

TITLE 40. GREEN GOVERNMENT INITIATIVE

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CHAPTER 1. GREEN GOVERNMENT INITIATIVE IN BUILDING

Subchapter

1. Purpose; Definitions; General Provisions

SUBCHAPTER 1. PURPOSE; DEFINITIONS; GENERAL PROVISIONS

Section

- 1-101. Authority.
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- 1-103. Definitions.
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§ 1-101. Authority

This Law of the Muscogee (Creek) Nation shall be known and cited as the Muscogee (Creek) Nation Green Government Initiative and shall be codified in Title 40 of the Muscogee (Creek) Nation Code of Laws.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

§ 1-102. Purpose

A. The purpose of this title and subsequent chapters is:

1. To improve public health, safety, and general welfare by enhancing the design and construction of buildings through the use of building concepts having a positive environmental impact and encouraging sustainable construction practices in the following categories:

- a. Planning and design;
- b. Energy efficiency;
- c. Water efficiency and conservation;

- d. Material conservation and resource efficiency;
- e. Environmental air quality;
2. Provide for funding that will allow the Office Environmental Safety to continue to seek green initiatives for the betterment of the Muscogee (Creek) Nation;
3. Allow the Office of Environmental Safety to implement sections of the federal Emergency Economic Stabilization Act of 2008 which will extend tax credits for energy efficiency and renewable energy to the Nation and its' citizens;
4. Provide for the issuance of permits and collection of fees;
5. Provide for penalties for the violation of building and home codes;
6. Develop requirements for Muscogee (Creek) Nation governmental entities to seek energy conservation and natural processes in all that the Nation undertakes including, but not limited to; new buildings and remodeling of existing or purchased properties, operations and maintenance, administration of operations, recycling measures, and protections of Muscogee (Creek) Nation lands and the surrounding land base.
7. Provide for the protection of the Muscogee (Creek) Nation agricultural land and sustainability of the Nation's commercial agricultural lands.

B. Further, this title and subsequent chapters are designed to help promote a more traditional way of life by returning to what our ancestors valued and believed to be our sources of life: wind, sun, water, and the natural environment around us. This return to a more traditional way of life shall begin with a comprehensive building code that will allow the Muscogee (Creek) Nation, (herein referred to as "Nation") to serve as an example for all Native American Tribes to lead the effort to return to our traditional beliefs. This Green Building Code (herein referred to as "this Code") will regulate the site preparation and construction, alteration, moving, demolition, repair, use, and occupancy of buildings, and structures built on the Nation's land including, but not limited to: governmental buildings (for occupancy and non-occupancy), commercial buildings (for occupancy and non-occupancy), and building service equipment within the jurisdiction of the Muscogee (Creek) Nation. A minimum requirement for the design of all new commercial and governmental buildings and renovations and additions to all commercial or governmental buildings in the Nation shall be compliant with the *International Energy Conservation Code 2006*. Further, the Nation shall work to insure that residential housing built by the Muscogee (Creek) Nation or any other entity is compliant with the **Leadership in Energy and Environmental Design (LEED)** program that promotes the design and construction of high performance "green" buildings and homes. The LEED rating system measures the environmental performance of new buildings and homes across eight separate resource categories, including energy efficiency. All LEED buildings and homes shall be required to be ENERGY STAR qualified.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

§ 1-103. Definitions

Unless the context otherwise requires, as used in this chapter, the following terms shall be defined as follows:

A. **2006 International Energy Conservation Code “IECC”**. “**IEEC 2006**” means the Code established requiring minimum design and construction requirements for energy efficiency.

B. **Leadership in Energy and Environmental Design (LEED)**. “**LEED**” means the program that is a third-party certification program and nationally accepted benchmark for the design, construction, and operation of high performance green buildings.

C. **Commercial building**. “**Commercial building**” means any structure, privately owned or owned and run by the Nation, that is designed for commercial, business, industrial, municipal or school use, excluding residential buildings or structures, as identified by the 2006 IECC or specifically outlined in this Title.

D. **Residential housing**. “**Residential housing**” means any structure built by the Muscogee (Creek) Nation or an entity on behalf of the Nation including, but not limited to, the Indian Housing Authority pursuant to Title 24, § 1-104, subsection E-“Housing Project or project.”

