or Medical Wastes as previously defined.
c) Animals, animal excrements or animal bedding exposed to infective agents.
d) Containers previously containing pesticides or herbicides.
e) Sewage or sewage sludge wastes.
f) Unregulated small quantity generator hazardous wastes.
g) Hot ashes.

h) Tires.
i) Demolition Wastes.
j) Industrial Solid Wastes.

k) No person shall leave, deposit, or dump solid waste anywhere within the
l) Reservation except at designated disposal or collection sites approved by the Reservation Tribal Council.

m) No person shall dispose of any solid waste generated outside the boundaries of the Reservation on any lands, dumping sites, within the boundaries of the Reservation.

n) No person shall dispose of solid waste on any private or public residential property.

o) No person shall deposit solid waste from any vehicle onto state, county, or Tribal highways, roads, or right-of-ways, within the Reservation boundaries.

p) No person shall dispose of solid waste at a collection disposal site on the Reservation except in a manner approved by the Solid Waste Operator or appointee and only during posted days and hours of operation, as established by the Reservation Tribal Council.

q) No person shall destroy, deface, or otherwise damage any collection/disposal or recycling site.

r) Accumulation. No person shall accumulate solid waste of any type on any premises or lands, occupied or unoccupied, within the boundaries of the Reservation.

s) Dumping. No solid waste shall be stored or accumulated anywhere within the limits of the Reservation in a manner other than is authorized by this Code or thrown or swept into any street, gutter, sewer, intake, alley, vacant lot, pond, stream, wetland, lake, or other private or public property.

t) Every occupied premises within the Reservation shall be responsible for the keeping of the sidewalks in front of any buildings or improvements located thereon, if any, free from any accumulation of all solid waste. Every property owner and/or occupant of a Domestic Unit or Commercial Unit shall keep solid waste in a manner defined by this Code.

W.E.E.C. 404.00 Open Burning Prohibitions

Subd.1) Burning regulations have been established by the White Earth Reservation Fire and Burning Provisions set forth and approved by Tribal Council Resolution April 7, 1999. Per Section 3 of these regulations, open burning prohibitions are as follows:

a) Prohibited Materials. No person shall conduct, cause, or permit open burning of oils, rubber products, plastics, chemically treated materials or other materials which produce excessive or noxious smoke such as tires, railroad ties, chemically treated lumber, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint, or paint filters.

b) Hazardous Waste. No person shall conduct, cause, or permit open burning of hazardous waste.

c) Industrial Solid Waste. No person shall conduct, cause or permit open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment.

d) Demolition Debris. No person shall conduct, cause or permit open burning of burnable building material generated from demolition of commercial or institutional structures. A farm building is not a commercial structure.

e) Salvage Operations. No person shall conduct, cause or permit salvage operations by open burning.

f) Motor Vehicles. No person shall conduct, cause, or permit the processing of motor vehicles by open burning.

g) Solid Waste. No person shall conduct, cause, or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving, or consumption of food.

h) Burning Ban. No person shall conduct, cause or permit open burning during a burning ban put into effect by a local authority, the White Earth Tribal Forestry Program, or the Minnesota Department of Natural Resources.

W.E.E.C. 405.00 Solid Waste Collection

Subd.1) All solid waste transported on the Reservation shall be collected and transported in manner that prevents the waste from leaking, blowing off, or falling from the transport vehicle.

Subd.2) Commercial vehicles or containers used for collection and transportation of garbage and other putrescible wastes, or solid waste containing such materials, shall be covered, leak-proof, durable, and of easily cleanable construction. These shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

W.E.E.C. 406.00 Solid Waste Disposal Fee

Annually, the Reservation Tribal Council will establish the fee rates to be charged to individuals for the disposal of solid waste at the designated waste collection and disposal sites on the Reservation.

W.E.E.C. 407.00 Enforcement

Subd.1) All Reservation Conservation and Law Enforcement personnel shall be empowered to enforce this Code.

Subd.2) Actions for violation of this Code may be commenced in the White Earth Tribal Court by the conservation/law enforcement citation or by summons and complaint.

Subd.3) Violation of any provision of this Code may be punished or remedied by a civil penalty. Each day of any continuing violation may be charged as separate violation, and a separate forfeiture may be imposed.

Subd.4) In addition to a civil penalty, any personal property, including vehicles and other equipment, which has been used in connection with the violation of this Code may be seized and forfeited pursuant to the appropriate section of the White Earth Conservation Code.

Subd.5) Nothing herein shall prevent the White Earth Reservation from bringing suit against any violator of the Code for money damages for harm to any Band resource or the environment caused by the violation of this Code.

Subd.6) Any person may bring suit in Tribal Court to enjoin a violation of this Code.

Subd.7) The White Earth Tribal Court has jurisdiction pursuant to White Earth Tribal Code, Chapter II, Section I.

W.E.E.C. 500.00 Shoreland Management Code

This section of the Environmental Code is known as the Shoreland Management Code.

W.E.E.C. 501.00 Unlawful Acts

Subd.1) It shall be unlawful for: Any person or persons whose propose is to construct or alter any shore land within and or outside a water body without completing an application for a permit from the White Earth Reservation Water Quality Program. Any person or persons not following this code shall be in violation and subject to the authority of the tribal court system.
These items include:

a) Clear cutting on leased lots within the shore and bluff impact area and on steep slopes is not allowed.

b) Placing stumpage, branches or trees in a body of water.

c) Placing any other foreign material fill in or near a body of water.

d) Placing a permanent structure inside of the set-backs from a body of water at a distance of 100 feet from the ordinary high water level or highest known water level, whichever is greater on a recreational lake, 200 feet from a natural environmental lake, 300 feet from a conservation habitat lake and 500 feet from a wilderness/sensitive lake.

W.E.E.C. 502.00 High Water Levels

Subd.1) Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood proofed must be determined as follows:

Subd.2) For lakes, by placing the lowest floor at a level at least 3 feet above the highest known water level, or 3 feet above the ordinary high water level, whichever is higher;

Subd.3) For rivers and streams, by placing the lowest floor at least 3 feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least 3 feet above the ordinary high water level, or conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.

Subd.4) Structure must be set-back from a body of water at a distance of 100 feet from the ordinary high water level or highest known water level, whichever is greater. Structure must be set-back from a body of water at a distance of 100 feet from the ordinary high water level or highest known water level, whichever is greater on a recreational lake, 200 feet from a natural

environmental lake, 300 feet from a conservation habitat lake and 500 feet from a wilderness sensitive lake.

W.E.E.C. 503.00 Boat Lifts, Docks, Gazebo's, Landings, Rafts, Stairways and Storage Compartments

Subd.1) The construction of boat lifts, docks, gazebo's, landings, rafts and stairways is the preferred method of access compared to major changes in the topographic bluffs and steep slopes for achieving access to lakeshore areas.

Subd.2) Boat lifts, docks, gazebos, landings, rafts and stairways and storage compartments must meet the following design requirements:

a) Boat Lifts will not have width limit and are not subject to dock width limits.

b) Docks shall not exceed eight feet in width.

c) Docks may have L or T shapes extension located on the end. These extensions may not exceed twenty-five feet and may not impair or encroach on the neighboring docking areas. This extension does not apply to fishing piers placed for public recreation.

d) Docks will have no set limit on length. However, if a dock is extended into the water body at an exaggerated length from the surrounding docks than they shall be deemed a navigational hazard and are subject to enforcement and removal from the tribal conservation officers and tribal court.

e) Docks extending into the water over 150 feet shall require a minimum of a two by two inch reflective material placed on the corners of the docks to provide safety. If they do not, they will be deemed a navigational hazard.

f) Docks must be monitored by the owner on a reasonable basis to ensure they are not submerged by high water levels. If a dock is submerged and is not marked with a visible reflective material or raised above water they shall be deemed a navigational hazard and subject to the tribal conservation department and or tribal courts.

g) Gazebos or other structures supported by walls along with a roof/canopy are not allowed to be placed on docks. This does not include canopies used for protecting boats or other watercraft when used over a boat lift. Canopies without walls may be used on docks as long as they are not enclosed on any side(s) by a wall and do not exceed eight feet in height from the dock platform to the apex of the canopy.

h) Rafts, permanent, semi-permanent or temporary shall have a minimum of a two by two inch reflective material placed on the corners to ensure safety. If they do not they will be deemed navigational hazard.

i) Stairways must not exceed eight feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit development.

j) Stairways, boat lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

k) Storage compartments may be used on a dock as long as they do not exceed thirty-six inches in height and do not overhang from dock.

l) Stairways, lifts, and landings must be located, whenever practical, in the most visually inconspicuous portions of lots, as viewed from the surface of the body of water assuming summer, leaf-on conditions, whenever practical; and

m) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are allowed for access to shore land areas.

W.E.E.C. 504.00 Steep Slopes

The White Earth Natural Resources Department must evaluate possible soil erosion impacts and development visibility from bodies of waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issue permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of bodies of waters, assuming summer, leaf-on vegetation.

W.E.E.C. 505.00 Vegetation Alterations

Subd.1) The removal of natural vegetation or topographic alterations shall be restricted to prevent erosion into public waters, to consume nutrients in the soil, and to provide adequate screening and to preserve shoreland aesthetics. Removal shall be restricted within a strip paralleling the lakeshore and extending inland a specified distance from the ordinary high water mark. The specified distance will depend upon lake classification.

a) Natural Environment Lakes: 100 feet from the ordinary high watermark.
b) Recreational Development Lakes: Fifty (50) feet from the ordinary high watermark.
c) Conservation Habitat Lakes: 200 feet from the ordinary high water mark.
d) Wilderness Sensitive Lakes: 500 feet from the ordinary high watermark.
e) Streams and rivers: 100 feet from ordinary high water mark.
f) Wetlands: Fifty (50) feet from the ordinary high water mark.

Subd.2) Removal or alteration of vegetation is allowed subject to the following standards:

a) Clear cutting on leased lots within the shore and bluff impact zones and on steep slopes is not allowed.

b) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, and beach and watercraft access areas, provided that:

1) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

2) Along rivers, existing shading of water surfaces is preserved;

3) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

Subd.3) Use of fertilizers and pesticides must be minimized in order to reduce runoff into shore impact zones and bodies of waters by use of earth, vegetation, or both. Please reference the Tribal Farm Chemical Code for further information.

W.E.E.C. 506.00 Topographic Changes

Subd.1) Except for public roads or public parking areas, no topographical changes shall be made in a shore land area unless a permit has been obtained from the White Earth Natural Resources Department.

Subd.2) A separate permit is not required if a permit has been granted for construction of a structure or sewer system, unless the information required for the topographical change permit was not included in the original application for the permit.

Subd.3) If an intended purpose of a project is to connect to public water, such as boat slips, canals, lagoons, and harbors, a permit shall not be issued until approved by the White Earth Natural Resources Department. Please reference the Stormwater code for further information.

Subd.4) An application for a permit for a project shall include any topographical changes in a statement on the required permits for review or approval by White Earth Natural Resources Department.

Subd.5) An application for a permit for a project shall include any grading or filling in any type of wetland. It shall contain a description of the extent the proposed activity would affect the following functional qualities of the wetland:

a) sediment and pollutant trapping and retention;
b) storage of surface runoff to prevent or reduce flood damage;
c) fish and wildlife habitat;
d) recreational use;
e) shoreline or bank stabilization; and

f) special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

Subd.6) If a project requires fill or excavated material to be placed on steep slopes, the plans accompanying the application for a permit shall demonstrate that the slope will have continued slope stability.

Subd.7) Topography changes shall not be allowed unless the use is incidental to a permitted or conditional use and does adversely affect adjacent or nearby properties.

Subd.8) Any topographical change shall be accomplished in a manner that which ensures that the least possible amount of bare ground is exposed for the shortest time possible.

Subd.9) Bare ground shall be covered temporarily with mulches or similar materials. A permanent vegetation cover must be established as soon as possible after any excavation.

Subd.10) Soil erosion shall be minimized and efforts shall be taken to trap sediments before they reach any surface water feature.

Subd.11) Altered areas shall be stabilized to acceptable erosion control standards consistent with the White Earth Natural Resources Department.

Subd.12) Fill or excavated material shall not be placed in a manner that creates an unstable slope and shall not be placed in a bluff impact zone.

Subd.13) Natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, may be placed in shore impact zone if the finished slope does not exceed 3 feet horizontal to one foot vertical, the landward extent of the riprap shall not exceed over 10 feet from the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed 3 feet.

Subd.14) Any topographical change below the ordinary high water level of public waters must first be authorized by the White Earth Natural Resources Department.

W.E.E.C. 507.00 Placement and Design of Roads, Driveways and Parking Areas

Subd.1) Roads, driveways and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters.

Subd.2) Roads, driveways and parking areas shall be designed and constructed to minimize and control soil erosion.

Subd.3) Roads, driveways, and parking areas shall meet structural setbacks and shall not be placed within bluff and shore impact areas when other reasonable and feasible placement, if any

alternatives exist, they may be placed within these areas, but they shall be designed to minimize adverse impacts on the environment.

Subd.4) No public and commercial watercraft access ramps, approach roads, and access-related parking areas may be placed within shore land impact area.

W.E.E.C. 508.00 Storm Water Management

Please refer to the requirements established in the **W.E.E.C. 900.00 Storm Water Code**.

W.E.E.C. 509.00 Standards for Commercial, Industrial, Public and Semipublic Uses

Subd.1) Surface water oriented commercial uses and industrial, public or semipublic uses with similar needs to have access to and use of public waters may be located in parcels or lots with frontage on public waters. Those uses with water oriented needs meet the following standards:

a) In addition to meeting impervious coverage limits, setbacks, and other standards in this Code, the users must be designed to incorporate topographic and vegetative screening of parking areas and structures.

b) Uses that require short-term watercraft motoring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public subject to the following general standards.

1) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by the White Earth Natural Resources Department.

2) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 10 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

3) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. Spotlights or other artificial lights are not allowed to be projected in to the water body for any other purpose than mentioned above. This does not prelude use of navigational lights.

W.E.E.C. 510.00 Agricultural Use Standards

Subd.1) Where general cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are allowed steep slopes and shore and bluff impact zones shall be maintained in permanent vegetation or operated under an approved conservation plan consistent with the White Earth Natural Resources Department.

Subd.2) Animal feedlots must meet the following standards:

a) New feedlots shall not be located in the shore land of water courses or in bluff impact zones and shall be setback at least 500 feet from the ordinary high water level of all bodies of waters basins.

b) Modifications may be made to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone if the modifications do not extend the feedlot closer to the ordinary high water level setback or further into the bluff impact zone.

c) A certificate of compliance, permit, or animal feedlot permit, when required must be obtained by the owner or operator of an animal feedlot.

W.E.E.C. 511.00 Forest Management Standards

The harvesting of timber and associated reforestation within shore land, but outside share impact areas, must be conducted consistent with the provisions of the Natural Resources Department, White Earth Forestry, along with the Bureau of Indian Affairs, Forestry Division. Within shore land impact areas, these activities require a permit.

W.E.E.C. 512.00 Permits for work within the body of water

Subd.1) Permits may be issued for any and only the uses or purposes for which such permits are required or permitted by provisions of this Code.

Subd.2) An application for a Permit shall be filed with the White Earth Reservation Water Quality Program on a form prescribed by the White Earth Natural Resources Department. The application shall be accompanied by such plans, elevations and site plans.

