



BLACKFEET NATION

P.O. BOX 850, BROWNING, MONTANA 59417
(406) 338-7521 FAX (406) 338-7530

EXECUTIVE COMMITTEE

Harry Barnes – Chairman
Terry J. Tatsey – Vice-Chairman
Tyson T. Running Wolf – Secretary
Tinsuwella Bird Rattler - Treasurer

BLACKFEET TRIBAL BUSINESS COUNCIL

Timothy Davis
Harry Barnes
Joseph “Joe” McKay
Nelse St. Goddard
Terry J. Tatsey
Tyson T. Running Wolf
Carl D. Kipp
Ilf “Scott” Kipp, Sr.
Roland Kennerly, Jr.

RESOLUTION

No. _____

WHEREAS, The Blackfeet Tribal Business Council is the duly constituted governing body within the exterior boundaries of the Blackfeet Indian Reservation, and

WHEREAS, The Blackfeet Tribal Business Council has been organized to represent, develop, protect and advance the views, interest, education and resources of the Blackfeet Indian Reservation, and

WHEREAS, Pursuant to the Blackfeet Tribal Constitution, Article VI, Section 1(k) the Blackfeet Tribal Business Council has the authority to promulgate ordinances for the purposes of safeguarding the peace and safety of the resident of the Blackfeet Indian Reservation, and

WHEREAS, Fire Prevention is a critical concern to the Blackfeet Tribe. The Blackfeet Tribal Business Council is determined to eliminate unplanned man caused fires, and the open burning of dangerous materials, hazardous, waste, log, brush, vegetation refuse and all other combustible materials on the Blackfeet Indian Reservation, which jeopardizes the safety, health and welfare of tribal members and visitors to the reservation, and

WHEREAS, The Blackfeet Tribal Business Council has reviewed the proposed Blackfeet Air Quality Open Burning Code which was submitted by the Blackfeet Air Quality Program for review and approval, now

THEREFORE BE IT RESOLVED AS FOLLOWS:

1. That the Blackfeet Tribal Business Council hereby adopts the Blackfeet Air Quality Open Burning Code and directs that the Blackfeet Air Quality Program administer and carry out the enforcement of the Code.

2. In addition to the adoption of the Code, the Blackfeet Tribal Business Council hereby implements the following policies:
 - A. For any open burning, a permit will be required unless the Blackfeet Fire Management Department rescinds this requirement. These permits can be obtained from the Blackfeet Fire Management Department.
 - B. Any person or persons who shall start a fire without first obtaining permit from the Blackfeet Fire Management Department will be warned the first time. A second offense, the person or persons will be in violation of the Air Quality and Open Burning Code.
 - C. Any person or persons who shall intentionally or negligently set a fire and fail to properly control it, or extinguish will be charged pursuant to the Air Quality and Open Burning Code. Penalties are spelled out in Section AQ 115.
 - D. The parent or guardian of any minor child found to have started a wild land fire shall be subject to a civil penalty to cover the cost of suppressing the fire and the damage to the land.

ATTEST:

THE BLACKFEET TRIBE OF THE
BLACKFEET INDIAN RESERVATION

 TYSON T. RUNNING WOLF
 Secretary

 HARRY BARNES
 Chairman

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Blackfeet Tribal Business Council in a duly called, noticed and convened _____Session assembled the ____ day of _____, 2017, with _____ () members present to constitute a quorum and with a vote of _____ members FOR, _____ OPPOSED and _____ ABSTAINING.

(corporate seal)

 TYSON T. RUNNING WOLF
 Secretary

THE BLACKFEET TRIBE



BLACKFEET AIR QUALITY PROGRAM OPEN BURNING CODES



BLACKFEET ENVIRONMENTAL OFFICE

PO BOX 2029, BROWNING, MONTANA 59417
PHONE: 406-338-7421, FAX: 406-338-7451

BLACKFEET AIR QUALITY PROGRAM

OPEN BURNING CODE

A code authorizing, directing, and regulating the open burning practices, the enforcement of necessary and proper regulations for the management of open burning and for other purposes.

SECTION 1: SHORT TITLE

This code shall be known and may be cited as the “Air Quality Open Burning Policies of the Blackfeet Tribe”.

SECTION 2: DECLARATION OF POLICY

It is hereby declared to be the purpose of this code to regulate the open burning practices on the Blackfeet Reservation in order to protect the public safety, health and welfare and to enhance the environment of the Blackfeet Indian Reservation.