E. **Green building**. “**Green building**” means taking a holistic approach to design, construction, and demolition that minimizes a commercial or residential building’s impact on the environment, the occupants, and the community and utilizes new available technologies as is applicable. Green Buildings include all existing buildings and future buildings.

F. **Green initiatives**. “**Green initiatives**” means the holistic process of environmental stewardship. The initiative in this title is designed to accelerate the adoption of building practices that result in energy-efficient, healthier and environmentally sustainable buildings by promoting credible and practical green building approaches and technologies for residential and commercial construction on the lands of the Muscogee (Creek) Nation.

H. **Energy efficiency**. “**Energy efficiency**” means the processes by which the Muscogee (Creek) Nation maximizes materials, technology, processes, and systems that help reduce energy consumption in buildings and facilities owned, built or refurbished by the Nation or any entity acting on behalf of the Nation.

I. **Sustainable construction materials**. “**Sustainable construction materials**” means, but is not limited to any of the following:

1. **Recycled content**: Products with identifiable recycled content, including post-industrial content with a preference for post-consumer content.

2. **Natural, plentiful; or renewable**: Materials harvested from sustainably managed sources and preferably have an independent certification (e.g., certified wood) and are certified by an independent third party.

3. **Resource efficient manufacturing process**: Products manufactured with resource-efficient processes including reducing energy consumption, minimizing waste (recycled, recyclable, and/or source reduced product packaging), and reducing greenhouse gases.

4. **Locally available:** Building materials, components, and systems found locally or regionally saving energy and resources in transportation to the project site.

5. **Salvaged, refurbished, or remanufactured:** Includes saving a material from disposal and renovating, repairing, restoring, or generally improving the appearance, performance, quality, functionality, or value of a product.

6. **Reusable or recyclable:** Select materials that can be easily dismantled and reused or recycled at the end of their useful life.

7. **Recycled or recyclable product packaging:** Products enclosed in recycled content or recyclable packaging.

8. **Durable:** Materials that are longer lasting or are comparable to conventional products with long life expectancies.

J. **Indoor Air Quality “IAQ”.** “**Indoor Air Quality**” means the presence or absence of air pollutants in buildings and is enhanced by utilizing materials that meet the following criteria:

1. **Low or non-toxic:** Materials that emit few or no carcinogens, reproductive toxicants, or irritants as demonstrated by the manufacturer through appropriate testing.

2. **Minimal chemical emissions:** Products that have minimal emissions of Volatile Organic Compounds (VOCs). Products that also maximize resource and energy efficiency while reducing chemical emissions.

3. **Low-VOC assembly:** Materials installed with minimal VOC-producing compounds, or no-VOC mechanical attachment methods and minimal hazards.

4. **Moisture resistant:** Products and systems that resist moisture or inhibit the growth of biological contaminants in buildings.

5. **Healthfully maintained:** Materials, components, and systems that require only simple, non-toxic, or low-VOC methods of cleaning.

6. **Systems or equipment:** Products that promote healthy IAQ by identifying indoor air pollutants or enhancing the air quality.

K. **Water conservation.** “**Water conservation**” means using any available technologies to help reduce water consumption in buildings, homes, and water in landscaped areas on the Nation’s property.

L. **Energy Star.** “**Energy Star**” means the joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy that helps protect the environment through energy efficient products and practices. At all times when available, Energy Star products and practices should be used.

M. **Emergency Economic Stabilization Act of 2008.** “**Emergency Economic Stabilization Act of 2008**” means the U.S. Government’s tax exemption program that allows for tax credit for energy efficient products.

N. **Exemptions.** “**Exemptions**” means those exceptions to this Title that are made for purposes of cultural, heritage, or traditional reasons other exceptions that are enumerated in this title.

O. **Where applicable.** “**Where applicable**” as it applies to this Title and subsequent chapters shall mean that where it is economically feasible, all

projects shall comply with the standards as set out in this Title and variations from this Title shall be at the discretion of the Commission.