Subd.3) For each application for a permit, the Water Quality Program shall report to the White Earth Natural Resources Department, its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be compiled with when they are deemed necessary for the protection of the environment. Upon receipt of the report of the Water Quality Program and the White Earth Natural Resources Department shall

hold whatever deems advisable and shall make a decision upon the proposal to grant or deny a Permit.

Subd.4) Findings - No Permit shall be recommended by Water Quality Manager or granted by the White Earth Natural Resources Department unless they shall find:

a) That the Permit will not be injurious to the use and enjoyments of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the immediate vicinity.

b) That the establishment of the Permit will not impede the normal, orderly development and improvement of surrounding vacant property for uses predominant in the area.

c) That the permit will not impair or cause harm to the surrounding wildlife, habitat or ecosystem.

Subd.5) Any alteration to the bed of bodies of waters, including construction of channels, ditches, lagoons dredging of bottom, muck of weeds or filling in a lake or river bed, including marshlands must receive approval by the Water Quality Program prior to the commencement of operations.

Subd.6) Any work within the water body such as weed removal; either by hand, mechanical or chemical shall require notification to the Water Quality Program prior to any action and a permit must be obtained from the White Earth Water Quality Program. The Water Quality Program will use their best judgment if the hand removal is extensive enough to require a permit.

Subd.7) Any use permitted under the terms of any permit shall be established and conducted in conformity with the terms and conditions of such permit.

W.E.E.C. 513.00 Exemptions

Any exceptions to the above mentioned activities requires a variance order obtained from the White Earth Planning Commission prior to any physical activity on or within the said property.

W.E.E.C. 600.00 Zoning Code

This section of the Environmental Code is known as the White Earth Zoning Code.

W.E.E.C. 601.00 Purpose

This Zoning Code is hereby established, adopted and enacted by the White Earth Reservation Tribal Council. Future tribal and non-tribal population growth will place increasing demands upon Reservation natural resources. An integrated system of land use controls pertaining to all Reservation lands is critically needed to protect fish and wildlife, their habitat, resources upon which they depend and natural resources of importance to the Tribes economy and the economic well-being of its members and Reservation community. Continued protection and enhancement of the essential Native character of the Reservation and the Reservation community is of vital importance to the Tribe. Large areas of the Reservation remain undeveloped and retain their essential Native character. The limited development that has occurred on the Reservation has been consistent with and preserves the essential Native character of the developed areas of the Reservation and the Reservation community as a whole.

W.E.E.C. 602.00 Intent

Subd.1) To lessen congestion in public right-of-ways, secure safety from fire, panic and other dangers.

Subd.2) To provide adequate light and air, facilitating the adequate provisions of water, sewerage and other public requirements.

Subd.3) To conserve the value of natural resources and encourage the most appropriate use of land.

Subd.4) To preserve and enhance the economic values and use of agricultural land.

Subd.5) To preserve and enhance the quality of surface waters.

Subd.6) To conserve the economic and natural environmental values of shorelands.

Subd.7) To provide for the wise use of water and related land resources of the Reservation.

Subd.8) To accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare.

W.E.E.C. 603.00 Rules

Subd.1) Certain words or terms used in this Code shall be interpreted according to the following rules:

a) Words used in the present tense shall include the future;
b) Words used in the singular shall include the plural and the plural of the singular;
c) The word "structure" shall include the word "building" and the word "lot" shall include the word "piece" or "parcel";
d) The word "shall" is mandatory;
e) The word "may" is permissive;
f) The word "person" includes a firm, association, partnership, trust, company, or corporation, as well as an individual;
g) All distances, unless otherwise specified, shall be measured horizontally.

Subd.2) Permitted Uses:
No land or structure shall be devoted to any use except as specifically permitted by this Code, except as follows:

a) Uses lawfully established prior to effective date of this Code;

b) Special Conditions allowed in accordance with this Code;
c) Essential services erected, constructed, altered or maintained by public utilities or by governmental departments or commissions, subject only to the permit requirements.

Subd.3) Special Conditions:

Special Conditions of land or buildings, as listed in this Code, may be allowed subject to the issuance of Special Condition Permits as provided within this Code. Whenever a Conditional Use is named as a major category, it shall include all and only those itemized uses listed.

Subd.4) Headings used in this Code are for convenience only and do not define, limit or construe the contents of the Code.

W.E.E.C. 604.00 Permits Required

Subd.1) Building Permit
A Building Permit from the White Earth Reservation Zoning Office will be required prior to the commencement of mobile home relocation, building construction or major structural alterations that will affect the outside dimensions of a structure on the White Earth Reservation in accordance with this Code.

a) All structures on the White Earth Reservation shall be built consistent with the most recent editions of a Uniform Building Code.

b) A Site Plan review is required on all developments, subdivisions, multi-family dwellings, commercial and industrial developments, towers, parks/campground development, salvage yard and landfill development, manufactured/mobile home park development and expansions of such existing facilities or any other type of future development.

Subd.2) Shoreland Construction/Alteration Permit

a) A permit from the White Earth Zoning Office is required before any relocation of structures, building construction or major structural alterations affecting the outside dimensions of a structure, and before any topographic and vegetation alterations are made within the shoreland overlay district. Any building construction or structural alterations within a shore or bluff impact zone will require a Special Condition permit.

b) Alterations to the shoreline, or within the shore or bluff impact zone, or of the natural topography when the slope of the land is toward a public water or watercourse, grading or filling causing a variation of 6 inches or construction of retaining walls must obtain a Special Condition permit prior to work being done. This does not include work incidental to an approved building or septic permit.

Subd.3) Special Condition Permit
Special Condition permits are required when a certain use, not suitable in a particular Zoning District, may, under certain circumstances, be suitable. Application for this permit can be obtained from the White Earth Zoning Office.

Subd.4) Land Alteration Permit
For purposes of land development and infrastructure a Land Alteration Permit from the White Earth Planning Commission will be required prior to commencement of land alteration, utility installation, road construction. Application for this permit can be obtained from the White Earth Zoning Office.

Subd.5) Sign Permit
A permit is required for the establishment of signage for billboards and including but not limited to those that depicts a business, awareness information, or those that introduce communities within the original boundaries of the Reservation.

W.E.E.C. 605.00 Enforcement General

Subd.1) The Zoning personnel or other authorized personnel reserves the right to enter any land or parcel, including fee land and trust land, within the original boundaries of the Reservation to inspect the property. Reasonable effort shall be made to locate the owner and notify him or her of the pending inspection to be done at a reasonable time and manner.

Subd.2) Cease and Desist Orders
In the event of violations of any provision of this Code the Zoning Office may issue a written Cease and Desist Order requiring any landowner or other responsible party to:

a) cease such use, occupancy or work upon land, structure or such violation;

b) abate such work and/or structure;

c) not sell or occupy lots divided without an approval required by this Code;

d) remediate any adverse environmental effects, use or occupancy of land, and violation.

Such Notice will require compliance with any regulation of the Zoning Code and/or may be informed of compliance to other applicable White Earth Reservation Laws, Codes and Ordinances. Such notice shall advise the right to appeal according to the procedures in this Code.

Subd.3) Court Action.
In the event that a violation exists of this Code, failure to correct the violation within the stated time period shall deem such violation a public nuisance and shall subject the violator to an action in White Earth Tribal Court.

Sub. 4) Penalties.
Violation of any provision of this Code may be punished or remedied by a civil penalty. Each day of any continuing violation may be charged as a separate violation, and a separate penalty may be imposed.

W.E.E.C. 606.00 Glare / Lighting

Any lighting used to illuminate commercial or an off-street parking area, sign or other structure shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. The source lights shall be hooded or controlled in some manner so as not to light adjacent property. In any district no halogen flood lights or glare shall be permitted to be directed into any adjoining property or public right-of-way.

W.E.E.C. 607.00 Exterior Storage

In the Village City Districts or Planned Developments/Subdivisions exterior storage shall be within a building or fully screened in a designated area to the side yard or rear yard in an orderly manner. Fish houses shall not be used as an additional permanent dwelling.

W.E.E.C. 700.00 Individual Septic System Code

This section of the Environmental Code shall be known as the Individual Septic System Code.

W.E.E.C. 701.00 Purpose

The improper location, design, installation, use, and maintenance of individual sewage treatment systems adversely affects the public health, safety, and general welfare by discharge of inadequately treated sewage to the ground surface, surface waters, and ground waters. The White Earth Reservation Tribal Council does hereby provide the minimum standards and criteria for individual subsurface sewage treatment systems to protect the surface and ground waters of the Reservation, and promotes the public health, safety, and general welfare. It is the intent of this code to provide clear, reliable, and cost-effective technical standards and criteria; to provide a framework for permitting and inspection programs to be administered at the local level; and to describe the responsibilities, licensing, and enforcement requirements for individual sewage treatment system professionals.

This Code only addresses residential household waste for individual subsurface sewage treatment regulations and other establishments with a flow of 5000 gallons per day or less. Commercial, industrial, agricultural, municipal and other community/cluster type wastewater treatment systems are regulated by the United States Environmental Protection Agency and must apply for a NPDES Permit thru the EPA. Permitting regulations pertaining to systems not permitted by this Code can be found under the Code of Federal Regulations, title 40, part 122.

W.E.E.C. 702.00 Treatment Required

Each individual sewage treatment system shall be designed to receive and treat all sewage from the dwelling or other establishment served in compliance with the requirements of the White Earth Individual Septic System Code.

W.E.E.C. 703.00 Compliance

An existing individual sewage treatment system is in compliance if it is not a Failing System as defined. A newly constructed or replacement system is in compliance if it meets the technical standards and criteria set forth by the Tribe and/or Indian Health Service. A system is not in compliance if footing or roof drainage or chemically treated hot tub and pool water enters any part of a system.

W.E.E.C. 704.00 Required Upgrade

The owner of a system that is not in compliance shall upgrade, replace or repair the system so it is in compliance, or discontinue the use of the system within ten months of receipt of a notice of noncompliance. If a system presents an imminent threat to public health or safety as defined, the owner shall upgrade, replace, or discontinue the use of the system within thirty days of receipt of a notice of noncompliance.

W.E.E.C. 705.00 Standards for Property Sales and Disclosures

Subd.1) All owners proposing to sell any property having a subsurface sewage treatment system must be inspected by a licensed Inspector of the MPCA.

Subd.2) The seller must provide a copy of the completed Sewage system disclosure and Compliance Inspection forms to all potential buyers before the purchase agreement is signed, including all requirements where a Failing System needs to be replaced with a system that complies with this Code.

Subd.3) The seller or buyer of a Failing System that is an Imminent Threat to Public Health or Safety must have the system repaired or replaced so that it is no longer an Imminent Threat to Public Health or Safety within 30 days after notification of non compliance. If winter or excessive rain conditions prevent proper Sewage system replacement, the owner is required to take appropriate action, such as, having the septic tank(s) pumped or using less water, to eliminate any actual or Imminent Threat to Public Health or Safety. The seller or buyer of a Failing System that is not an Imminent Threat to Public Health or Safety must have the Sewage system upgraded to a complying Sewage system within 10 months after notification of non compliance.

W.E.E.C. 706.00 Prohibitions and Requirements

Subd.1) No person shall design, install, construct, alter, repair, maintain, pump, inspect or conduct site evaluations of an individual sewage treatment system within the external boundaries of the White Earth Reservation except:

a) an individual who is a qualified employee performing work as directed by the state or local government employer;

b) an individual who is constructing a system, other than a mound or pressure system, on land that is owned or leased by the individual and that functions solely as a dwelling or seasonal dwelling for that individual after consulting with a designer I or II licensed by the State of Minnesota. The system shall be inspected before being covered and a certificate of compliance or notice of noncompliance must be provided to the local unit of government after the inspection. Installation of an InGround Individual Sewage Treatment System by an owner shall be supervised by a licensed designer or installer;

c) an individual who performs labor or services under a licensee;

d) a licensed septic pumper may apply sewage waste from individual sewage treatment systems from dwellings or other establishments to land that is owned or leased by a farmer and disposes of those wastes on land that is owned or leased by the farmer. Provided that the site meets land application criteria;

e) a property owner who personally gathers information, evaluates, or investigates the ISTS on or serving the property to provide a disclosure.

Subd.2) No person shall discharge or cause to be discharged any hand carried greywater directly to surface waters, drainageways, or in a manner harmful to the environment or to public health.

Subd.3) Unless specifically permitted by the agency, no person shall discharge any sewage, sewage tank effluent, or seepage from a soil treatment system to the ground surface or to surface water.

Subd.4) No person shall discharge substances not intended for use in household cleaning including solvents, pesticides, flammables, photo finishing chemicals, and dry cleaning chemicals into a system.

Subd.5) No person shall discharge products containing hazardous waste or hazardous substances into a system other than normal amounts of household products and cleaners designed for household use.

Subd.6) No person shall discharge sewage, sewage tank effluent, or seepage from a soil treatment system into any well or boring or any other excavation in the ground that is not in compliance with this code.

Subd.7) All premises used for human occupancy shall have an adequate method of sewage treatment that complies with the requirements and standards of this code.

Subd.8) If a City sewer line is not available or an individual septic system has not been provided a Privy must be installed. Waste will not be allowed to accumulate in buckets or above ground, or in open pits or disposed of in bags or other containers to the ground surface.

W.E.E.C. 707.00 Permit Required

Subd.1) No Enrolled Member or person, firm or corporation operating within the boundaries of the White Earth Reservation shall install, alter, repair, or extend any individual sewage treatment system without obtaining a permit from the Tribe. A fee may be applied at time of application. Permits shall be valid for twelve (12) months from the date of issue.

Subd.2) A NPDES permit from the EPA is required for all commercial, industrial, agricultural, municipal and other community/cluster type systems.

Subd.3) A Special Conditions Permit is required for any alternative or experimental system. An application for such permit can be obtained from the Zoning office and must be issued through the Planning Commission. Applications and permits shall be accompanied by a design by a MPCA Licensed Designer which shall include a mitigative plan indicating what will be done if the system fails to provide treatment and disposal.

W.E.E.C. 708.00 Restrictions

Subd.1) No building permits shall be issued without a certificate of compliance for an existing sewage treatment system.

Subd.2) No public hearings under this code shall be scheduled without a certificate of compliance for an existing sewage treatment system.

Subd.3) Individual subsurface sewage treatment systems cannot be shared between more than one building, unless it has been designed or approved by a licensed MPCA professional that it will meet the design criteria for the size and use.

W.E.E.C. 709.00 Inspection Required

No individual subsurface sewage treatment system shall be put or replaced into service after construction, replacement or repair until it has been inspected by a licensee or qualified employee and a certificate of compliance has been issued. No part of the system shall be covered until a certificate of compliance is issued.

W.E.E.C. 710.00 Sewage Treatment Systems

The design, construction, installation, location of systems, and the materials for use in building sewers shall be in accordance with the Tribal and/or Indian Health Service requirements.

W.E.E.C. 711.00 Final Treatment and Disposal

Final treatment and disposal of all sewage tank effluent shall be by discharge into the soil treatment system in accordance with the Tribal and/or Indian Health Service requirements.