SECTION 3: DEFINITIONS

- (1) “Best available control technology” (BACT) means those techniques and methods of controlling emission of pollutants from an existing or proposed open burning source which limit those emissions to the maximum degree which the Blackfeet Air Quality Program (BAQP) determines, on a case-by-case basis, is achievable for the at source, taking into account impacts on energy use, the environment, and the economy, and any other costs, including cost to the source. Such techniques and methods may include the following: scheduling of burning during periods and seasons of good ventilation, applying dispersion forecasts utilizing predictive modeling results performed by and available from the department to minimize smoke impacts, limiting the amount of burning to be performed during any one period of time, using ignition and burning techniques which minimize smoke production, selecting fuel preparation methods that will minimize dirt and moisture content, promoting fuel configurations which create an adequate air to fuel ratio, prioritizing burns as to air quality impact and assigning control techniques accordingly, and promoting alternative treatments and use of materials to be burned. In the case of essential agricultural open burning during September or October, or prescribed wild land opened burning during September, October, or November, BACT includes burning only during the time periods specified by the BAQP, which may be determined by calling 406-338-7421. In the case of wild land open burning during December, January or February, BACT includes burning only during the time periods specified by the BAQP, which may be determined by calling 406-338-7421 / 7422.

- (2) “Essential agricultural open burning” means any open burning conducted on a farm or ranch for the purpose of:
- (a) Eliminating excess vegetative matter from an irrigation ditch where no reasonable alternative method of disposal is available.
 - (b) Eliminating excess vegetative matter from cultivated fields after harvest has been completed when no reasonable alternative method of disposal is available.
 - (c) Improving range conditions when no reasonable alternative methods is available.
 - (d) Improving wildlife habitat when no reasonable alternative method is available.
- (3) “Major open burning source” means any person, agency, institution, business, or industry conducting any open burning which of a reservation wide basis will emit more than 100 tons per calendar year of carbon monoxide or 10 tons per calendar year of any other pollutant regulated under this chapter, except hydrocarbons.
- (4) “Minor open burning source” means any person, agency, institution, business, or industry conducting any open burning which is not a major open burning source.
- (5) “Open burning” means combustion of any material directly in the open air without a receptacle, or in a receptacle other than a furnace, multiple chambered incinerator or wood waster burning, with the exception of small recreational fires, construction site heating devices to warm workers, or safety flares used to dispose of dangerous gases at refineries, gas sweetening plants, or oil and gas wells.
- (6) “Prescribed wild land open burning” means any planned open burning, either deliberately or naturally ignited, which is conducted on forest land or relatively underdeveloped rangeland for the purpose of:
- (a) Improving wildlife habitat.
 - (b) Improving range conditions.
 - (c) Promoting forest regeneration.
 - (d) Reducing fire hazards resulting from forestry practices, including reduction of log deck debris when the log deck is located in close proximity to a timber harvest site.
 - (e) Controlling forest pests and diseases.
 - (f) Promoting any other accepted silvicultural practices.
- (7) “Salvage operation” means any operation conducted in whole or in part for the salvaging or reclaiming of any product or material, with the exception of the silvicultural practice commonly referred to as salvage cut.

- (8) "Trade wastes" means solid liquid, or gaseous material resulting from construction or the operation of any business, trade, industry, or demolition project. Wood product industry wastes such as sawdust, bark, peelings, chips, shavings, and cull wood are considered trade wastes. Trade wastes do not include wastes generally disposed of by essential agricultural open burning and prescribed wild land open burning.
- (9) "Wood waste burner" means a device commonly called a tepee burner, silo, truncated cone, wigwam burner, or other similar burner commonly used by the wood products industry for the disposal of wood.