P. **Variance/Variation.** “**Variance/Variation**” shall mean amount, rate, extent, or degree of change that is allowed from the standards as set out in this Title and subsequent chapters.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

§ 1-104. General provisions

The provisions of this chapter outline planning, design, and development methods that include environmentally responsible site selection, residential and commercial building design, building enhancements and developments to protect, restore, and enhance the environmental quality of the site and buildings and to respect the integrity of the values that are exposed by the citizens of Muscogee (Creek) Nation. The preservation and use of available natural resources shall be accomplished through evaluation and careful planning to minimize negative effects on the site, the commercial or residential buildings, and all adjacent areas.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

CHAPTER 2. GREEN BUILDING CODE

Subchapter

1. Purpose; Definitions; General Provisions
2. Green Building Code

SUBCHAPTER 1. PURPOSE; DEFINITIONS; GENERAL PROVISIONS

Section

- 2-101. Purpose.
- 2-102. Definitions.
- 2-103. Office of Environmental Services Authority.
- 2-104. General provisions.

§ 2-101. Purpose

This subchapter has been created to give authority and funding to the Office of Environmental Safety (hereinafter “OES”) to promulgate rules and regulations not inconsistent with the scope of this Title that will help the OES initiate a new set of Building Codes that will be environmentally friendly and in keeping with the Green Government Initiative. The provisions of this subchapter are not intended to prevent the use of any material, installation process, method or design method of construction, but to give the OES guidance on performance of their duties under this Code. The Building Code as designed and promulgated by the OES shall not apply to buildings that are deemed Historical on the National Historic Register’s List or that the National Council deems to be historical in nature.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

§ 2-102. Definitions

Definitions.

Unless the context otherwise requires; as used in this chapter the following terms shall be defined as follows:

A. **Altered building.** “**Altered building**” shall mean any building that is owned or operated by the Muscogee (Creek) Nation or any entity working for or controlled by the Nation that is substantially altered. This shall include any ancillary buildings.

B. **Ancillary buildings.** “**Ancillary buildings**” include any and all buildings that are attached, detached, or in the same general area as an altered or new building. This shall include but not limited to: garages, barns, maintenance facilities in which a person may be using as part of their employment with the Muscogee (Creek) Nation.

C. **Building Code.** “**Building Code**” shall mean the rules and regulations that will be developed in regards to all new buildings of the Muscogee (Creek) Nation and all existing buildings that will be substantially altered in structure in which a person may perform jobs in the furtherance of their employment.

D. **New building.** “**New building**” shall include any new structure that is erected on the grounds of the Muscogee (Creek) Nation that will be occupied by individuals or have the potential to be occupied by individuals. New buildings also include those buildings that are designed in the furtherance of employees and contractor’s jobs and include but are not limited to garages, barns, and maintenance facilities.

E. **Substantially altered.** “**Substantially altered**” shall include any building that is undergoing any reservation of ten percent (10%) or more the total building’s square footage.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

§ 2-103. Office of Environmental Services Authority

It shall be the responsibility of the Office of Environmental Services to promulgate a Green Building Code in compliance with this Title and existing Building Codes of the Muscogee (Creek) Nation. This authority shall include but is not limited to; design and implementation of a Building Code in furtherance of this Title, a process for applications and permits for vendors to qualify as Certified Green Builders, enforcement procedures for implementing and enforcing the Green Building Code’s provisions, a process for appeals of denial of certification or permits, and violations of the Green Building Code.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

§ 2-104. General provisions

This subchapter is designed to give authority to the OES to implement the policies and procedures of the Muscogee (Creek) Nation so that all entities of the Muscogee (Creek) Nation shall be good stewards of the environment.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

SUBCHAPTER 2. GREEN BUILDING CODE [RESERVED]

This subchapter is reserved for the Green Building Code promulgated by the Office of Environmental Services in furtherance of this Title.

CHAPTER 3. PERMIT PROCESS [RESERVED]

Chapter 3 of Title 40 Green Government Initiatives is reserved for the Permit Process that will be implemented by the Office of Environmental Services in conjunction with Chapter 2 of Title 40. This Chapter shall not be inconsistent with the goals of this Title.