W.E.E.C. 712.00 System Abandonment

Subd.1) Tank abandonment procedures for sewage tanks, cesspools, leaching pits, dry wells, seepage pits, privies, and distribution devices are as follows: all solids and liquids shall be removed and disposed of and abandoned chambers shall be removed or be filled with soil material.

Subd.2) Access for future discharge to the system shall be permanently denied.

Subd.3) If soil treatment systems are removed, contaminated materials shall be properly handled to prevent human contact and shall be disposed of in a manner assuring that public health and the environment are protected.

W.E.E.C. 713.00 Alternative And Experimental Systems

Subd.1) Alternative systems and experimental systems must meet the requirements of Tribal and/or Indian Health Service. They may not be employed unless a special condition permit is obtained authorizing their use. An application for a special condition permit shall be accompanied by a design by a MPCA Licensed Designer which shall include a mitigative plan indicating what will be done if the system fails to provide treatment and disposal.

Subd.2) A toilet waste treatment device shall be used in conjunction with a greywater system. In all cases, only toilet wastes shall be discharged to toilet waste treatment devices. Greywater or garbage shall not be discharged to the device except as specifically recommended by a manufacturer.

Subd.3) Privies shall not be installed where the bottom of the pit is less than three feet above saturated soil or bedrock. A vault privy shall be used in areas not meeting the three-foot separation. Privies shall be set back from surface waters, buildings, property lines, and water supply wells as prescribed. All exterior openings including vent openings, shall be screened and adequately vented. Abandoned pits shall have the solids removed and be filled with clean earth and slightly mounded to allow for settling. Removed solids shall be disposed of properly.

Subd.4) Other toilet waste treatment devices. Other toilet waste treatment devices may be used where reasonable assurance of performance is provided. All devices shall be vented. All electric, gas, and water connections shall conform to all local codes. Operation and maintenance shall follow the manufacturer's recommendations.

Subd.5) Collector systems.
In general. Where site or soil conditions do not allow for final treatment and disposal on an individual lot, a system where a soil treatment system is located on another lot or lots may be employed, where approved by the Tribal Council. Plans and specifications shall comply with local codes on such issues as zoning, joint ownership of land, joint maintenance responsibilities, easements, and other considerations and shall be approved by the Tribal Council.

Subd.6) Holding tanks.
Holding tanks may be allowed only as replacements for existing failing systems, systems which pose an imminent threat to public health or safety, or on existing lots as of the date of the enactment of this chapter and only where it can conclusively be shown that a standard, or alternative system as described in this subpart, cannot be feasibly installed.

W.E.E.C. 714.00 Violations and Penalties

Violation of any provision of this Code may be punished or remedied by a civil forfeiture. Each day of any continuing violation may be charged as separate violation, and a separate forfeiture may be imposed.

W.E.E.C. 800.00 Abandoned, Manufactured and Mobile Homes

This section of the Environmental Code is known as the Abandoned, Manufactured and Mobile Homes Code.

W.E.E.C. 801.00 Purpose

The purpose of this Code is to establish a systematic and uniform procedure for the proper disposal of Abandoned Manufactured and Mobile homes on the White Earth Reservation; to conserve the value of properties; to encourage the most appropriate use of land; to regulate potential threat to the Reservation's wildlife and natural resources; to preserve the natural beauty of our homeland; to promote and protect health, safety, and general welfare throughout the White Earth Reservation.

W.E.E.C. 802.00 Abandoned and Uninhabitable Manufactured and Mobile Homes

Notwithstanding any other provision of law, authorized official or any other person authorized by the Reservation Tribal Council may remove abandoned or what has been deemed uninhabitable manufactured or mobile homes from Tribally owned fee or trust land according to this Code.

W.E.E.C. 803.00 Determination of Abandonment

Acting on the observation or report of an abandoned manufactured or mobile home, officials having jurisdiction shall notify the owner, and lien holder (if applicable) of investigation of abandoned dwelling. If owner is unknown, authorized official shall notify person (s) last in possession of said dwelling. This notice shall be made via certified mail to the owner or person (s) in possession at the address of record. After notification of investigation, said official will inspect reported site of abandonment for a period of not less than 14 days. Inspections are to be random, and will be conducted not less than three (3) times over the 14 day period to where all findings will be documented.

W.E.E.C. 804.00 Determination of an Uninhabitable Dwelling

Acting on the observation or report of an uninhabitable Manufactured or Mobile home, a White Earth Reservation Authorized Personnel having jurisdiction shall notify owner, and any lien holder (if applicable) of investigation of uninhabitable dwelling. If owner is unknown, authorized official shall notify person (s) last in possession of dwelling. This notice will be made via certified mail to the owner or person (s) in possession at the address of record. Said dwellings will be inspected by White Earth Authorized Personnel to see if it meets certain criteria of a valid and safe dwelling, also to be taken into consideration will be if the dwelling follows adherence to proper land use.

W.E.E.C. 805.00 Notification of Removal

Subd.1) Upon determination that the manufactured or mobile home has been abandoned or deemed uninhabitable, authorized official shall send a thirty (30) day notice to the owner, person (s) in possession, and lien holder (if any) of the manufactured or mobile home of their intent to remove and dispose of said home. Said official having jurisdiction must conduct a diligent search of records to determine whether there is a lien holder of the manufactured or mobile home. The notice shall be in writing and shall be sent to the owner's or person (s) in possession's last known address via certified mail return receipt requested, and

Subd.2) Authorized official shall post Notice of Removal in a conspicuous place on the abandoned home, and

Subd.3) Authorized official shall also publish Notice of Removal in a newspaper of general circulation in the county where the abandoned home is located.

Subd.4) The notice should contain the following information:

a) The name, address and title of the authorized official making the determination of abandonment or deeming said dwelling uninhabitable;

b) The date of the notice;

c) The legal description of the real property.

d) The general description of the abandoned and/or uninhabitable dwelling.

e) The name of owner or person (s) in possession of abandoned and/or uninhabitable dwelling.

f) If applicable, name of any lien holder of the home.

g) The owner or person (s) last in possession of the abandoned and/or uninhabitable dwelling does not remove said dwelling within thirty (30) days of notice, the authorized official shall take possession, to which dwelling will be removed and properly disposed of.

h) Failure to comply with this notice will result in a violation of this Code which may result in a fine, reimbursement of costs incurred, and/or revocation of Natural Resources Harvest Permit, other Tribal licensing, and/or other Tribal privileges.

W.E.E.C. 806.00 Possession of Property

Subd.1) Any official having jurisdiction over property who wishes to take, possess, seize or dispose of any abandoned and/or uninhabitable Manufactured or Mobile home and/or its contents

(furniture, appliances, etc.) may do so only pursuant to a duly issued order of the Tribal Court upon application made as provided herein.

Subd.2) If the owner or person (s) in possession of what has been deemed an abandoned and/or uninhabitable home fails to remove said home and/or its contents within thirty (30) days from notice (certified mail, posting on dwelling, and public newspaper notice), The authorized official shall apply for an order to the Tribal Court stating the reasons and authority for such possession or removal in writing. Supporting documentation of abandonment and/or uninhabitable state, and proof of noncompliance of notice will accompany the application for said order. Application for order shall identify the property, its location (legal description of home site), its owner or person (s) in possession and lien holder (if applicable) to the best of the applicants knowledge.

W.E.E.C. 807.00 Issuance of Order

Subd.1) Upon the receipt of an abandoned and/or uninhabitable home removal application, the Tribal Court shall set the matter for a hearing and send notice to the owner, or person (s) in possession, the applicant who filed said possession and removal, and the lien holder (if applicable).

Subd.2) The Tribal Court shall, at the hearing, issue an order dissolving any and all ownership rights of abandoned and/or uninhabitable Manufactured or Mobile home, and allowing possession, removal, and disposal of the abandoned and/or uninhabitable Manufactured or Mobile home (and its contents) to authorized official/applicant when:

a) The nature of the claim and the facts prove abandonment and/or uninhabitable dwelling, and

b) The owner or person (s) in possession has failed to voluntarily remove the home (and its contents) within the thirty (30) days from date of notice.

W.E.E.C. 808.00 Execution of Order

Upon the issuance of order to authorized official/applicant granting possession, removal and disposal, said official/applicant will then execute order at his/or her own timely discretion.

W.E.E.C. 809.00 Exemptions

Subd.1) Instances that would be considered exempt from this Code are as follows:

a) Any existing lakeshore or recreational leases. Pursuant to the fact that the dwelling meets the habitability guidelines, if dwelling does not meet habitability guidelines it will be subject to removal and proper disposal.

b) Any existing seasonal dwelling. Pursuant to the fact that the dwelling meets the habitability guidelines, if dwelling does not meet habitability guidelines it will be subject to removal and proper disposal.

c) Or as determined by the Land Office Manager.

W.E.E.C. 900.00 Storm Water Management Code

This section of the Environmental Code is known as the Storm Water Management Code.

W.E.E.C. 901.00 Introduction

The White Earth Reservation Tribal Council is the duly elected governing body of the White Earth Reservation and is organized under Section 16 of the Act Of June 18, 1934 (48 Stat. 984) as amended and pursuant to the revised Constitution and By-Laws of the Minnesota Chippewa Tribe, and where as it is consistent with the purpose of the White Earth Reservation Tribal Council to "promote the general welfare of the tribe" through the efficient and effective management of the Reservation's resources, as pertaining to land use, and therefore, be it resolved , that the White Earth Reservation Tribal Council does hereby establish a Stormwater Management Code for the purpose of managing stormwater runoff.

W.E.E.C. 902.00 General Provisions

Findings of Fact

It is hereby determined that:
Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition; This stormwater runoff contributes to increased quantities of water-borne pollutants, and; Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

Therefore, the White Earth Reservation establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.

W.E.E.C. 903.00 Purpose

Sub.1) Future tribal and non-tribal population growth will place increasing demands upon Reservation natural resources. An integrated system of land use controls pertaining to all Reservation lands is critically needed to protect fish and wildlife, their habitat, resources upon which they depend and natural resources of importance to the Tribes economy and the economic well-being of its members and Reservation community. Continued protection and enhancement of the essential Native character of the Reservation and the Reservation community is of vital importance to the Tribe. Large areas of the Reservation remain undeveloped and retain their

essential Native character. The limited development that has occurred on the Reservation has been consistent with and preserves the essential Native character of the developed

Subd.2) The purpose of this Code is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction. This Code seeks to meet that purpose through the following objectives:

a) minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and maintain the integrity of stream channels;

b) minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality.

c) minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.

d) reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

W.E.E.C. 904.00 Development of a Stormwater Design Manual

Subd.1) The White Earth Reservation may furnish additional policy, criteria and information including specifications and standards, for the proper implementation of the requirements of this Code and may provide such information in the form of a Stormwater Design Manual.

Subd.2) This manual will include a list of acceptable stormwater treatment practices, including the specific design criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the White Earth Reservation, based on improvements in engineering, science, monitoring and local maintenance experience. Stormwater treatment practices that are designed and constructed in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards.

W.E.E.C. 905.00 Permit Required

No land owner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this Code prior to commencing the proposed activity.

W.E.E.C. 906.00 Application Requirements

Subd.1) Unless specifically excluded by this Code, any land owner or operator desiring a permit for a land disturbance activity shall submit to the White Earth Reservation Natural Resources Program a permit application on a form provided for that purpose.

Subd.2) Unless otherwise accepted by this Code, a permit application must be accompanied by the following in order for that the permit application be considered: a stormwater management concept plan; a maintenance agreement; and a non-refundable permit review fee.

Subd.3) The stormwater management plan shall be prepared to meet the requirements of Sec. 5 of this Code, the maintenance agreement shall be prepared to meet the requirements of Sec. 9 of this Code, and fees shall be those established by the White Earth Reservation.

W.E.E.C. 907.00 Application Procedure

1. Applications for land disturbance activity permits must be filed with the White Earth Reservation on any regular business day.
2. A copy of this permit application shall be forwarded to White Earth Natural Resources Department for review
3. Permit applications shall include the following: two copies of the stormwater management concept plan, two copies of the maintenance agreement, and any required review fees.
4. Within 30 business days of the receipt of a complete permit application, including all documents as required by this Code, the White Earth Reservation shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved.
5. If the permit application, stormwater management plan or maintenance agreement are disapproved, the applicant may revise the stormwater management plan or agreement. If additional information is submitted, the White Earth Reservation shall have 30 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

If the permit application, final stormwater management plan and maintenance agreement are approved by the White Earth Reservation, all appropriate land disturbance activity permits shall be issued.

W.E.E.C. 908.00 Permit Duration

Permits issued under this section shall be valid from the date of issuance through the date the White Earth Reservation notifies the permit holder that all stormwater management practices have passed the final inspection required under permit condition.

W.E.E.C. 909.00 Waivers for Providing Stormwater Management

Subd.1) Every applicant shall provide for stormwater management as required by this Code, unless a written request is filed to waive this requirement. Requests to waive the stormwater management plan requirements shall be submitted to the White Earth Reservation Natural Resources Department for approval.

Subd.2) The minimum requirements for stormwater management may be waived in whole or in part upon written request of the applicant, provided that at least one of the following conditions applies:

a) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this Code.

b) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the White Earth Reservation and the implementation of the plan is required by local Code.

c) Provisions are made to manage stormwater by an off-site facility. The off-site facility is required to be in place, to be designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices and there is a legally obligated entity responsible for long-term operation and maintenance of the stormwater practice.

d) The White Earth Reservation finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site.

e) Non-structural practices will be used on the site that reduces: a) the generation of stormwater from the site, b) the size and cost of stormwater storage and c) the pollutants generated at the site. These non-structural practices are explained in detail in the current accepted practices and the amount of credit available for using such practices shall be determined by the White Earth Reservation.

Subd.3) In instances where one of the conditions above applies, the White Earth Reservation may grant a waiver from strict compliance with these stormwater management provisions, as long as acceptable mitigation measures are provided. However, to be eligible for a variance, the applicant must demonstrate to the satisfaction of the White Earth Reservation that the variance will not result in the following impacts to downstream waterways:

a) Deterioration of existing culverts, bridges, dams, and other structures;
b) Degradation of biological functions or habitat;
c) Accelerated streambank or streambed erosion or siltation;
d) Increased threat of flood damage to public health, life, property.

W.E.E.C. 910.00 General Performance Criteria for Stormwater Management

Subd.1) Unless judged by the White Earth Reservation Natural Resources Department to be exempt or granted a waiver, the following performance criteria shall be addressed for stormwater management at all sites:

a) All site designs shall establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

b) All stormwater runoff generated from new development shall not discharge untreated stormwater directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the White Earth Reservation. In no case shall the impact on functional values be any less than allowed by the Army Corp of Engineers (ACE) responsible for natural resources.

c) Annual groundwater recharge rates shall be maintained, by promoting infiltration through the use of structural and non-structural methods. At a minimum, annual recharge from the post development site shall mimic the annual recharge from pre-development site conditions.

d) For new development, structural stormwater treatment practices shall be designed to remove % of the average annual post development total suspended solids load (TSS). It is presumed that a STP complies with this performance standard if it is: sized to capture the prescribed water quality volume (WQv).
designed according to the specific performance criteria outlined in current accepted design practices, constructed properly, and maintained regularly.

e) To protect stream channels from degradation, a specific channel protection criteria shall be provided as prescribed in current accepted practices

f) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

g) Certain industrial sites are required to prepare and implement a stormwater pollution prevention plan, and shall file a notice of intent (NOI) under the provisions of the National Pollutant Discharge Elimination System (NPDES) general permit. The stormwater pollution prevention plan requirement applies to both existing and new industrial sites.

h) Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots", may require the use of specific structural STPs and pollution prevention practices.

i) Prior to design, applicants are required to consult with the White Earth Reservation to determine if they are subject to additional stormwater design requirements.