SECTION AQ 104: PROHIBITED OPEN BURNING

- (1) The BAQP hereby adopts and incorporates by reference 40 Code of Federal Regulations (CFR) Part 261, which identifies and defines hazardous wastes. A copy of 40 CFR Part 261 may be obtained from the Blackfeet Air Quality Program, Blackfeet Environmental Office, PO Box 2029, Browning, Montana 59417.
- (2) The following material may not be disposed of by open burning:
 - (a) Any waste which is moved from the premises where it was generated, including that moved to a solid waste disposal site, except as provided for under the Conditional Air Quality and Emergency Open Burning Permits.
 - (b) Solid wastes.
 - (c) Styrofoam and other plastics.
 - (d) Wastes generating noxious odors.
 - (e) Wood or wood by-products other than trade wastes, such as papers, cardboard, or tree limbs unless a public or private garbage hauler, or rural container system, is unavailable.
 - (f) Poultry litter.
 - (g) Animal droppings.
 - (h) Dead animals or dead animal parts.
 - (i) Tires.
 - (j) Rubber materials
 - (k) Asphalt shingles, except as provided under Firefighter Training.
 - (l) Tar paper, except as provided under Firefighter Training.
 - (m) Automobile bodies and interiors, except as provided under Firefighter training.

- (n) Insulated wire, except as provided under Firefighter training.
- (o) Oil or petroleum products, except as provided under Firefighter Training.
- (p) Treated lumber and timbers including creosote-treated wood products.
- (q) Pathogenic wastes.
- (r) Hazardous wastes as defined by 40 CFR Part 261.
- (s) Trade wastes, except as provided under Conditional Air Quality and/or Emergency Open Burning Permits.
- (t) Any materials resulting from a salvage operation.
- (u) Any chemicals.

SECTION AQ 105: MINOR OPEN BURNING SOURCE REQUIREMENTS

A minor open burning source need not obtain an air quality open burning source permit, but must:

- (1) Comply with all rules herein, with the exception of Major Open Burning Source Restrictions.
- (2) Comply with any requirements or regulations relating to open burning established by any agency of local government, and/or any other tribal or federal agency responsible for protecting public health and welfare.
- (3) If it desires to conduct essential agricultural open burning during September or October or prescribed wild land open burning during September, October or November, adhere to the time periods set for burning by the BAQP.
- (4) If it desires to conduct prescribed wild land open burning during December, January, or February, adhere to the time periods set for burning by the BAQP.

SECTION AQ 106: SPECIAL BURNING PERIODS

- (1) Utilize best available control technology.
- (2) Prior to open burning, submit an application to the BAQP for an air quality open burning permit. The application must contain the following:
 - (a) A legal description of each planned site of open burning or a detailed map showing the location of each planned site of open burning.
 - (b) The elevation of each planned site of open burning.
 - (c) The method of burning to be utilized at each planned site of open burning.

- (d) The average fuel loading or total fuel loading at each site to be burned.
- (3) Receive and adhere to the conditions in any air quality open burning permit issued to it by the BAQP, which will be in effect for one year from its date of issuance.
- (4) In order to open burn in a manner other than that described in the application for an air quality open burn permit, submit to the BAQP in writing or by telephone, a request for a change in the permit, including the information required by section (3) above, and receive approval from the BAQP.

SECTION AQ 107: SPECIAL BURNING PERIODS

- (1) Essential agricultural open burning may be conducted only during the months of March through October.
- (2) Prescribed wild land open burning, open burning performed to train firefighters, and open burning authorized under the emergency open burning permit provisions set forth may be conducted during the entire year.
- (3) Open burning other than those categories listed in sections (1) and (2) above may be conducted only during the months of March through August.

SECTION AQ 108: FIREFIGHTER TRAINING

- (1) Asphalt shingles, tar paper, or insulated wire which is part of a building, and oil or petroleum products may be burned in the open for the purpose of training firefighters, if the fire is restricted to a building or structure or a permanent training facility, in a site other than a solid waste disposal site, and if the material to be burned is not allowed to smolder after the training session has terminated, and no public nuisance is created.

SECTION AQ 109: CONDITIONAL AIR QUALITY OPEN BURNING PERMITS

- (1) The BAQP may issue a conditional air quality open burning permit for the disposal of:
 - (a) Wood and wood by-product trade wastes by any business, trade, industry, or demolition project if it determines that:
 - (i) Open burning constitutes BACT; and
 - (ii) Emissions from such open burning do not endanger public health and welfare or cause a violation of any BAQP or federal ambient air quality standard; and
 - (iii) Prior to issuance of the conditional air quality open burning permit, the wood waste pile is inspected by the BAQP or its designated representative and no prohibited materials listed under the

Prohibited Open Burning section, other than wood waste, are present.