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**CHAPTER 4. VIOLATIONS OF GREEN BUILDING
CODE AND APPEAL PROCESS [RESERVED]**

Chapter 4 of Title 40 Green Government Initiatives is reserved for the violations of the Green Building Code and the appeals process associated with certification of the Green Building Code which will be promulgated by the Office of Environmental Services.

CHAPTER 5. RECYCLE INITIATIVE

Subchapter

1. Purpose; Definitions; General Provisions
2. Establishment of Recycling Program

SUBCHAPTER 1. PURPOSE; DEFINITIONS; GENERAL PROVISIONS

Section

- 5-101. Purpose.
- 5-102. Definitions.
- 5-103. Applicable regulations.
- 5-104. Designated recyclable materials.

§ 5-101. Purpose

This chapter has been created because of the great interest of the people of the Muscogee (Creek) Nation in preserving the environment for future generations. It shall be the policy of the Muscogee (Creek) Nation to reduce the amount of solid waste generated by requiring the recycling of recyclable materials to the fullest extent possible by the government of the Muscogee (Creek) Nation and individuals or entities employed by the Nation and by the citizens of the Nation.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

§ 5-102. Definitions

Definitions.

Unless the context otherwise requires, as used in this chapter, the following terms shall be defined as follows:

- Aluminum.** “**Aluminum**” means aluminum cans only.
- Commercial establishment.** “**Commercial establishment**” means any non-residential building owned by or leased to the Muscogee (Creek) Nation, including, but not limited to, those used for retail, wholesale, industrial, manufacturing, dining, offices, professional services, automobile services, hotels and motels, restaurants, or shipping and receiving areas.
- Corrugated cardboard.** “**Corrugated cardboard**” means paper in which a portion has been made to have a wavy surface (alternating ridges and grooves) and is placed between two (2) flat surfaces for the sake of strength, and which is commonly used to form cartons. Does not include linerboard or paperboard such as cereal boxes or clothing liners.
- Linerboard/paperboard.** “**Linerboard/paperboard**” means non-corrugated cardboard, and other paperboard boxes such as cereal boxes, tissue boxes, etc.
- Drop-off center.** “**Drop-off center**” means a Muscogee (Creek) Nation operated recycling center located at various areas to be determined by Office of

Environmental Services open to local residents and Muscogee (Creek) Nation citizens, and Muscogee (Creek) Nation businesses/non-profit organizations.

F. **Drop-off center accepted materials.** “**Drop-off center accepted materials**” means that when a drop-off center is open, the Recycling Drop-Off Center accepts office papers, newspapers, magazines, cardboard, glass, and plastic materials.

G. **Earned recycling receptacles** “**Earned recycling receptacles**” means receptacles earned after a certain weight percentage is received of recyclables.

H. **Glass containers.** “**Glass containers**” means bottles and jars, being transparent or translucent, and used for packing or bottling of various materials. This does not include plastics or glass products such as laboratory glass, window glass, blue glass, flat glass, mirrors, plate glass, light bulbs, dishes or ceramics.

I. **Magazines.** “**Magazines**” means any publications printed on glossy, clay-coated paper.

J. **Newspaper.** “**Newspaper**” means newsprint-grade paper, the common, inexpensive machine-finished paper made chiefly from wood pulp, which is printed and distributed, and includes all newspaper advertisement, comics, and enclosures. This does not include newspapers soiled by food, paint, petroleum products, oil or oil solvents, or other solid wastes that are not recyclable.

K. **Office paper.** “**Office paper**” means printed or unprinted sheets, shavings, and cuttings of white sulphite or sulphate ledger, bond, writing, and other papers which have a similar fiber and filler content, and which are free treated, coated, padded, and heavily printed paper, carbon paper, and non-paper materials. Includes computer and laser printout.

L. **Person.** “**Person**” in this subsection includes any firm, institution, partnership, association or corporation, public or private, organized or existing under the laws of the Nation or individual citizen.

M. **Plastic containers.** “**Plastic containers**” means any clear and colored bottles and jugs for food, beverage, and laundry materials made from high density polyethylene (HDPE) and polyethylene terephthalate (PET) plastics, excluding containers for use in chemical, laboratory, or automotive applications, and excluding caps and lids.

N. **Recyclable materials.** “**Recyclable materials**” means any type of refuse designated by the Green Commission through rules and regulations issued under this section to be separated for recycling.