The calculations for determining peak flows as found in current accepted practices shall be used for sizing all stormwater management practices.

W.E.E.C. 911.00 Minimum Control Requirements

Subd.1) All stormwater management practices will be designed so that the specific storm frequency storage volumes (e.g., recharge, water quality, channel protection, 10 year, 100 year) as identified in the current stormwater design manual are met, unless the White Earth Reservation grants the applicant a waiver or the applicant is exempt from such requirements.

Subd.2) In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the White Earth Reservation reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

W.E.E.C. 912.00 Design Feasibility

Subd.1) Stormwater management practices for a site shall be chosen based on the physical conditions of the site. Among the factors that should be considered:

a) Topography
b) Maximum Drainage Area
c) Depth to Water Table
d) Soils
e) Slopes
f) Terrain
g) Head
h) Location in relation to environmentally sensitive features or ultra-urban areas
i) Location in relation to culturally sensitive areas

Subd.2) Applicants shall consult current accepted practices for guidance on the factors that determine site design feasibility when selecting a stormwater management practice.

W.E.E.C. 913.00 Conveyance Issues

Subd.1) All stormwater management practices shall be designed to convey stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include, but not be limited to:

a) Maximizing of flowpaths from inflow points to outflow points
b) Protection of inlet and outfall structures
c) Elimination of erosive flow velocities
d) Providing of underdrain systems, where applicable

Subd.2) Current accepted practices shall provide detailed guidance on the requirements for conveyance for each of the approved stormwater management practices.

W.E.E.C. 914.00 Pretreatment Requirements

Subd.1) Every stormwater treatment practice shall have an acceptable form of water quality pretreatment, in accordance with the pretreatment requirements found in current accepted practices. Certain stormwater treatment practices, as specified in current accepted practices, are prohibited even with pretreatment in the following circumstances:

a) Stormwater is generated from highly contaminated source areas known as "hotspots".

b) Stormwater is carried in a conveyance system that also carries contaminated, non-stormwater discharges.

c) Stormwater is being managed in a designated groundwater recharge area.
d) Certain geologic conditions exist (e.g., karst) that prohibit the proper pretreatment of stormwater.

W.E.E.C. 915.00 Treatment/Geometry Conditions

All stormwater management practices shall be designed to capture and treat stormwater runoff according to the specifications outlined in current accepted practices. These specifications will designate the water quantity and quality treatment criteria that apply to an approved stormwater management practice.

W.E.E.C. 916.00 Landscaping Plans Required

All stormwater management practices must have a landscaping plan detailing both the vegetation to be in the practice and how and who will manage and maintain this vegetation. This plan must be prepared by a registered landscape architect or soil conservation district.

W.E.E.C. 917.00 Maintenance Agreements

All stormwater treatment practices shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the stormwater treatment practices, and to perform routine maintenance as necessary to ensure proper functioning of the stormwater treatment practice. In addition, a legally binding covenant specifying the parties responsible for

the proper maintenance of all stormwater treatment practices shall be secured prior to issuance of any permits for land disturbance activities.

W.E.E.C. 918.00 Non-Structural Stormwater Practices

The use of non-structural stormwater treatment practices is encouraged in order to minimize the reliance on structural practices. Credit in the form of reductions in the amount of stormwater that must be managed can be earned through the use of non-structural practices that reduce the generation of stormwater from the site. These non-structural practices are explained in detail in current accepted practices and applicants wishing to obtain credit for use of non-structural practices must ensure that these practices are documented and remain unaltered by subsequent property owners.

W.E.E.C. 919.00 Stormwater Management Plan Required for All Developments

No application for development will be approved unless it includes a stormwater management plan detailing in concept how runoff and associated water quality impacts resulting from the development will be controlled or managed. This plan must be prepared by an individual approved by the White Earth Reservation and must indicate whether stormwater will be managed on-site or off-site and, if on-site, the general location and type of practices. The stormwater management plan(s) shall be referred for comment to all other interested agencies, and any comments must be addressed in a final stormwater management plan. This final plan must be signed by a licensed professional engineer (PE), who will verify that the design of all stormwater management practices meet the submittal requirements outlined in the Submittal Checklist found in the stormwater design manual. No building, grading, or sediment control permit shall be issued until a satisfactory final stormwater management plan, or a waiver thereof, shall have undergone a review and been approved by the White Earth Reservation after determining that the plan or waiver is consistent with the requirements of this Code.

W.E.E.C. 920.00 Stormwater Management Concept Plan Requirements

Subd.1) A stormwater management concept plan shall be required with all permit applications and will include sufficient information (e.g., maps, hydrologic calculations, etc) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The intent of this conceptual planning process is to determine the type of stormwater management measures necessary for the proposed project, and ensure adequate planning for management of stormwater runoff from future development. To accomplish this goal the following information shall be included in the concept plan:

a) A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural stormwater management and sediment control facilities. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns;

locations of utilities, roads and easements; the limits of clearing and grading; A written description of the site plan and justification of proposed changes in natural conditions may also be required.

b) Sufficient engineering analysis to show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this Code and the specifications of the current accepted practices.

c) A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

d) A written description of the required maintenance burden for any proposed stormwater management facility.

Subd.2) For development or redevelopment occurring on a previously developed site, an applicant shall be required to include within the stormwater concept plan measures for controlling existing stormwater runoff discharges from the site in accordance with the standards of this Code to the maximum extent practicable.

W.E.E.C. 921.00 Final Stormwater Management Plan Requirements

Subd.1) After review of the stormwater management concept plan, and modifications to that plan as deemed necessary by the White Earth Reservation, a final stormwater management plan must be submitted for approval. The final stormwater management plan, in addition to the information from the concept plan, shall include all of the information required in the Final Stormwater Management Plan checklist found in current accepted practices. This includes:

a) Contact Information

The name, address, and telephone number of all persons having a legal interest in the property and the legal description of the property or properties affected.

b) Topographic Base Map

A 1" = 200' topographic base map of the site and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown.

c) Calculations

Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this Code. Such calculations shall include (i) description of the design storm frequency, intensity and duration, (ii) time of concentration, (iii) Soil Curve Numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area, (v) infiltration rates, where applicable, (vi) culvert capacities, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff for the design storms referenced in the current accepted practices, and (ix) documentation of sources for all computation methods and field test results.

d) Soils Information

If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil sits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

e) Maintenance and Repair Plan

The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

f) Landscaping plan

The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect or by the soil conservation district.

g) Maintenance Easements

The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property.

h) Maintenance Agreement

The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by an on-site stormwater management measure in accordance with the specifications of this Code.

i) Erosion and Sediment Control Plans for Construction of Stormwater Management Measures

The applicant must prepare an erosion and sediment control plan for all construction activities related to implementing any on-site stormwater management practices.

j) Other Environmental Permits

The applicant shall assure that all other applicable environmental permits have been acquired for the site prior to approval of the final stormwater design plan.

W.E.E.C. 922.00 Performance Bond/Security

When there appears to be a need to ensure that stormwater management activities are completed or that stormwater management activities are maintained and operated in accordance with this Code, the White Earth RTC may require that a construction bond, or other form of surety, be provided. The form of surety and the amount shall be acceptable and must be approved by the White Earth RTC.

W.E.E.C. 923.00 Notice of Construction Commencement

Subd.1) The applicant must notify the White Earth Reservation in advance before the commencement of construction. Regular inspections of the stormwater management system construction shall be conducted by the staff of the White Earth Reservation Natural Resources Department or certified by a professional engineer or their designee who has been approved by the White Earth Reservation. All inspections shall be documented and written reports prepared that contain the following information:

a) The date and location of the inspection;

b) Whether construction is in compliance with the approved stormwater management plan.

c) Variations from the approved construction specifications.

d) Any violations that exist.

Subd.2) If any violations are found, the property owner shall be notified in writing of the nature of the violation and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by the White Earth Reservation.

W.E.E.C. 924.00 As Built Plans

All applicants are required to submit actual "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. A final inspection by the White Earth Reservation is required before the release of any performance securities can occur.

W.E.E.C. 925.00 Landscaping and Stabilization Requirements

Subd.1) Any area of land from which the natural vegetative cover has been either partially or wholly cleared or removed by development activities shall be revegetated within ten (10) days from the substantial completion of such clearing and construction. The following criteria shall apply to revegetation efforts:

a) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

b) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

c) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

Subd.2) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect or by the soil conservation district, and must be approved prior to receiving a permit.

W.E.E.C. 926.00 Maintenance Easement

Prior to the issuance of any permit that has an stormwater management facility as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the White Earth Reservation, or their contractor or

agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this Code. The easement agreement shall be recorded by the White Earth Reservation in the land records.

W.E.E.C. 927.00 Maintenance Covenants

Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance covenant that must be approved by the White Earth Reservation and recorded into the land record prior to final plan approval. As part of the covenant, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the stormwater management facility. The covenant shall also include plans for periodic inspections to ensure proper performance of the facility between scheduled cleanouts.
The White Earth Reservation, in lieu of a maintenance covenant, may accept dedication of any existing or future stormwater management facility for maintenance, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

W.E.E.C. 928.00 Requirements of Maintenance Covenants

All stormwater management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs and ensure compliance with the requirements of this Code and accomplishment of its purposes. These needs may include; removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner, as determined by the White Earth Reservation, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater management facility.

W.E.E.C. 929.00 Inspection of Stormwater Facilities

Inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater treatment practices.

W.E.E.C. 930.00 Right of Entry for Inspection

When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the White Earth Reservation the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this Code is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this Code.

W.E.E.C. 931.00 Records of Installation and Maintenance Activities

Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records. These records shall be made available to the White Earth Reservation during inspection of the facility and at other reasonable times upon request.

W.E.E.C. 932.00 Failure to Maintain Practices

If a responsible party fails or refuses to meet the requirements of the maintenance covenant, the White Earth Reservation, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the White Earth Reservation shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall affect maintenance and repair of the facility in an approved manner. After proper notice, the White Earth Reservation may assess the owner(s) of the facility for the cost of repair work and any penalties; and the cost of the work shall be a lien on the property, or prorated against the beneficial users of the property, and may be placed on the tax bill and collected as ordinary taxes by the county.

W.E.E.C. 933.00 Enforcement and Penalties

Subd.1) All Reservation Conservation and Law Enforcement personnel shall be empowered to enforce this Code.

Subd.2) Actions for violation of this Code may be commenced in the White Earth Tribal Court by the conservation/law enforcement citation or by summons and complaint.

Subd.3) Violation of any provision of this Code may be punished or remedied by a civil penalty. Each day of any continuing violation may be charged as separate violation, and a separate penalty may be imposed.

Subd.4) In addition to a civil penalty, any personal property, including vehicles and other equipment, which has been used in connection with the violation of this Code may be seized and forfeited pursuant to the appropriate section of the White Earth Conservation Code.

Subd.5) Nothing herein shall prevent the White Earth Reservation from bringing suit against any violator of the Code for money, damages for harm to any Band resource or the environment caused by the violation of this Code.
Subd.6) Any person may bring suit in Tribal Court to enjoin a violation of this Code.

Subd.7) The White Earth Tribal Court has jurisdiction pursuant to White Earth Tribal Code, Chapter II, Section I.

W.E.E.C. 1000.00 Abandoned and Junk Motor Vehicle/Car Code

This section of the Environmental Code is known as the White Earth Reservation Abandoned and Junk Motor Vehicle/Car Code.

W.E.E.C. 1001.00 Findings

To safeguard and promote the peace, health, safety and general welfare of the White Earth Reservation and its people; to ensure adequate land supply for future generations through careful planning and zoning; to discourage land development in areas that pose a potential threat to public health and the Reservation's fish, wildlife and natural resources; to promote and preserve the unique Native character, identity and culture of the White Earth Reservation as the Tribes permanent homeland; to reduce the potential for conflict between new residential development and the resource-based economy of the White Earth Reservation; to provide for the orderly use of the Reservation's lands; to provide landowners with consistent standards for Reservation land use activities by providing certainty and stability in land use decision-making; and to protect and enhance the natural beauty and resources of the White Earth Reservation.

W.E.E.C. 1002.00 Abandonment

No person shall abandon any motor vehicle, junk car, or classic/pioneer car or any part thereof upon any public place within the boundaries of the White Earth Reservation.

W.E.E.C. 1003.00 Partially Dismantled, Wrecked, Junked, Discarded or Non-Operating Vehicles

It shall be unlawful for any person in charge or in control of any property within the boundaries of the White Earth Reservation to allow any partially dismantled, non-operating, wrecked, junked or discarded vehicle, including any part thereof or there from, to remain on any property unless within an enclosed building for any period longer than two weeks. No person shall park, keep, place, store, or permit the parking or storage of, or repair or replace parts, or to do maintenance work on any public place, or on any private lands or premises, unless such vehicle shall be within a building on such private premises or is considered a lawful permitted junk vehicle.

W.E.E.C. 1004.00 Permitted Junk Vehicle

Under special circumstances, one junked motor vehicle may be allowed on all Indian country.

Subd.1) It is unlawful to have more than one junked motor vehicle on the premises of public or private property.

Subd.2) The allowed junked motor vehicle must be located in the rear yard and adequately concealed from public view.

Subd.3) Upon investigation, it may be determined that removal of the junked motor vehicle may outweigh the interest of the owner. Factors considered include public health and safety, community appearance, economic development and property values

W.E.E.C. 1005.00 Partially Dismantled, Wrecked, Junked, Discarded or Non-Operating Vehicles on Private Property

It shall be unlawful for any person in charge or in control of any property within the boundaries of the White Earth Reservation to allow any partially dismantled, non-operating, wrecked, junked or discarded vehicle, including any part thereof or there from, to remain on any private property unless within an enclosed building for any period longer than two weeks.

W.E.E.C. 1100.00 Salvage Yard Code

This section of the Environmental Code is known as the White Earth Reservation Salvage Yard Code.

W.E.E.C. 1101.00 Findings Purpose

The purpose of this Code is to establish a permit procedure and to establish reasonable rules and regulations for the establishment, operation and maintenance of salvage yards; to safeguard and promote the peace, health, safety and general welfare of the White Earth Reservation and its people; to ensure adequate land supply for future generations through careful planning and zoning; to discourage land development in areas that pose a potential threat to public health and the Reservation's fish, wildlife and natural resources; to promote and preserve the unique Native character, identity and culture of the White Earth Reservation as the Bands permanent homeland; to reduce the potential for conflict between new residential development and the resource-based economy of the White Earth Reservation; to provide for the orderly use of the Reservation's lands; to provide landowners with consistent standards for Reservation land use activities by providing certainty and stability in land use decision-making; and to protect and enhance the natural beauty and resources of the White Earth Reservation.

W.E.E.C. 1102.00 Applicability

This Code applies to the activities within the original exterior boundaries of the White Earth Reservation of members and non-members of the Band.