- (2) An air quality open burning permit issued under this rule is valid for the following periods:
 - (a) Wood and wood by-product trade waste, a new permit must be obtained for each burn.
 - (b) Untreated wood waste at licensed landfill sites single burn, a new permit must be obtained for each burn.
- (3) The BAQP may place any reasonable requirements in a conditional air quality open burning permit that it determines will reduce emissions of air pollutants or will minimize the impact of said emissions, and the recipient of such a permit must adhere to those conditions. In the case of a permit granted pursuant to subsection (1)(a) above, BACT for the year covered by the permit will be set out within the terms of the permit, with the provision that the source may be required, prior to each burn, to receive approval from the BAQP of the date of the proposed burn to ensure that good ventilation exists and to assign properties of other sources in the area request to burn on the same day.
- (4) An application for a conditional air quality burning permit must be made on a form provided by the BAQP. The applicant must provide adequate information to enable the BAQP to determine that the application satisfies the requirements for a conditional air quality open burning permit contained in this rule. Proof of publication of public notice, as required subsection (5) of this rule, shall be submitted to the BAQP as part of any application, consistent with this rule.
- (5) The applicant for a conditional air quality open burning permit shall notify the public of its application for permit by means of legal publication in a newspaper of general circulation in the area affected by the application. The notice shall be made not sooner than 10 days prior to submittal of an application and not later than 10 days after submittal of an application. Form of the notice shall be provided by the BAQP and shall include a statement that public comments may be submitted to the BAQP concerning the application within 20 days after publication of notice or file in to the application, whichever is later.
- (6) A conditional air quality open burning permit granted pursuant to subsection (1)(a) above is a temporary measure to allow time for the entity generating the trade wastes to develop alternative means of disposal.
- (7) The BAQP must be reasonable when determining whether open burning constitutes BACT under subsection (1)(a)(i) and (1)(c)(ii) above.
- (8) When the BAQP approves or denies the application for a permit under this rule, a person who is jointly or severally adversely affected by the BAQP decision may request, within 15 days after the BAQP renders its decisions, upon affidavit setting forth the grounds therefore, a hearing before the board. The BAQP decision on the

application is not final unless 15 days have elapsed and there is no request for a hearing under this section. The filing of a request for a hearing postpones the effective date of the BAQP's decision until the conclusion of the hearing and issuance of a final decision by the board.

SECTION AQ 110: EMERGENCY OPEN BURNING PERMITS

- (1) The BAQP may issue an emergency air quality open burning permit to allow burning of a substance not otherwise approved for burning under this subchapter if the applicant demonstrates that the substance sought to be burned poses an immediate threat to public health safety, or plant or animal life, and that no alternative method of disposal is reasonable available.
- (2) Application for such a permit may be made to the BAQP by telephone 406-338-7421 / 7422 or in writing, and must include:
 - (a) Evidence why alternative methods of disposing of the substance are not reasonably available;
 - (b) Facts establishing the substance to be burned poses an immediate threat to human health safety or plant or animal life;
 - (c) The legal description or address of the site where the burn will occur;
 - (d) The amount of material to be burned; and
 - (e) The date and time of the proposed burn.

SECTION AQ 111: GENERAL BURNING PERMITS

Burning permits must be obtained from the Bureau of Indian Affairs, Forestry Department, prior to burning. The BIA Forestry shall consult and coordinate with the Blackfeet Air Quality Program while developing and issuing permits.

SECTION AQ 112: PROMULGATE RULES AND REGULATIONS

Pursuant to this code, the Blackfeet Tribal Business Council shall promulgate such rules and regulation as necessary and feasible for the protection of the Blackfeet Reservation Environment.

SECTION AQ 113: DELEGATION OF AUTHORITY

The Council shall delegate administrative and enforcement authority to carry out the provisions of this code to the BAQP.

SECTION AQ 114: ENFORCEMENT AGENCY

The BAQP shall be responsible for the enforcement of these codes and any rules or regulations authorized in section AQ 112.

SECTION AQ 115: PENALTIES

Any person(s) who violates or fails to comply with any provision of this code or any amendments to this code, is liable for a civil penalty and in the case of approve activates, revocation or suspension of activities.

- (a) Any person(s) violating any provisions of this code shall be subject to a penalty of not less than fifty (\$50.00) or more than five thousand dollars (\$5,000.00), and in addition to any suppression or clean-up costs.
- (b) All fines must be paid at time of assessment.