O. **Recycling plan.** “**Recycling plan**” means a plan submitted to the Muscogee (Creek) Nation Green Building Commission that includes information on which recyclable materials comprise five percent (5%) or more by weight of the waste stream, how the commercial establishment will handle those recyclable materials and a description of other materials that are being recycled.

P. **Refuse.** “**Refuse**” means rubbish and recyclable materials.

Q. **Rubbish.** “**Rubbish**” means all perishable and non-perishable refuse generated by commercial establishments excluding items designated as recyclable.

RECYCLE INITIATIVE

Title 40, § 5-201

R. **Solid waste.** “Solid waste” means non-hazardous waste, household waste, industrial waste, food waste, and municipal waste.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

§ 5-103. Applicable regulations

These regulations apply to any person who generates refuse in Muscogee (Creek) Nation jurisdictional boundaries.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

§ 5-104. Designated recyclable materials

The following materials shall be designated as recyclable materials.

1. Aluminum (soda cans only)
2. Corrugated cardboard
3. Ferrous cans (steel or tin)
4. Glass containers (clear, green, and brown)
5. Magazines
6. Newspaper
7. Office paper
8. Plastic containers

All materials subject to any other title of this Code are considered designated recyclables in addition to the above list. The Green Building Commission reserves the right to add or remove recyclable materials as defined in these regulations at any time.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

SUBCHAPTER 2. ESTABLISHMENT OF RECYCLING PROGRAM

Section

- 5-201. Establishment of program.
- 5-202. Mandatory separation of recyclable materials.
- 5-203. Collection of recyclable materials.
- 5-204. Special events.
- 5-205. Education program.

§ 5-201. Establishment of program

There is established a program for the mandatory separation of certain recyclable materials from refuse which shall apply to all buildings, but not limited to, in the Muscogee (Creek) Nation territorial boundaries, and shall be carried out under the supervision of the Green Building Commissioners of the Muscogee (Creek) Nation or the Office of Environmental Services until the Green Building Commission is established.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

§ 5–202. Mandatory separation of recyclable materials

It shall be mandatory for each Muscogee (Creek) Nation governmental body to separate all designated recyclable materials from other refuse in accordance with the provisions of this subsection. These mandatory recycling requirements shall apply to all buildings without regard to whether the building's solid waste is collected by municipalities within the Muscogee (Creek) Nation jurisdiction.

A. **Buildings which receive municipal solid waste collection services.** It shall be mandatory for each owner or occupant of a building which receives city solid waste collection services to separate from other refuse all recyclable materials designated by the Commissioner in rules and regulations issued under this section.

B. **Buildings which do not receive municipal solid waste collection services.** It shall be mandatory for each owner or occupant of a building which does not receive city solid waste collection to separate all designated recyclable materials from other refuse in accordance with a recycling plan to be submitted to the Commissioner or his or her designee, in accordance with subsection E of this section.

[Added by NCA 09–040, § 1, approved Aug. 5, 2009.]

§ 5–203. Collection of recyclable materials**A. Residential dwellings.**

1. As long as funds are available, the Muscogee (Creek) Nation, as incentive, will provide opportunities for household recycling receptacles. The materials designated for recycling in rules and regulations promulgated by the Commission shall be placed in the household recycling receptacles.

2. The preparation and placement of recyclables shall be accomplished in accordance with rules and regulations to be issued by the Commission under this section.

3. All earned recycling containers and receptacles shall be delivered to a designated recycling drop off center.

4. Recyclables shall not be placed in the same refuse containers as rubbish or mixed with rubbish or litter for collection, removal, or disposal. If separation of recyclable materials from rubbish does not take place, the Nation may decide not to accept said rubbish.

5. Upon placement of recyclables for the Nation or its contractor at each drop off center, pursuant to this subsection, such recyclables shall become the property of the Nation. It shall be a violation of this section if any person, other than authorized agents of the Nation acting in the course of their employment or contract, collects or causes to be collected any recyclables so placed. Each and every such collection in violation of this subdivision from one or more locations shall constitute a separate and distinct offense. In addition to the penalty provided in subsection I of this section, any violator of this subsection shall make restitution to the Nation for the value of recyclables illegally removed.