W.E.E.C. 1103.00 Permit Required

A salvage yard permit shall be required prior to the establishment of any salvage yard. Any salvage yard that is not granted a permit in accordance with the White Earth Reservation Zoning Code at the time of adoption of this Code, shall require a permit under this Code. In addition, a permit shall be required for the expansion of a salvage yard. No permit shall be issued until it conforms to all other applicable Reservation Codes.

W.E.E.C. 1104.00 Exempt Activities

Subd.1) The following activities are expressly exempt from the provisions of this Code:

a) Any new or used motor vehicle dealer licensed by the White Earth Reservation Tribal Council or the State of Minnesota or any commercially established motor vehicle repair shop provided that any junked motor vehicle on site is serving a reasonable functional use in the operation of the business and would not otherwise constitute a salvage yard. A commercially established repair shop shall not include part-time or "hobby" repair shops, unlicensed repair shops or other establishments which are not the principal occupation of the proprietor.

b) Publicly owned and operated solid waste disposal facilities approved by the White Earth Reservation Tribal Council and the State of Minnesota.

W.E.E.C. 1105.00 Permitted Uses

Subd.1) No land or structure shall be devoted to any use except as specifically permitted by this Code, except as follows:

a) Uses lawfully established prior to effective date of this Code;

b) Special Uses allowed in accordance with this Code;

c) Essential services erected, constructed, altered or maintained by public utilities or by governmental departments or commissions, subject only to the permit requirements.

W.E.E.C. 1106.00 Special Uses

Special Uses of land or buildings, as listed in this Code, may be allowed subject to the issuance of Special Use Permits as provided within this Code. Whenever a Conditional Use is named as a major category, it shall include all and only those itemized uses listed.

W.E.E.C. 1107.00 Permit Procedures

Subd.1) Salvage yard proposals are reviewed at three stages:

- Application Conference
- Environmental Assessment
- Final Hearing

W.E.E.C. 1108.00 Environmental Assessment

All salvage yard proposals shall be accompanied by a written Environmental Assessment (EA). The purpose of this document is to provide the Planning Commission with much of the information necessary to consider the potential impacts the salvage yard may have on a specific site, on the surrounding areas and on the Reservation as a whole. The EA shall be developed using current Federal Guidelines. If the EA shows just cause for further environmental review, an Environmental Impact Statement must be prepared according to the current Federal Guidelines.

W.E.E.C. 1109.00 Performance Guarantees

When there appears to be a need to ensure that certain improvements are completed or the salvage yard is maintained and operated in accordance with this Code, the Planning Commission

may require that a construction bond, or other form of surety, be provided. The form of surety and the amount shall be acceptable and must be approved by the White Earth RTC.

W.E.E.C. 1110.00 Location Standards

Subd.1) A Salvage Yard shall not be established unless it meets all of the following local standards:

a) No salvage yard shall be located closer than 1000 feet of existing residence unless the affected residence will be occupied by the business owner.

b) No salvage yard shall be located within 1000 feet of any existing public or private school, or land in which the primary use if for public or private playground, park or recreation area.

c) No salvage yard shall be located within 500 feet from any year-round or seasonal stream, run, river, pond, wetland or other water body. In addition, salvage yards are prohibited within a Flood Prone Area or an established Flood. Where greater setbacks are required by Tribal or Federal Law, the more restrictive shall apply.

d) All salvage yards should have direct access to a State or county highway. Access through a private road may be considered if the applicant provides written evidence that the following criteria is met:

    1) All private road right-of-way shall be at lease 40 feet in width. Greater rights-of-way widths may be required.
    2) All private right-of-way shall be an exclusive right-of-way or;
    3) All parties of interest in a non-exclusive right-of-way shall consent to the use of the private road for the purpose of a salvage yard.

W.E.E.C. 1111.00 Site Design Standards

Subd.1) In establishing a salvage yard, all of the following requirements and standards must be met:

Size:

a) All salvage yards must be a minimum of 5 acres.

Fencing and Screening:

a) All outdoor storage of salvage material shall be conducted entirely within an enclosed fence, wall, or other solid screen constructed on the front, sides and rear of the storage area. No salvage material can visible. In such areas that the fence will be abutting any open spaces, including an improved roadway or open field, a vegetative screen of coniferous trees shall be planted along the exterior perimeter of the screening. All driveways through the fence shall be similarly screened.

b) The construction of fences or screening shall be uniform with a minimum height of 10 feet. No patchwork type construction shall be permitted.

c) A tree line is acceptable if the site is located on a county road.

Setbacks:

a) All salvage yard area shall be set back a minimum of 1000 feet from a State road right-of-way and 1000 feet from a private road right-of-way. Where greater setbacks are required by Tribal or Federal Law, the more restrictive shall apply.

b) All salvage material shall be stored no closer than 15 feet from the perimeter fence or screening to allow access for emergency and firefighting equipment.

Subd.2) Additional site design standards may be required by the White Earth Reservation Tribal Council at the recommendation of the Planning Commission staff or the Zoning Office pursuant to the purposes of this Code.

W.E.E.C. 1112.00 Operating Requirements

Subd.1) All salvage yards located within the White Earth Reservation shall comply with the following requirements:

a) The storage of salvage material outside the perimeter fence or within the setbacks required by the White Earth Reservation, whether temporary or permanent, shall be prohibited, unless stored within a building.

b) All fencing and screening shall be maintained in a manner acceptable to the Zoning Office, and all plant material used for screening shall be maintained in a live and healthy condition.

c) All salvage materials shall be stored in such a manner as to prevent the breeding or harboring of rats, insects, or other vermin. Where necessary, this shall be accomplished by enclosures in containers, raising material above the ground, separation of types of material, preventing the collection of stagnant water, extermination procedures, or other means.

d) All storm water shall be controlled on site so as to prevent standing water and to minimize any adverse effects.

e) No salvage material shall be allowed to rest upon or protrude over any public street or become scattered or blown off the premises.

f) Salvage shall be stored so as to permit easy access to all salvage for fire fighting purposes, including a 15 foot buffer area around the perimeter of the salvage yard.

g) No salvage or other material shall be burned on the premises.

h) The storage of electrical transformers, whether temporary or permanent, shall be prohibited.

i) The storage of materials classified as hazardous waste by the US EPA shall be prohibited.

j) Gasoline, oil, anti-freeze and all other fluids shall be removed from any scrapped engines, vehicles or machinery prior to storage on the premises. All fluids removed shall be properly disposed of off the premises.

k) No combustible materials of any kind, other than those necessary for the salvage yard or products of processing salvage material shall be kept on the premises, nor shall the premises be allowed to become a fire hazard.

l) No space not included in the permit approved by the Planning Commission shall be used for the storage of salvage material.

W.E.E.C. 1200.00 HAZARDOUS SUBSTANCES CODE

W.E.E.C. 1200.00 General Provisions

Subd.1) Short Title. This section of the Environmental Code is known as the Hazardous Substances Code and may be referred to as the Hazardous Substances Code and may be abbreviated as H.S.C.

Subd.2) Statement of Policy.

The beneficial stewardship of the land, air, and waters of the White Earth Reservation is a solemn obligation of the present generation for the benefit of future generations.

Each Person either residing on or doing business within the exterior boundaries of the White Earth Reservation ("Reservation Population") benefits from a healthful environment and each Person has a responsibility to preserve and protect the quality of the Reservation Environment.

The White Earth Reservation Tribal Council, in enacting this Code, is taking action to secure the preservation of life, health, property, and natural resources of the White Earth Nation, its people, and fee and trust lands to protect against the pollution sources that are or may contaminate the air, land surface water and ground water of the Reservation Environment for which existing federal law may not apply.

The main purpose of this Code is to provide remedial law for the cleanup of Hazardous Substances sites and to prevent the creation of future hazards due to improper disposal of Hazardous Substances on or into the Reservation Environment.

Subd.3) Findings. The White Earth Reservation Tribal Council finds and declares as follows:

a) The increasing volume of hazardous waste being generated on the Reservation, and the often inadequate existing methods of managing hazardous waste have the potential to create conditions that threaten the public health, safety and well-being of White Earth citizens by contributing to land, air and water pollution.
b) It is in White Earth's interest to foster, encourage, and promote the development, production, and utilization of natural resources on the Reservation in such a manner as will minimize and properly manage all hazardous waste resulting from such operations and preventing any adverse impacts to public health or the Reservation Environment.
c) The enactment of this code by the White Earth Reservation Tribal Council is in the best interest of ensuring, promoting, and protecting the character of the Reservation and is consistent with previous policy, resolutions and codes enacted for the protection of the Reservation Environment.

Subd.4) Authority. The Authority of the White Earth Reservation Tribal Council to enact this code is found in Article VI, Section 1(c) and (d) of the Revised Constitution and Bylaws of the

Minnesota Chippewa Tribe, and is an expression of the White Earth Nation's inherent sovereign authority.

Subd.5) Definitions. As used in this Code, the following terms shall be ascribed the following meaning:

a) "Brownfields Site" means a site where redevelopment or reuse may be complicated by the presence or potential presence of a Hazardous Substance or Pollutant or Contaminant. It does not include a site or facility that is already subject to remediate or corrective action or is in the process of remediation or corrective action under applicable tribal, federal or state law; a site or facility that is listed or proposed for listing on the National Priorities List under CERCLA (42 U.S.C. § 9601, *et. seq.*); a site or facility subject to RCRA (42 U.S.C. § 6901, *et. seq.*) closure requirements; a site or facility that is the subject of an administrative or court order or consent decree; or any portion of a site or facility already receiving funding for cleanup.
b) "Director" or "White Earth Natural Resources Director" means the Tribal Enforcement Agent responsible for the compliance and enforcement of this Code and the management and administration of the White Earth Natural Resources Division.
c) "Environmental Manager" means the agent responsible for management and administration of the White Earth Environmental Program.
d) "Hazardous Substance" means:
    1) Any "dangerous waste", defined as any discarded, useless, unwanted, or abandoned substances disposed of in such quantity or concentration as to pose a present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes (A) have short-lived toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or (B) Are corrosive, explosive, flammable, or may generate pressure throughout decomposition or other means.
    2) Any "hazardous waste", defined as any waste which will persist in a hazardous form for three (3) years or more at a disposal site and either (A) Presents a significant environmental hazard which may be concentrated by living organisms through a food chain or may affect the genetic makeup of people or wildlife; or (B) Is toxic to wildlife or people; or (C) Adversely affects living organism in soil, sediment, water, or air. Hazardous waste includes waste disposed of at a disposal site in such quantities as might present a hazard to people or the environment.
    3) Any liquid, solid, gas, or sludge, including any material substance, product, commodity, or waste, regardless of quantity, that exhibits any of the characteristics of dangerous waste or extremely hazardous waste.
    4) Any substance that is a hazardous substance under CERCLA 101(14), 42 U.S.C. § 9601(14) (2012) (or any similar future federal statute), as may from time to time be amended.
    5) Petroleum or petroleum products.
    6) Any substance or category of substances, including solid waste decomposition products, determined by the Director to present a threat to human health or the environment if released into the environment.

7) The term "hazardous substances" does not include, any of the following when contained in an underground storage tank from which there is not a release: crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal laws and the laws and regulations of the White Earth Nation.

e) "Hazardous Substance Release" means any intentional or unintentional entry of any Hazardous Substance into the environment, including but not limited to the abandonment or disposal of containers or Hazardous Substances.

f) "Open Burning" has the same definition given in the Conservation Code.

g) "Open Dumping", for purposes of this Code, means disposing of hazardous waste at any facility or site that does not comply with the requirements of federal or tribal law for hazardous waste disposal.

h) "Person" means any individual, public or private corporation, company, partnership, firm, association or society of people, federal, state, and local governments and any of their programs and agencies, and any Indian tribe, including the White Earth Nation, and any of its agencies, divisions, departments, programs, other political subdivisions, enterprises, and companies.

i) "Pollutant or Contaminant" shall include, but not be limited to:
   1) Any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring. The term Pollutant or Contaminant shall also include a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. § 802, et. seq.)).
   2) Any Pollutant or Contaminant that may present an imminent and substantial danger to public health or welfare or any Person within the exterior boundaries of the White Earth Reservation.

j) "Potentially Responsible Party" means any Person whom the Natural Resources Department finds, based on credible evidence, to be liable under section 1204.00 of this Code. The Natural Resources Department shall give notice to any such Person and allow an opportunity for comment before making the finding, unless an emergency requires otherwise.

k) "Responsible Party" means a Person:
   1) Who owned or operated a facility when a Hazardous Substance, or Pollutant or Contaminant, was placed or came to be located in or on the facility; or when a Hazardous Substance, or Pollutant or Contaminant, was located in or on the facility but before the release; or during the time of the release or threatened release of a Hazardous Substance; or
   2) Who owned or possessed a Hazardous Substance, or Pollutant or Contaminant, and arranged, by contract, agreement or otherwise, for the disposal, treatment or transport for disposal or treatment of the Hazardous Substance, or Pollutant or Contaminant; or

3) Who knew or reasonably should have known that the waste the Person accepted for transport to a disposal or treatment facility contained a Hazardous Substance, or Pollutant or Contaminant, and either selected the facility to which it was transported or disposed of it in a manner contrary to law.

l) "Tribal Prosecutor" means a legal representative of the White Earth Nation authorized by the Reservation Tribal Council to bring an action in Tribal Court to enforce any provision of this Code. The Tribal Prosecutor may be the regular Tribal Prosecutor or a Special Prosecutor, as the case may be.

W.E.E.C. 1201.00 Amendments

The H.S.C. may be amended by the White Earth Reservation Tribal Council by adopting a resolution stating such changes. Amendments to this Code shall become part of the Code thereafter for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and organization hereof.

W.E.E.C. 1202.00 Severability

If any provision of this Code is held invalid, the remainder of this Code shall not be affected thereby.

W.E.E.C. 1203.00 Violation of Code

The Director or an authorized representative of the Tribe, may institute proceedings in the White Earth Tribal Court for any appropriate remedies, including but not limited to, injunctive relief, seizure and forfeiture, and the posting of bonds or sureties to insure compliance, against any Person who has violated or failed to comply with any provision of this Code or any regulation, certificate, of order issued pursuant to this Code.

W.E.E.C. 1204.00 Penalties

Subd.1) General Violations. Any Person who violates any provision or amendments of this Code may be assessed a civil penalty by the White Earth Court System of not more than $5,000 for each offense.

Subd.2) Reckless or Intentional Violation. Any Person whose conduct amounts to reckless or intentional violations of any provision or amendment of this Code may be assessed a civil penalty by the White Earth Tribal Court of not less than $5,000 nor more than $15,000 for each offense.

W.E.E.C. 1205.00 Authority of the Natural Resources Director

The foregoing shall not be deemed to limit or restrict the Natural Resources Director or any duly authorized Person(s) from taking other appropriate action, including but not limited to, seizure of

materials, and giving notification to an appropriate Federal, Tribal, State, county or municipal government agency.

W.E.E.C. 1206.00 Court Proceedings

If it appears that any Person violated or failed to comply with any provisions of this Code, the White Earth Reservation and/or those duly authorized to act on its behalf may undertake in their name an action to enforce this Code.

W.E.E.C. 1207.00 Jurisdiction

Subd.1) The applicability of this Code shall extend to all Persons who produce, purchase, transport, handle, store, dispose of Hazardous Substances within the exterior boundaries of the White Earth Reservation.

