



REQUEST FOR PROPOSALS

Request for Proposals for Ordinance and Brownfields Response Manual Development and Clean Up Levels Determination

The Bay Mills Indian Community is seeking proposals from qualified individuals and firms to develop Tribal Response Program ordinances, manuals, documents and determine tribe-approved clean up levels for environmental response activities.

Background:

Bay Mills Indian Community (BMIC) will be utilizing Environmental Protection Agency (EPA) CERCLA 128(a) funding to work with a firm to develop a Hazardous Substance Control ordinance, complete a Solid Waste Ordinance (currently in draft form), develop a Brownfields Response Manual, and provide technical assistance with determining clean up levels for groundwater, soil and sediment for environmental clean up activities. Review of current ordinances and integration of new ordinances into existing ordinances and codes will be an important component of this project.

BMIC is a federally recognized Native American Tribe located in the Eastern Upper Peninsula of Michigan on the shores of Lake Superior. The people of Bay Mills are Ojibwa (or Chippewa), and they have resided in this area for hundreds of years. BMIC was granted a federal Corporate Charter pursuant to Section 16 of the Indian Reorganization Act on June 18, 1934. BMIC is one of the four (4) original reservations established in Michigan. BMIC consists of 3,870 acres with two (2) separate inhabited reservation areas, approximately 25 miles apart, with a service district that includes Chippewa, Luce, and Mackinac Counties.

BMIC initiated a Tribal Response Program (TRP) in 2019 when a spill occurred on tribal Trust land. Since then the program has grown and evolved, and a legal framework and due process of law is needed from which to operate the program.

Scope Of Work:

The successful Proposer shall perform the tasks listed below for the project and shall work closely with designated personnel to accomplish these goals:

- Review of current ordinances for integration of new ordinances being developed
- Develop Hazardous Substance Control Ordinance (HSCO)
- Complete Solid Waste Ordinance (attached)
- Develop Brownfield Response Manual including templates of documents and checklists for managing a TRP
- Determine clean up levels for soil, groundwater and sediment for inclusion in HSCO
- Consultation on all aspects of this project with TRP staff, BMIC Legal Team and Executive Council which may include up to nine monthly meetings and up to two presentations to Executive Council. All meetings and presentations will occur virtually.

Proposals to assist with these services must be submitted to Bay Mills Tribal Administration by December 20, 2025, 12:00 pm EST.

Please email proposals in PDF format to Jennifer Satchell at jmsatchell@baymills.org. Proposals received after the deadline will not be accepted. Please contact Jennifer Satchell via email or at (906) 248-8655 with any questions regarding this Request for Proposals or any of the requirements outlined in the scope of work to be completed.

Proposal Requirements:

1. Cover letter
2. Resumes and/or Biographies: Please include resumes and/or bios of key principals and individuals overseeing or involved with this project.
3. Description of Experience:
 - a. Please describe the firm's general experience, including the number of years the firm has been in operation.
 - b. Please describe the firm's experience providing legal services for ordinance development, brownfields response programs, and determining clean up levels.
 - c. Description of experience in Indian Country: Please describe any relevant experience of the firm, involved principals, and any assigned staff in projects located on Native American land.
4. Associations: Please describe any associations with other firms or any form of subcontracting planned for the project. Please include pertinent information as to subcontracted firms.
5. Certifications and Licenses: Please include a copy of any pertinent licenses or certifications.
6. References: Please include a minimum of three (3) references that the BMIC can contact.
7. Disclosure of Claims/Conflicts: Please provide a summary of any litigation over the past five years (including those that are currently active) that concerned any individuals who will be assigned to this project. Summary should include any decision issued by any court or arbitration proceeding against any individuals who will be assigned to this project. If no such claim or decision exists, please include in your Proposal an affirmative statement to that effect.
8. Please also identify any current or anticipated client relationship that could present a conflict of interest with regard to matters that may be materially related to the Bay Mills Indian Community. If no such client relationship exists, please include a statement of no current or pending engagement that would present a conflict with the Bay Mills Indian Community.
9. Methodology: Please provide an explanation of the methodology for all services.
10. Cost proposal: Please detail all costs required to assist with these services and the required timelines for payments.