B. **Commercial and nonprofit establishments.** In commercial nonprofit establishments, the materials designated for recycling in rules and regulations

promulgated by the Commission shall be placed in recycling receptacles provided by the Muscogee (Creek) Nation and/or owners of such buildings if funds are available. The owner or owners of such buildings shall be responsible for the costs of recyclables separation and collection. Any savings in solid waste disposal realized due to recycling shall accrue to the owner or owners of such buildings. The Commission shall have the authority to require documentation from the Nation's recyclables collection contractors and from any owner, lessee or tenant of a building which does not receive Nation recyclables collection services, that recyclables are being delivered to a broker or end market that causes the material to be recycled or composted rather than disposed of in a landfill or incinerated.

C. Recycling plans.

1. All commercial or governmental entities shall submit recycling plans to commission upon request.
2. Contents of plan. Each recycling plan will cover the following items:
 - a. Which recyclables will be taken to proper drop off centers;
 - b. Frequency of drop offs;
 - c. Methods to be used for in-house collection, including types of containers;
 - d. Any other items which may be specified in rules and regulations promulgated by the Commission under this section.
3. Format of plan. Plans shall be submitted in a format to be specified in rules and regulations promulgated by the Commission under this section.

D. Recyclable materials. The recyclable materials to be separated shall be designated by the Commission in rules and regulations to be issued under this subsection. If the Commission designates a material as recyclable, such designation shall govern the treatment of such material notwithstanding the provisions of any ordinance to the contrary.

E. The Office of Environmental Services. The Office of Environmental Services, a division under the Muscogee (Creek) Nation, shall be responsible for providing advice, assistance, and recommendations to the Commission regarding the recycling program.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

§ 5-204. Special events

Recycling receptacles may be requested for community special events including, but not limited to, all traditional dances, Creek festivals, rodeos, food sales, and the like that may or may not require an event permit from the Muscogee (Creek) Nation. The following standards for receptacles and collected material apply:

1. The number of recycling receptacles shall equal the number of solid waste receptacles;
2. The solid waste and recycling receptacles shall be placed next to one another throughout the event venue.

3. The types of recyclable materials suitable for deposit into each recycling receptacle shall include, at a minimum, aluminum cans and plastic bottles or as requested by the event coordinator.

4. Each recycling receptacle shall be clearly identified as a recycling receptacle and display a list of the types of recyclable materials that may be deposited into the receptacle. Recyclable materials deposited into the recycling receptacles must be delivered by Event Coordinators and returned to Office of Environmental Services for recycling, not a landfill for disposal.

Added by NCA 09-040, § 1, approved Aug. 5, 2009.

§ 5-205. Education program

It shall be the responsibility of all Muscogee (Creek) Nation governmental establishments to adequately inform all employees and/or resident users and patrons of the requirements of the recycling program. The required educational program, at a minimum, shall include written instructions to all parties identifying the materials to be recycled, how the materials are to be prepared, how to use the collection system, and updates detailing any changes in the program. Additionally it shall be the responsibility of the Commission to offer educational materials to all schools and entities requesting such materials.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

CHAPTER 6. GREEN INITIATIVES IN PROCESSES

Section

- 6-101. Purpose.
- 6-102. Definitions.
- 6-103. General provisions.

§ 6-101. Purpose

The purpose of this subchapter is to help define “green processes” that the Muscogee (Creek) Nation shall strive to implement. This shall include but not be limited to the work processes of the Nation’s government and entities or individuals working for or on behalf of the government. All processes within the Nation’s government shall be reviewed from time to time to ensure compliance with this title is being implemented and/or maintained.

Added by NCA 09-040, § 1, approved Aug. 5, 2009.

§ 6-102. Definitions

A. **Applicability.** “**Applicability**” shall mean that this subchapter is applicable to all entities of the Muscogee (Creek) Nation and any partners, associations, individuals, etc. who are working with or on behalf of the government.

Added by NCA 09-040, § 1, approved Aug. 5, 2009.