Subd.2) Any Person who enters within the exterior boundaries of the Reservation shall become subject to this Code and all rules and regulations and applicable orders of the Director, and shall be deemed to have consented to the jurisdiction of the White Earth Tribal Nation, and shall be subject to the jurisdiction of the White Earth Tribal Court for violation of this Code or any applicable rules and regulations and orders of the Director.

W.E.E.C. 1208.00 Judicial Proceeding

Decisions of the authorized representative of the White Earth Natural Resources Department shall be subject to review by the White Earth Tribal Court to the extent permitted or authorized by Tribal law.

W.E.E.C. 1209.00 Sovereign Immunity

Subd.1) Nothing contained in this Code shall be deemed or construed to be a waiver, limitation, or modification of the White Earth Reservation's Sovereign Immunity, and such sovereign immunity is expressly asserted in any action required for the enforcement of this Code.

W.E.E.C. 1210.00 Unlawful Acts

Subd.1) It shall be unlawful for any Person to:

a) Engage in Open Dumping, or otherwise dispose of any waste in a place other than a facility which is in compliance with the H.S.C. and other applicable laws;
b) Dispose of any waste in manner that will endanger public health, safety and welfare, create a public nuisance, or harm the environment;
c) Dispose of any waste including; bulk or non-containerized liquids not defined as solid waste at a solid waste facility or transfer station:

d) Collect, transport, process, or store waste in any manner or at any facility that is not in compliance with the provision of the H.S.C. or any other applicable laws;
e) Fail to report releases of any Hazardous Substance pursuant to W.E.E.C. 1211.00;
f) Refuse to provide information or documentation , grant access, or allow investigations, monitoring, sampling, surveys, testing, or other informational gathering activities to take place pursuant to W.E.E.C. 1212.00;
g) Engage in Open Burning at a transfer station or solid waste landfill facility;
h) Engage in Open Burning at any location other than a transfer station or solid waste landfill facility without a burning permit, as required by the White Earth Reservation Fire and Burning Provisions set forth and approved by Tribal Council Resolution April 7, 1999. and;
i) Engage in Open Burning of materials pursuant to W.E.E.C. 404.00.

Subd.2) A Person seeking to dispose on site, other than through Open Burning, of solid waste generated from a farm, ranch, or camp may petition the Director in writing for an exemption from the prohibition against Open Dumping. The Director shall consider the Person's proximity to a transfer station and whether the on-site disposal will create a public health or environmental hazard. The Director's decision on the petition shall be final and shall not be subject to judicial review. A Person seeking to dispose of such solid waste on site through Open Burning must first apply in writing to the White Earth Forestry Department and must comply with all other applicable provisions of White Earth Law.

Subd.3) Hazardous waste must be disposed of in accordance with all applicable tribal and federal laws and regulations.

W.E.E.C. 1211.00 Release Reporting, Monitoring, and Response Actions

Subd.1) The Responsible Party of a facility shall, as soon as he or she has knowledge of any release (other than a permitted release) of a Hazardous Substance from the facility in quantities equal to or greater than those determined as reportable quantities under CERCLA § 102, 42 U.S.C. § 9602 (2012) (or any future similar federal statute), notify the Environmental Manager of the White Earth Natural Resources Department, within 24 hours of learning of such release. For the purpose of this Code, the reportable quantity of petroleum shall be five gallons or more for release both on the land and into water. Whether a release meets or exceeds a reportable quantity shall be determined based on the amount of the Hazardous Substance Release within a 24- hour period. Such Person shall, upon request of the White Earth Natural Resources Department, provide the White Earth Natural Resources Department with any information he or she has or may obtain relevant to the release or to a threatened release.

Subd.2) Notification need not be given more than annually for a release subject to subdivision 1 of this section when that release is a continuous release, stable in quantity and rate, and notification has already been given for that release pursuant to subdivision 1 for a period sufficient to establish the continuity, quality and regularity of such release. At such time as there is any statistically significant increase in the quantity of any Hazardous Substance or constituent

thereof released above that previously reported, however, notice of any such increase shall be given immediately pursuant to subdivision 1.

Subd.3) Any Person in charge of a facility from which a Hazardous Substance is released, other than a permitted release, in a quantity equal to or great than the reportable quantity defined in subdivision 1 of this section, who fails to notify the White Earth Natural Resources Department pursuant to this section as soon as he or she has actual or constructive knowledge of such release or who submits in such notification any information which he or she know to be false or misleading, shall, upon conviction, be fined in accordance with W.E.E.C. 1204.00.

Subd.4) This section shall not apply to the application of Pesticide or Pesticide Products registered under the Federal Insecticide, Fungicide, and Rodenticide Act 7 U.S.C. § 136-136(y) or to the handling and storage of such products by an agricultural producer.

W.E.E.C. 1212.00 Access to Property and Information

Subd.1) Access to Property

a) The Director, or any other officer, employee, agent or representative of the White Earth Reservation duly authorized in writing by the Director, may enter upon any site at reasonable times if there is reason to believe, based on specific and articulable facts, there may be a release or threatened release of a Hazardous Substance.
b) The Director or duly designated officer, employee, agent or representative of the White Earth Reservation may undertake an investigation including but not limited to: monitoring, sampling, surveys, testing, and other information-gathering activities as he or she may deem necessary or appropriate to identify the existence and extent of a release or threatened release, the source and nature of the Hazardous Substances, or pollutants and contaminants involved, and the extent of danger to the public health or welfare or to the environment. If samples are taken before leaving the premises the Director or duly designated officer shall give to the Person in charge of the site from which the samples were obtained a receipt for samples form and, if requested a portion of each sample. Also if requested, a copy of the analytical results or such samples.
c) The Director or any duly designated officer may enter upon a site to undertake activities including planning, legal, fiscal, engineering, architectural, and other studies or investigations as he or she deems necessary or appropriate to plan and direct response actions, to recover the costs thereof, and to implement and enforce the provisions of this Code.

Subd.2) Access to Information

The Director or any other duly designated officer, employee, or representative of the White Earth Reservation may require any Person who may have information relevant to any of the following to furnish, upon reasonable notice, all information or documents relating to such matters or to allow the Director or any other duly designated officer access at all reasonable times to any site to inspect and copy all documents relating to such matters:

a) The identification, nature, and quantity of Hazardous Substances, or pollutants or contaminants, which have been or are generated, treated, stored, transported, or disposed of at a site;
b) The nature or extent of a release or threatened release of a Hazardous Substance at or from a site;
c) Financial information relating to the ability of a Person to pay for and /or to perform a cleanup; and
d) Information relating to compliance with any requirement of this Code or of any regulation, authorization, or order issued pursuant to this Code.

Subd.3) Public Availability of Information
Any reports, records, or other information obtained under subdivision 1 or 2 of this section shall be available to the public, except that upon a showing satisfactory to the Director that records, reports, or information or any portion thereof would, if made public, divulge methods or processes entitled to protection as trade secrets or other confidential information protected under 18 U.S.C. § 1905 (2012) (or any similar future federal statute), the Director shall consider such record, report, information, or portion thereof confidential. Such record, report, information, or portion thereof may nevertheless be disclosed to other officers, employees, or authorized representatives of the White Earth Reservation and of the United States concerned with enforcing this Code or when relevant to any proceeding under this Code. Information required to be made publicly available under CERCLA § 104(e)(7)(F), 42 U.S.C. § 9604(e)(7)(F), is not entitled to protection under this subdivision.

Subd.4) Request for Site Assessment
Any Person who is or may be affected by a release or threatened release of a Hazardous Substance or Pollutant or Contaminant at a Brownfields site located in the community where the Person works or resides may request the Director in writing for a site assessment to be conducted. The Director shall consider any such request and, if the Director finds that such a release or threatened release exists and, in the case of a release of a Pollutant or Contaminant, presents an imminent and substantial endangerment to the public health or welfare or the environment, the Director shall require such site assessment to be performed pursuant to §§ 1213 or 1219, subdivision 1 of this Code or shall perform the site assessment pursuant to subdivision 2 of this section.

W.E.E.C. 1213.00 Response Action Required of a Responsible Party

Subd.1) Whenever there is a release or threatened release of a Hazardous Substance, or a Pollutant or Contaminant, that presents an imminent and substantial endangerment to the public health or welfare or the environment, the Director may order the Responsible Party to investigate, remove or arrange for the removal of, provide for remedial action relating to such Hazardous Substance or Pollutant or Contaminant, or take any other response measure that the Director deems necessary to protect the public health or welfare or the environment. The order shall be in writing and shall state action requested, the reasons for the actions, and a reasonable time for commencing and completing the action, taking into account the urgency of the action for protection of the public health or welfare or the environment.

Subd.2) When a Responsible Party fails to complete a response action or to make reasonable progress in completing a response action order as provided in subdivision 1 of this section, the Tribal Prosecutor may bring an action pursuant to W.E.E.C 1203.00 to compel performance for the requested response action. If any Person having any right, title, or interest in the site where the facility is located or where response actions are proposed to be taken is not a Responsible Party with regard to the release or threatened release, the Person may be joined as an indispensable party in an action to compel performance in order to assure that the requested response action can be taken on the property by the Responsible Party or parties.

Subd.3) Any Responsible Party who fails to take reasonable and necessary response actions or to make reasonable progress in completing response action ordered as provided in subdivision 1 shall be subject to the assessment of a civil penalty pursuant to W.E.E.C.1204.00.

Subd.4) Response actions required under this section shall attain a degree of cleanup and of control of further releases that assures protection of human health and the environment and shall be conducted in accordance with applicable federal and tribal law. In determining the appropriate cleanup standards to be achieved, the Director shall consider the planned future use of the site.

Subd.5) Before requiring a response action under this the section, the Director shall give notice in a newspaper of general circulation in the affected area, identifying the facility, site of concern, parties involved, and providing a brief analysis of the plans that were considered and the basis for the proposed action. The notice also shall be mailed to all potentially responsible parties known at the time of notice. The notice shall provide a reasonable opportunity for the public to submit written comments on the proposed action and an opportunity for a public hearing in the affected area. The Director shall provide a written response to all significant comments submitted on the proposed action.

Subd.6) An Administrative Record shall be established and maintained based on response actions. The Director shall include all items developed and received under Subdivision 5 of this section within the administrative record.

W.E.E.C. 1214.00 Response Actions by Director

Subd.1) Whenever there is a release of substantial threat of release from a facility of any Hazardous Substance, pollutant, or contaminant that presents an imminent and substantial endangerment to public health or welfare or the environment, the Director is authorized to investigate, remove or arrange for the removal of, and provide for remedial action relating to such Hazardous Substance, pollutant, or contaminant in order to protect the public health or welfare or the environment. The Director may take such action when one or more of the following situations exist:

a) A situation requires immediate action by the Director to protect human health and the environment; and
b) No Person is found, within 90 day or such shorter period as may be necessary to protect human health and the environment, who is a Responsible Party with respect to the release or threatened release and who is capable of carrying out such corrective action properly, either financially or otherwise.

c) If a Responsible Party is found, that party has failed to or refused to comply with an order of The Director under W.E.E.C. 1213.00, and is subject to a civil penalty under W.E.E.C. 1204.00.

The Director may use authorities provided in W.E.E.C. 1212.00 to identify the existence and extent of the release or threatened release, the source and nature of the Hazardous Substance or pollutants or contaminants involved, and the extent of danger to public health or welfare or the environment, and may undertake the various planning and other activities identified in W.E.E.C. 1212.00 to plan and direct a response action, recover the cost of a response action, and enforce the provisions of this Code.

Subd.2) The Director shall not provide for a response action under this section in response to a release or threat of release:

a) of a naturally occurring substance in its unaltered form, or altered solely through naturally occurring processes or phenomena, from a location where it is naturally found; or
b) into public or private drinking water supplies due to deterioration of the system through ordinary use.

Notwithstanding the limitations identified in this subdivision 2, and to the extent authorized by this section, the Director may respond to any release or threat of release if, in the Director's discretion, it constitutes a public health or environmental emergency and no other Person with the authority and capability to respond to the emergency will do so in a timely manner. In such instance the Director shall provide the public notice required under subdivision 5 of this section but may proceed without waiting to receive all public comments and before holding a public hearing and responding to significant public comments.

Subd.3) No removal or related action taken by any Person shall be construed as an admission of liability for a release or threatened release

Subd.4) Response actions selected under this section or otherwise required or agreed to by the Director under other provisions of this Code shall attain a degree of cleanup, and of control of further releases, that assures protection of human health and the environment and shall be conducted in accordance with applicable federal and tribal law. In determining the appropriate cleanup standards to be achieved, the Director shall consider the planned use of the site.

Subd.5) Before selecting a response action under this section, the Director shall give notice of the proposed action to the public by publication of a notice in a newspaper of general circulation in the affected area, identifying the facility or site concerned and the parties known to the Director at the time of the notice, including all Persons whom the Director contacted pursuant to subdivision 1 of this section. The notice shall provide a reasonable opportunity for the public to submit written comments on the proposed action and an opportunity for a public hearing in the affected area. The Director shall provide a written response to all significant comments submitted on the proposed action.

Subd.6) The Director shall establish an administrative record upon which the Director shall base the selection of the response action. The administrative record shall include all items developed

and received under subdivision 5 of this section, and any other items on which the Director relied in selecting a response action.

Subd.7) Except as otherwise provided in this section, and notwithstanding any other provision or rule of law, any Person who is a Responsible Party with respect to the release or threatened release of a Hazardous Substance is strictly liable, jointly and severally, for the following response cost and damages which result from the release or threatened release or to or from which the release or threatened release significantly contributes:

a) all reasonable and necessary response cost, administrative expenses, and legal expenses incurred by the White Earth Tribal Nation pursuant to this section; and
b) all damages for any injury to, destruction of, or loss of natural and cultural resources, including the reasonable cost of assessing such injury, loss, or destruction.

Subd.8) The cost itemized in paragraph (a), plus interest calculated as provided in 42 U.S.C. § 9607(a), may be recovered in a civil action brought by the Tribal Prosecutor, in the White Earth Tribal Court against any Person who may be liable under this section. The White Earth Natural Resources Department certification of cost shall be *prima facie* evidence that the costs are reasonable and necessary. A Person who conducts a response action under W.E.E.C. 1213.00 also may be liable for response cost under this section, subject to the defenses listed in subdivision 9 of this section.

Subd.9) Defenses

a) There is no liability under this section for response cost or damages that result from the release of a Pollutant or Contaminant that is not a Hazardous Substance.
b) The White Earth Tribal Nation shall not be liable under this section based solely on its ownership of a site where the facility at issue is located or its status as a lessee or grantor of any land use interest, including but not limited to rights-of-way, easements, and land use permits.
c) A Person who accepts only household waste for transport to a treatment or disposal facility is not liable under this section for the release or threatened release of any Hazardous Substance unless that Person knew or reasonably should have known that the Hazardous Substance was present in the waste.
d) It is a defense to liability under this section that the release or threatened release was caused solely by:
    1) An act of war;
    2) An act of nature;
    3) An act or vandalism or sabotage; or
    4) An act or omission of a third party of the Potentially Responsible Party, where "third party" does not include an employee or agent of the Potentially Responsible Party, or a Person in the chain of responsibility for the generation, storage, transportation, treatment, or disposal of the Hazardous Substance.

The defenses provide in subparagraphs c and d apply only if the Potentially Responsible Party establishes that the he or she exercised due care with respect to the Hazardous Substance concerned, taking into consideration the characteristics of the Hazardous

Substance in light of all relevant facts and circumstances which he or she knew or should have known, and that he or she took precautions against foreseeable acts or omissions and the consequences that could foreseeable result from those acts or omissions.

e) It is a defense to liability under this section that:
    1) The Hazardous Substance Release was specifically identified in a federal or tribal permit and the release is within the limits allowed in the permit or otherwise conformed with the permit; or
    2) The release was part of an emission or discharge into the air or water and the emission or discharge was subject to a federal or tribal permit and was in compliance with control rules or regulation adopted pursuant to federal or tribal law; or
    3) The release was the introduction of any Hazardous Substance into a publically owned treatment works and the substance was specified in, and is in compliance with, applicable pretreatment standards specified for that substance under federal or tribal law; or
    4) Liability has been assumed by the federal post closure liability fund under CERCLA, 42 U.S.C. § 9607(k).
f) It is a defense to liability under this section that, for any injury to, destruction of, or loss of natural or cultural resources:
    1) The natural or cultural resources were specifically identified as an irreversible and irretrievable commitment or resources in an approved final environmental impact statement or other comparable approved final environmental analysis for a project or facility that was the subject of a governmental permit or license; and
    2) The project or facility was being operated within the terms of its permit or license.
g) It is a defense to liability under this section that the response costs or damages resulted from act taken or omitted in preparation for, or in the course of rendering care, assistance, or advice to the Director or WENRD pursuant to this section or in accordance with the national Hazardous Substance response plan under CERCLA, 42 U.S.C § 9605, or at the direction of an on-scene coordinator appointed under that plan, with respect to any release or threatened release of a Hazardous Substance.
h) Any Person claiming a defense provided in this subdivision has the burden of proving all elements of the defense by clear and convincing evidence.

W.E.E.C. 1215.00 Contribution

Subd.1) Any Person may seek contribution in the White Earth Tribal Court from any other Person, except the White Earth Tribal Nation, who is liable or potentially liable as a Responsible Party under this Code, during or following any action brought under this Code. In resolving contribution claims, the Court may allocate response cost among liable parties using such equitable factors as the Court determines are appropriate. Nothing in this subdivision shall diminish the right of any Person to bring an action for contribution in the absence of an action being brought under this Code.

Subd.2) Settlement

a) A Person who has resolved its liability in an administrative or judicially approved settlement shall not be liable for claims for contribution regarding matters addressed

in the settlement. Such settlement does not discharge any of the other potentially liable Persons unless its terms so to provide, but it reduces the potential liability of the other Persons by the amount of the settlement.

b) If the White Earth Nation has obtained less than complete relief from a Person who has resolved its liability to the White Earth Nation in an administrative or judicially approved settlement, the White Earth Nation may bring an action against any Person who has not so resolved its liability.
c) A Person who has resolved its liability to the White Earth Nation for some or all of its response action or for some or all of the costs of such action in an administrative or judicially approved settlement may seek contribution from any Person who is not party to a settlement referred to in paragraph a of this subdivision. In any action under this paragraph c, the rights of any Person who has resolved its liability to the White Earth Nation shall be subordinate to the rights of the White Earth Nation.

Subd.3) Timing of Action for Contribution
No action for contribution for any response cost or damages may be commenced more than three years after:

a) The date of judgment in any action under this Code for recovery of such cost or damages; or
b) The effective date of an administrative settlement or date of entry of a judicially approved settlement with respect to such cost or damages.

W.E.E.C. 1216.00 Voluntary Response Program

Subd.1) Survey and Inventory
The Director shall conduct a survey of Brownfields Sites and potential Brownfields Sites within the exterior boundaries of the White Earth Tribal Nation and shall produce and inventory of such sites that provide an estimated number, likely locations, and general characteristics of the Brownfields sites. The inventory will be updated annually. The inventory shall includes sites that have already undergone screening, evaluation, or response as well as sites that have been identified as having possible releases but have not yet been screened or evaluated. The inventory is intended to serve as an informational tool and is not intended to identify priorities for action.

Subd.2) Site Prioritization
The Director may prioritize sites for cleanup based on the federal Hazard Ranking System or may adopt by rulemaking a process or criteria for determining priorities for cleanup base upon, but not limited to:

a) The relative risk or danger to public health, welfare, or the environment;
b) The damage to natural or cultural resources;
c) The population at risk;
d) The potential for direct human contact;
e) The hazard potential of the Hazardous Substances or the pollutants or contaminants at such sites;
f) The potential for contamination of drinking water supplies;
g) The potential for destruction of sensitive ecosystems;

h) The effect on the human food chain; and
i) The contamination or potential contamination of the ambient air

Subd.3) Public Record of Sites
The Director shall maintain and make available to the public a record of sites that includes the names and locations of sites at which response actions, including voluntary response actions, have been completed in the previous year and at which response actions, including involuntary response actions, are planned to be addressed in the upcoming year. The record also shall identify whether a site, upon completion of the response action, will be suitable for unrestricted use. If not, the record shall identify the institutional controls relied on in the remedy. The record shall be reviewed annually and updated as necessary.

W.E.E.C. 1217.00 Voluntary Cleanup

Subd.1) In General; Protection from Liability
a) *In General*. This section establishes a Voluntary Response Program (also known as a "Brownfields Program") to facilitate the cleanup of contaminated sites within the exterior boundaries of the White Earth Tribal Nation and to encourage the redevelopment and re-use of such sites.
b) *Non-Response Party*. A Person who is not otherwise a Responsible Party under this Code will not become liable for a release or threatened release if the Person undertakes and completes response action to remove or remedy all know releases and threatened releases at a site in accordance with a voluntary response action plan submitted to and approved by the Director under this section. Such Person also will not become liable for any release or threatened releases at the identified site that are not required to be removed or remedied, as long as the requirements of subdivision 2 of this section are met.
c) *Responsible Party*. A Responsible Party may receive liability protection under this section provided that the Responsible Party submits and receives approval for voluntary response action plan that requires remedy or removal of all releases and threatened releases at the site and the Responsible Party receives a certificate of completion under subdivision 7 of this section. When the Director issues the certificate of completion, the Director and the Responsible Party may enter into an agreement the resolves the Responsible Party's future liability under this Code for the release or threatened release addressed by the response actions.
d) *Other People Protected*. The liability protection provided by this section also applies to the following Persons when the Director issues a certificate of completion under subdivision 7 of this section:
    1) When the response action is performed by a non-Responsible Party:
        A) The owner of the site, if the owner is not responsible for any release or threatened release identified in the approved voluntary response action plan;
        B) A Person providing financing to the Person who undertakes and completes the response actions, or who acquires or develops the site; and
        C) A successor or assign of any Person to whom the liability protection applies.
    2) When the response action is performed by a Responsible Party:

A) A Person who acquires the site after approval of the voluntary response action plan;
B) A Person providing financing for response actions or development at the site after approval of the voluntary response action plan, whether the financing is provided to the Person undertaking the response actions or another Person who acquires or develops the property: and
C) A successor or assign of any Person to whom the liability protection applies.

e) *Duty to Exercise Due Care*. Nothing in this section relieves a Person of a liability for failure to exercise due care in performing a response action.

f) *Exclusions*. The liability protection provided by this section does not apply to:
1) A Person who aggravates or contributes to a release or threatened release that was not remedied under an approved voluntary response action plan; or
2) A Person who was responsible for a release or threatened release identified in the approved voluntary response action plan before taking an action that would have made the Person subject to the protection under paragraph c or d of this subdivision; or
3) A Person who obtains approval of a voluntary response action plan under this section by fraud or misrepresentation, or by knowingly failing to disclose material information, or who knows that approval was so obtained before taking an action that would have made the Person subject to protection under paragraph c or d of this subdivision.

Subd.2) Partial Response Action

a) The Director may approve a voluntary response action plan submitted by a Person who is not a Responsible Party that does not require removal or remedy of all release and threatened releases at a site if the Director determines that all of the following criteria have been met:
1) If reuse or development of the site is proposed, the voluntary response action plan provides for all response actions required to carry out the proposed reuse or development in a manner that meets the same standards for protection that apply to response actions taken or ordered under W.E.E.C. 1213.00;
2) The response actions and the activities associated with any reuse or development proposed for the site will not aggravate or contribute to releases or threatened releases that are not required to be removed or remedied under the voluntary response action plan and will not interfere with or substantially increase the cost of response actions to address the remaining releases or threatened releases; and
3) The owner of the site agrees to cooperate with the Director or other Persons acting at the direction of the Director in taking response actions necessary to address remaining releases or threatened releases, and to avoid any action that interferes with the response actions.

b) Under paragraph a, subparagraph 3 of this subdivision, an owner may be required to agree to any or all of the following terms necessary to carry out response actions to address remaining releases or threatened releases:
1) To provide access to the property to the Director and the Director's authorized representatives;

2) To allow the Director, or Persons acting at the direction of the Director, to undertake reasonable and necessary activities at the property, including placement of borings, wells, equipment, and structures on the property, provided that the activities do not unreasonably interfere with the proposed reuse or redevelopment; and
3) To grant easements or other interest in the property to the White Earth Natural Resources Department for any of the purposes provided in subparagraph 1 or 2 of this paragraph.

c) An agreement under paragraph a, subparagraph 3 of this subdivision must apply to and be binding upon the successors and assigns of the owner. The owner shall record the agreement, or a memorandum approved by the Director that summarizes the agreement, with the White Earth Land Office.

Subd.3) Eligibility

a) *Site*. Any Brownfields Site is eligible for a response action under this section.
b) *Person*. Any Person is eligible to undertake a response action under this section, according to the provisions herein.

Subd.4) Submission and Approval of Voluntary Response Action Plan

a) *Application*. A Person desiring to participate in the Voluntary Response Program must submit to the Director an application containing information regarding the site in question, its proposed future development, an environmental assessment of the site, a description of the proposed voluntary response action plan, and an application fee, as specified in regulation promulgated under this section.
b) *Assistance from Director*. If the Director approves the application, a voluntary response action plan must be prepared by the applicant and approved by the Director before any work under the plan may begin. The Director may, upon request, assist in or supervise the development and implementation of the voluntary response action plan. Assistance may include review of agency records and files and review and approval of a requester's investigation plans and reports.
c) *Fees for Assistance*. A Person requesting assistance under paragraph b of this subdivision shall pay the White Earth Natural Resources Department for the cost, as determined by the Director, of providing assistance. A Tribal Department or other political subdivision of the White Earth Tribal Nation is not required to pay for the White Earth Environmental Department for assistance under this subdivision.
d) *Requirements for an Approval of Voluntary Response Action Plans*. A voluntary response action plan submitted to the Director for approval must include an investigation report that describes the methods and results of an investigation of the releases and threatened releases at the identified site. The Director shall not approve the voluntary response action plan unless the Director determines that the nature and extent of the release and threatened release at the site have been adequately identified and evaluated in the investigation report. Response actions required in a voluntary response action plan under this section must meet the same standards for protection that apply to response actions taken or ordered under W.E.E.C. 1213.00, and must comply with all applicable tribal and federal requirements. Before final approval of a voluntary response action plan, the Director must comply with the public

participation requirements in subdivision 9 of this section. The Director may include in the approval an acknowledgement that, upon certification of completion of the response actions as provided in subdivision 7 of this section, the Person submitting the plan will receive the protection from liability provided under this section.

Subd.7) Certification of Completion

a) After remediating the site in question, the Person undertaking the voluntary cleanup must prepare a completion report for review by the Director and, if the Director determines that the approved corrective action plan has been completed, the Director will issue a certificate of completion certifying that the requirements of the plan have been met, and the Person is released from any further liability under tribal law for cleanup of the site and for any contamination identified in the environmental assessment submitted with the application, subject to the provision of subdivision 1 and 2 of this section.
b) Certification of completion of response actions taken under a voluntary response action plan that does not require removal or remedy of all releases and threatened releases is subject to compliance by the owner, and the owner's successors and assigns, with the terms of the agreement required under subdivision 2, paragraph a, subparagraph 3 of this section.

Subd.8) Failure to Complete Response Action

If a Person receiving approval of a voluntary response plan fails or refuses to complete the actions covered by the plan, including operation and maintenance, the Director may require such Person to complete the response action pursuant to § 1213.00 and subchapter 5, may complete the response action and recover cost pursuant to § 1214.00 may refer the matter to the USEPA to pursue under CERCLA, RCRA, or other applicable federal laws, and may take any other action available under tribal or federal law to ensure that the response action will be completed.

Subd.9) Public Participation

Before approving a voluntary response action plan under this section, the Director shall give notice of the proposed plan to the public by publication of a notice in a newspaper of general circulation in the affected area, identifying the site concerned and the parties involved and providing a brief analysis of the plan and the basis for the approval. The notice also shall be mailed to all potentially responsible parties know to the Director at the time of the notice. The notice shall provide a reasonable opportunity for the public to submit written comments on the proposed action and an opportunity from the public to submit written comments on the proposed action and an opportunity for a public hearing in the affected area. The Director shall provide a written response to all significant comments submitted on the proposed plan.

Subd.10) Other Rights and Authorities Not Affected

Nothing in this section affects the authority of the Director to exercise any powers or duties under this Code or any other law with respect to any release or threatened release of a Hazardous Substance or Pollutant or Contaminant or the right of the Director or any other Person to seek any relief available under this Code against any party who is not subject to the liability protection provided under this section.

W.E.E.C. 1218.00 General Enforcement Authority

Subd.1) Whenever, on the basis of any information available to the Director, the Director finds that any Person has violated, or is in violation of, any requirement or prohibition of this Code, the regulations promulgated under this Code, or orders, plans, or fees issued or approved pursuant to this Code, the Director may:

a) Issue and serve on such Person an order requiring the Person to comply with each requirement or come into compliance regarding each prohibition, pursuant to the provisions of this section; and
b) Issue and serve on such Person an administrative penalty order in accordance with W.E.E.C. 1220.00; and
c) Bring a civil action in accordance with W.E.E.C. 1220.00, subdivision 1

W.E.E.C. 1219.00 Administative Orders

Subd.1) The Director may issue an order to a Responsible Party or Potentially Responsible Party to investigate, remove or arrange for the removal of, and provide for remedial action relating to a Hazardous Substance or Pollutant or Contaminant or take any other response measures that the Director deems necessary to protect the public health or welfare or the environment. The Director also may order any Person who is subject to any requirement under this Code to:

a) Establish and maintain records
b) Prepare and submit reports
c) Install, use and maintain monitoring equipment, and use audit procedures or methods;
d) Monitor and sample emissions (in accordance with such procedures or methods, at such locations, at such intervals, during such periods, an in such manner as the Director shall prescribe);
e) Submit compliance certifications; and
f) Provide such other information as the Director may reasonably require.