§ 6-103. General provisions

The government of the Muscogee (Creek) Nation shall take the initiative to find ways to limit waste, conserve energy, and use recycled materials when available. This subchapter shall be deemed to be applicable to all processes associated with the day to day functions of the Muscogee (Creek) Nation government and those entities or individuals working for or on behalf of the Nation. These processes should be used in conjunction with subchapter 5 “Recycle Initiative” of this title. These processes include but are not limited to:

A. Office paper procedures:

1. Use electronic media to transmit internal governmental memorandums, orders, correspondence, etc. as applicable;
2. Use recycled copy paper;
3. Refill ink cartridges;
4. Use electronic order processing, purchase orders, acknowledgments, etc. where available instead of fax machines;
5. Use electronic payment options as available instead of check;

B. Office environment:

1. Turn off computers and other electronic equipment at the end of each day or between uses;
2. Turn off lights when not in use;
3. Set thermostats to optimal use levels;

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4. Close doors and windows when not in use;

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]

CHAPTER 7. SOLID WASTE

Subchapter

1. Purpose; Definitions; General Provisions

SUBCHAPTER 1. PURPOSE; DEFINITIONS; GENERAL PROVISIONS

Section

- 7-101. Purpose.
- 7-102. Authority of the Office of Environmental Services.
- 7-103. Definitions.
- 7-104. Solid waste general provisions.

§ 7-101. Purpose

A. The Muscogee (Creek) Nation declares it to be the policy of the Nation that solid waste generated on lands under the Nation's jurisdiction or solid waste that is imported onto the lands of the Nation shall be treated, stored and disposed of so as to minimize the present and future threat to human health and the environment, and that pollution prevention, waste reduction and recycling shall be encouraged.

B. The purpose of this subchapter is to establish solid waste laws and provisions necessary to promulgate rules and regulations in regards to a Solid Waste Code. These provisions are written to regulate the collections, transportation, and processing of solid waste that will:

1. Protect the public health, safety and welfare;
2. Protect the environment of the Muscogee (Creek) Nation;
3. Conserve the valuable land and other natural resources;
4. Enhance the beauty and quality of the environment; and
5. Encourage recycling of solid waste as defined in the recycling chapter of this title.

Added by NCA 09-040, § 1, approved Aug. 5, 2009.

§ 7-102. Authority of the Office of Environmental Services

A. It shall be the authority of the Office of Environmental Services to promulgate rules, regulations and permitting processes and issues when necessary to:

1. Establish requirements for disposal, transfer, transport, treatment and storage of solid waste in ways that ensure public safety and protection of the environment to the greatest extent possible;
2. Require methods of pollution prevention, waste reduction, conservation, avoidance or mitigation of impacts not inconsistent with this title;

3. Set-up of processes and procedures for the sampling and submission of environmental impact statements that will be in compliance with this title and the subchapters herein;
4. Promulgate rules that address the transportation of solid waste. Such rules shall not be less stringent than those of the United States Department of Transportation or the Interstate Commerce Commission;
5. Regulating borrow and storage areas for soils and storage of chemicals including but not limited to cleaning materials and other toxins;
6. Developing comprehensive solid waste management rules and best management practices not inconsistent with this title;
7. Oversee development of an integrated solid waste management plan with input from the public, other Tribes, municipalities, county governments and regional solid waste planning management entities;
8. Establish administrative permits and enforcement procedures;
9. Establish standards and requirements for the remediation of groundwater, surface waters, or contaminated soils resulting from releases, spills or other activities;
10. Enforcing the applicable provisions of federal laws and regulation including but not limited to those related to landfills in compliance with 40 C.F.R. Part 258.
11. The rules and regulations authorized by this section shall be in compliance with Title 40's Chapter 5 entitled "Recycling Initiative".

Added by NCA 09–040, § 1, approved Aug. 5, 2009.

§ 7–103. Definitions

The following definitions shall be used in conjunction with this subchapter for the purposes of this title.

A. Affiliated person. "Affiliated person" shall mean any officer, director, partner or sole proprietor or any employee of this Nation. Additionally, affiliated person can be any person who is a general or key manager or who directs operations at the site of any Muscogee (Creek) Nation entity or any person who controls more than five percent (5%) of an applicant's debt or equity.