Subd.2) An order to comply issued under this section shall state with reasonable specificity the nature of the violation, shall state that the alleged violator is entitled to a hearing pursuant to § 1221.00, if such hearing is requested in writing within 30 days after the date of issuance of the order, and shall specify a time for compliance that the Director determines is as expeditious as practicable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. The order shall become effective immediately upon the expiration of the 30 days if no hearing is requested and, if a timely request for a hearing is made, upon the decision of the Director following the hearing. The order may be conditional and require a Person to refrain from particular acts unless certain conditions are met. If the order is issued to a corporation, it shall be issued to the appropriate corporate officers. No order to comply issued under this section shall prevent the Director from assessing any penalties or otherwise affect or limit the Director's authority to enforce any other provisions of this Code, or affect any Person's obligations to comply with any section of this Code or with a term or condition of any plan approved under this Code. Any Person subject to the order may seek judicial review of a final agency determination on the order as provided in § 1225.00.

Subd.3) Emergency Compliance Orders
Notwithstanding any other provisions of this section, the Director (after consultation with the Tribal Attorney, where feasible) may issue a compliance order that is effective immediately where there is an imminent and substantial threat of the public health, welfare, or environment. Any Person issued an order that is effective immediately may file a written request with the Director for a stay pending the outcome of a hearing on the order taken pursuant to § 1221.00. The Director shall, by written notice, grant or deny the request for a stay within five days of receipt of the request. If the Director denies the request for a stay, the affected party has 30 days to appeal the denial to the White Earth Legal Department but the order shall be effective unless and until the White Earth Tribal Court rules otherwise. Any Person subject to an emergency compliance order may seek judicial review of a final agency determination on the order as provided in § 1225.00.

Subd.4) Enforcement of Compliance Orders
Orders of the Director shall be enforced by the Environmental Department, the White Earth Conservation Department, and the White Earth Natural Resources Department. Those authorized to enforce the orders may take reasonable steps to assure compliance, including but not limited to:

a) Entering upon any property or establishment believed to be violating the order and assisting in compliance;
b) Issuing a cease and desist order on all or part of the operations within the facility.

Subd.5) Injunctive Relief
Notwithstanding any other provisions of this section, the Director may seek injunctive relief pursuant to W.E.E.C. 1222, subdivision 1 to restrain any activity which may endanger or cause damage to public health or welfare or the environment or, in the event of a release or threatened release creating an imminent and substantial threat to the public health or welfare or environment, to require a Person to respond to such release or threatened release.

W.E.E.C. 1220.00 Assessment of Penalties

Subd.1) Basis for Penalty
The Director may issue against any Person an administrative order assessing a civil administrative penalty of up to $5,000 per day per violation whenever the Director finds that a Person has violated, or is in violation of, any provision, requirement or prohibition of this Code, including, but not limited to, a regulation adopted pursuant to this Code, an order issued pursuant to this Code, or a plan approved pursuant to this Code. The Director's authority under this subdivision shall be limited to matters where the total penalty sought does not exceed $50,000 and the first alleged date of violation occurred no more than one year prior to the initiation of administrative action, except where the Director and the Tribal Prosecutor jointly determine that a matter involving a larger penalty or longer period of violation is appropriate for administrative penalty action. The communications required to make such a joint determination and the method(s) used for making such a joint determination shall be privileged, and shall not be subject to judicial review. The Director may compromise, modify, or remit, with or without any conditions, any administrative penalty imposed under this section.

Subd.2) Hearing Requirement
The Director shall assess an administrative penalty under this section by an order made after opportunity for a hearing under § 1221.00. Before issuing such an order, the Director shall give written notice of the proposed order to the Person on whom the penalty is to be assessed and provide such Person an opportunity to request a hearing within 30 days of receipt of the notice.

Subd.3) Field Citations
The Director may implement a field citation program through regulations establishing minor violations for which field citations assessing civil penalties not to exceed $5,000 per day per violation may be issued by officers or employees designated by the Director, to the extent permissible under applicable law. Any Person on whom a field citation is assessed may, pursuant to regulations issued under this section, elect to pay the penalty or request a hearing on the citation. If a timely request for a hearing is not made, the penalty shall be final. If a hearing is requested, the citation shall be treated as an administrative penalty order. Payment of a penalty required by a field citation shall not be a defense to further enforcement by the Director to correct a violation or to assess the statutory maximum penalty pursuant to other authorities in this Code if the violation continues.

Subd.4) Judicial Review
Any Person subject to a civil penalty under subdivisions 1 or 3 of this section who obtained a hearing on the penalty under § 1221.00 may seek review of the final agency determination on the penalty in the White Earth Tribal Court by filing a petition for review in such Court within 30 days following the date that the penalty becomes final and by simultaneously sending a copy of such filing by certified mail to the Director and the Tribal Prosecutor. Within 30 days thereafter the Director shall file in such Court a certified copy or certified index of the record on which the penalty was based. The Court shall not set aside or remand an order or assessment under this section unless the record, taken as a whole, does not substantially support the finding of a violation or unless the order or penalty assessment constitutes an abuse of discretion. In any such proceedings, the Director may seek to recover civil penalties ordered or assessed under this section.

Subd.5) Failure to Pay Penalty
If any Person fails to pay an assessment of a civil penalty or fails to comply with an administrative penalty order after the order or assessment has become final, the Director shall request the Tribal Prosecutor to bring a civil action in the White Earth Tribal Court to enforce the order or recover the amount ordered or assessed plus interest, from the date of the final order or decision or the date of the final judgment. In such an action the validity, amount and appropriateness of the order or assessment shall not be subject to review. Any Person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the Director's enforcement expenses, including but not limited to reasonable attorneys' fees and costs of collection proceedings. Such Person shall also pay a quarterly nonpayment penalty for each quarter during which such failure to pay persists. The nonpayment penalty shall be 10% of the aggregate amount of the Person's outstanding penalties and nonpayment penalties accrued as of the beginning of the quarter.

Subd.6) Calculation of Penalty

In determining the amount of any penalty to be assessed under this section, the Director or the Court, as appropriate, shall take into consideration the factors enumerated in § 1222.00, subdivision 5.

W.E.E.C. 1221.00 Administrative Hearings

Subd.1) Creation of Environmental Hearing Board
An Environmental Hearing Board is hereby created and shall be composed of three directors or Managers, two from the White Earth Natural Resources Department and one from a different White Earth health-related department or program. At least one of the Hearing Board Members must be a White Earth enrolled member. A director or manager may not serve on the Board regarding any matter in which he or she has a financial interest or when he or she has a relationship with a party or with the subject matter that would make it inappropriate for him or her to act.

Subd.2) Procedural hearings required under this Code shall be informal hearings not subject to requirements under this section.

W.E.E.C. 1222.00 Judicial Enforcement

Subd.1) Civil Judicial Enforcement
The Director may request the Tribal Prosecutor to file an action for a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief provided by law, including the assessment and recovery of civil penalties in an amount per day per violation not to exceed $25,000, in any of the following instances:

a) whenever a Person has violated, or is in violation of, any provision, requirement or prohibition of this Code, including, but not limited to, a regulation adopted pursuant to this Code or an order issued pursuant to this Code;
b) whenever a Person has violated, or is in violation of, any duty to allow or carry out inspection, entry, or monitoring activities; and
c) whenever an activity exists that may endanger or cause damage to the public health or welfare or the environment, in which case the Director shall request the Tribal Prosecutor to pursue injunctive relief, but not the assessment of penalties, unless the endangerment to the public health is caused by a violation, as specified in paragraphs a and b of this subdivision.

Subd.2) Suits for Costs
In addition to the above proceedings, the Director is authorized to initiate proceedings, separately or in connection with a proceeding brought under this Code, for any damages caused to the lands or other resources of the White Earth Nation as the result of any violation of this Code, including for payment of costs related to all associated remedial actions taken, for any expenses incurred in investigating and evaluating such damages, for any administrative costs incurred as a result of the matter, and for the reasonable value of the attorney time and expenses associated with such proceedings.

Subd.3). Jurisdiction and Venue

Any action under this section shall be brought in the White Earth Tribal Court, and such Court shall have jurisdiction to restrain such violation, require compliance, assess civil penalties, collect any fees or noncompliance penalties owed the White Earth Nation under this Code, and award any other appropriate relief.

Subd. 4) Calculation of Penalties; Notice

a) For purposes of determining the number of days of violation for which a civil penalty may be assessed under this section or § 1220.00, if the Director has notified the source in writing of the violation and a *prima facie* showing can be made that the conduct or events giving rise to the violation are likely to have continued or recurred past the date of notice, the days of violation shall be presumed to include the date of such notice, each day of violation prior to such notice, and each day thereafter until the violator establishes that continuous compliance has been achieved, except to the extent that the violator can prove by a preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature. Notice under this section shall be accomplished by the issuance of a written notice of violation or written order to comply or by filing a complaint in White Earth Tribal Court that alleges any violation described in subdivision 1 of this section.
b) In determining the amount of a civil penalty assessed under this section, the Court shall consider the history, seriousness, and duration of the violation; any good faith efforts to comply with the applicable requirements; the violator(s) full compliance history, including the severity and duration of past violations, if any; the economic impact of the penalty on the violator; as an aggravating factor only, the economic benefit, if any, resulting from the violation; and any other factors that the Court deems relevant. The Court may assess penalties for noncompliance with actions under subchapter 3 where the violator does not have sufficient cause to violate or fail or refuse to comply with such action.
c) All penalties collected pursuant to this section shall be deposited in the account established pursuant to § 1205.00, subdivision 3.
d) In lieu of or in addition to a monetary penalty, the Director may impose or may request the Tribal Prosecutor to seek from the Court a requirement to remediate the damage caused or to perform community service, or both.

Subd.5) Security

The White Earth Tribal Court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security.

Subd.6) Enforcement of Judgments

All judgments entered under this section and §§ 1219.00 and 1220.00 may be enforced by execution, levy, sale, redemption, garnishment, and contempt pursuant to the White Earth Band of Chippewa Judicial Code.

W.E.E.C. 1223.00 Citizen Suits

Subd.1) Authority to Bring Civil Action; Jurisdiction

a) Except as provided in subdivision 2 of this section, a Person may commence a civil action in the White Earth Tribal Court on his own behalf against any Person (except the White Earth Tribal Nation or any instrumentality of the White Earth Tribal Nation, but not excepting tribal enterprises) who is alleged to be in violation of any provision, requirement or prohibition of this Code, including but not limited to a regulation adopted pursuant to this Code or an order issued under this Code.
b) The White Earth Tribal Court shall have jurisdiction to enforce such provision, requirement, prohibition, regulation, or order, to order such Person to take such other action as may be necessary, and to apply any appropriate civil penalties.

Subd.2) Notice
An action may not be commenced under subdivision 1 of this section fewer than 60 days after the Person bringing the claim has given notice of the alleged violation to the Director, the Tribal Prosecutor and the alleged violator. In addition, an action may not be commenced if the Director has commenced and is diligently prosecuting an administrative action or a civil action in Court to require compliance with this Code, except that any Person may intervene as a matter of right in an action filed with the White Earth Tribal Court

Subd.3) Intervention; Service of Complaint
a) The Director, if not already a party, may intervene as a matter of right in any action brought under this section.
b) Whenever an action is brought under this section the Person bringing the claim shall serve a copy of the complaint on the Tribal Prosecutor and on the Director. In an action brought under this section in which the Director is not a party, no consent judgment may be entered prior to 45 days following the receipt of a copy of the proposed consent judgment by the Tribal Prosecutor and the Director, during which time the Tribal Prosecutor and the Director may submit, on behalf of the White Earth Tribal Nation, their comments on the proposed consent judgment to the White Earth Tribal Court and parties or the Director may intervene as a matter of right.

Subd.4) Award of Costs
The Court, in issuing a final order in an action brought under this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the Court determines that such award is appropriate. The Court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security.

Subd.5) Penalty Fund
Penalties received under this section shall be deposited in the account established pursuant to § 1205.00, subdivision 3.

W.E.E.C. 1224.00 Rulemaking

Subd.1) Notice of any proposed regulation shall be published in a newspaper of general circulation for the areas of the White Earth Tribal Nation that are concerned. The notice shall specify the period available for public comment; the date, time and place of any public hearing; and the location of a copy of the proposed regulation that is available to the public for review.

Not later than the date of proposal of the regulation in question the Director shall establish a rulemaking docket and shall make the docket available to the public for inspection and copying during regular business hours. The Director shall provide a comment period of at least 30 calendar days; allow any Person to submit written comments, data, or documentary information; give interested Persons an opportunity to present orally their views, data, or arguments; and keep the docket open for 20 calendar days after such proceeding to provide an opportunity for submission of rebuttal and supplementary information.

Subd.2) The final regulation shall be based on the record of the rulemaking proceeding, contained in the docket, and shall be accompanied by an explanation of the reasons for any major changes from the proposed regulation and a response to each of the significant comments submitted in written or oral presentations during the comment period.

W.E.E.C. 1225.00 Review in the White Earth Tribal Court

Subd.1) Petitions for Review
Any final action taken by the Director under this Code, including but not limited to promulgation of regulations and standards, issuance of orders, issuance and denial of permits, and imposition of administrative penalties, is subject to review in the White Earth Tribal Court. Any such petition for review (except for petitions for review of administrative penalties imposed under § 1220.00, which are subject to review under § 1220.00, subdivision 4) shall be brought in the White Earth Tribal Court. The petition shall be filed within 60 days from the date that notice of such final action is first published, or, if notice is not published, first served upon the alleged violator or such other Person required to be served under this Code, except that if the petition is based solely on grounds arising after the sixtieth day, then the petition shall be filed within 60 days after such grounds arise.

Subd.2) Limited Waiver of Sovereign Immunity
The White Earth Tribal Nation consents to the judicial review provided for in this section. This consent to jurisdiction shall be construed as a limited waiver of the White Earth Tribal Nation's sovereign immunity from suit only to the extent necessary to enforce this Code. This limited waiver shall not extend to any action initiated pursuant to § 1223. All other rights, privileges and immunities of the White Earth Tribal Nation are hereby expressly asserted or reserved to the Nation.

Subd.3) Limitations on Review

a) If judicial review of a final action of the Director could have been obtained under subdivision 1 of this section, that action shall not be subject to judicial review in judicial proceedings for enforcement.
b) With respect to any regulations promulgated under this Code, only an objection that was raised with reasonable specificity during the public comment period may be raised during judicial review. If the Person raising an objection can demonstrate to the Director that it was impracticable to raise the objection within such time or if the grounds for the objection arose after the public comment period (but within the time specified for judicial review), and if the objection is of central relevance to the outcome of the regulation, the Director shall convene a proceeding for reconsideration of the regulation and provide the

same procedural rights as would have been afforded had the information been available at the time the regulation was proposed. If the Director refuses to convene such a proceeding, the Person may seek review of such refusal in the White Earth Tribal Court. Such reconsideration shall not postpone the effectiveness of the regulation, although it may be stayed by the Director or the Court for up to three months, at the discretion of either the Director or the Court.

c) Except as otherwise expressly allowed by tribal law, no interlocutory appeals shall be permitted with regard to determinations made by the Director under this Code. In reviewing alleged procedural errors, the Court may invalidate the regulation only if the errors were so serious and related to matters of such central relevance to the regulations that there is a substantial likelihood that the regulations would have been significantly changed if such errors had not been made.

Subd.4) Standards for Review

In reviewing any final action of the Director undertaken pursuant to this Code, the Court may reverse any such action that it finds to be:

a) Arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law; or
b) In excess of statutory jurisdiction, authority, or limitations or short of statutory right; or
c) Without observance of procedure required by law; or
d) Unsupported by substantial evidence.