B. Disclosure statement. "Disclosure statement" means a written statement by the applicant wishing to discard or carry solid waste which shall contain:

1. the full name, business address, and social security or federal employment identification number of the applicant, business or all affiliated persons;
2. the full name and business address of any legal entity in which the applicant holds a debt or equity interest of at least ten percent (10%) or which is a parent company or subsidiary of the applicant and a description of the ongoing organizational relationships as they impact operations;
3. a description of the experience and credentials of the applicant, including any past or present permits, licenses, certifications, or operational authorizations;

4. a listing and explanation of any administrative, civil or criminal legal actions against the applicant and or any affiliated persons in the ten (10) years immediately preceding the filing of the application. Such action shall include without limitations any permit denial or sanction imposed by a Tribe, municipality, city, state regulatory agency or the United States Environmental Protection Agency; and

5. a listing of any other Tribe, federal and state environmental agency that has or has had regulatory responsibility over the applicant.

C. Disposal site. “**Disposal site**” shall mean any place, including but not limited to, landfills, transfer stations, surface disposal sites, and burial areas at which solid waste is dumped, abandoned or accepted or disposed of by incineration, land fills, land application, composting, shredding, compaction, bailing or any other method, or by processing by pyrolysis, resource recover or any other method, technique or process designed to change the physical, chemical or biological character or composition of any solid waste so as to render such waste safe or nonhazardous, amenable to transport, recover or storage or reduced in volume.

D. Dwelling. “**Dwelling**” means a permanently-constructed, habitable structure designed and constructed for full or part-time occupancy in all weather conditions, which is not readily mobile. The term shall include but is not limited to traditional housing, manufactured homes, or other habitable dwellings such as apartments or condominiums;

E. Final closure. “**Final closure**” means those measures for providing final capping material, proper drainage, perennial vegetative cover, maintenance, monitoring and other closures actions required for statute, rule permit or order;

F. Inert waste. “**Inert waste**” means any solid waste that is insoluble in water, chemically inactive, that will not leach contaminants or is commonly found as a significant percentage of residential waste;

G. History of noncompliance. “**History of noncompliance**” means an past operations by an applicant or affiliated person which clearly indicate a reckless disregard for environmental regulation, or a demonstrated patter of prohibited conduct which could reasonably expected to result in adverse environmental impact if a permit were issued;

H. Solid waste. “**Solid waste**” means all putrescible and non-putrescible refuse in solid, semisolid, or liquid form or contained gaseous material, including but not limited to garbage, rubbish, ashes or incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, solid or semisolid commercial and industrial waste including explosives, biomedical wastes, mining wastes, herbicides and pesticide wastes.

I. Solid waste landfill. “**Solid waste landfill**” means but is not limited to municipal solid waste landfills as defined in the federal or state regulations;

J. Solid waste management system. “**Solid waste management system**” means the system that shall be developed by the Office of Environmental Services of the Muscogee (Creek) Nation for the purposes of collection, disposal

of solid waste by any person engaging in such processes as a business, individual, municipality, authority, trust, county, or any combination thereof;

K. Transfer station. “**Transfer station**” means any disposal site, processing facility or other place where solid waste is transferred from a vehicle or container to another vehicle or container for transport, including but not limited to railroad, barge, truck, or other unloading facility. It does not include;

1. a facility such as an apartment complex or manufacturing plant where solid waste that is transferred has been generated by the occupants, residents or facility functions;
2. a citizen collection station; or
3. a solid waste collection system which leaves the waste in enclosed containers along the collection route for later transport; and

L. Waste reduction. “**Waste reduction**” means to reduce the volume of waste being generated and/or requiring disposal.

Added by NCA 09-040, § 1, approved Aug. 5, 2009.

§ 7-104. Solid waste general provisions

The Muscogee (Creek) Nation National Council recognizes that it is necessary for the public safety, health, interest and economic welfare to encourage and promote the recycling and reuse of recoverable materials. The recycling and recovering of materials can substantially reduce production and disposal costs, save Tribal lands conserve natural resources and protect the environment. It is therefore declared and the National Council authorizes the Office of Environmental Services shall further this goal by promulgating rules and regulations in compliance with this title and this subchapter.

[Added by NCA 09-040, § 1, approved Aug. 5, 2009.]