11. Native American Preference (Optional): Please provide any evidence to demonstrate that the firm is a qualified, Indian-owned enterprise, with at least 51% active ownership by a member of a federally recognized Indian tribe.

Project Award Rubric:

	Score Received: 1-5	Weight	Weighted Scores
Demonstrated experience with environmental sustainability studies		20%	0.00
Approach to successfully complete each deliverable		20%	0.00
Qualifications- identification of key personnel and experience/capability		15%	0.00
Schedule- timeliness and value for money		15%	0.00
Cost- reasonableness of rate schedule and within grant budget		25%	0.00
Native American Preference		5%	0.00
Total	0	100%	0.00

Ratings:	
Clearly Outstanding-Above and Beyond Expectations	5
Well qualified	4
Average	3
Weak	2
Unsatisfactory	1
Insufficient Response	0

The Tribe, at its sole discretion, may elect to interview the selected firm(s). If a firm is requested to take part in an interview (via Tribal arranged remote means), the key proposed project staff will be expected to take part. The interview will be an opportunity for the Tribe’s selection team to review the firm’s proposal and other matters deemed relevant to the evaluation.

Compensation

The proposal should provide a cost for all work associated with the provision of these services. The final cost of services may be negotiated before the award contract.

Timeline:

November 21, 2024	RFP materials e-mailed to potential Respondents from BMIC list and posted on the BMIC website.
December 11, 2024	RFP questions received no later than 12:00pm EST
December 20, 2024	Proposals received by BMIC no later than 12:00pm EST
January 17, 2025	Intent to Award sent to final selection

Additional Information and Attachments:

Codes & Ordinance: <https://baymillstribalcourt.org/codes-ordinances/>
Draft Solid Waste Ordinance

Bay Mills Indian Community

DRAFT Solid and Hazardous Waste Ordinance

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CHAPTER 1. GENERAL PROVISIONS

1.01 Inherent Tribal Authority

Bay Mills Indian Community has inherent power as a sovereign government to manage and regulate the storage, collection, transportation, handling, treatment, and disposal of solid and hazardous waste on Tribal land.

1.02 Purpose

The purpose of this ordinance is to preserve the environment, economy, and public health of the Tribe for the next seven generations. The Tribe seeks to protect the air, water, and land from solid and hazardous waste pollution and to target, curtail, and control pollution within its territory, including solid and hazardous waste dumping. The Tribe also seeks to encourage recycling and participation in special waste collection events.

1.03 Jurisdiction

The Tribe and the Tribal Court are vested with the fullest personal, subject matter, and territorial jurisdiction permissible under applicable law in the implementation of this ordinance. This ordinance shall apply to the conduct of all persons within Tribal lands and shall apply equally to Tribal departments.

1.04 Severability

If any provision of this ordinance, or any application of its provisions to any person or circumstance, is held invalid, the remaining provisions or applications shall not be affected and shall remain in effect and enforceable.

1.05 Sovereign Immunity

Nothing in this ordinance shall be construed as a waiver of the sovereign immunity of the Tribe, its officers, or its businesses. Sovereign immunity is waived only if the Tribe, its officers, or its businesses specifically and formally waive immunity.

1.06 Definitions

The following definitions shall apply:

Abandoned Mobile Home or Trailer means a structure that is unsafe, unfit for habitation, junked, partially dis-assembled, wrecked, or non-operative for more than one hundred and eighty (180) days.

Abandoned Vehicle means a car, truck, all-terrain vehicle, motorcycle, boat, RV, tractor, or other motorized vehicle or vessel that is no longer registered, or no longer licensed, or has been inoperable for longer than ninety (90) days.

Brownfield means a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant

Bulky Waste means large, bulky items of refuse, such as appliances, car bodies, construction and demolition material, furniture, mattresses, trees and stumps, white goods, and other oversized wastes which cannot be handled by normal solid waste processing, collection, and disposal methods.

Contaminants means either a biological, chemical, physical or radiological substance that becomes harmful for humans or living organisms, when accidentally or deliberately introduced to air, water, soil or food.

Cultural Resources means movable or immovable objects, artifacts, sites, structures, canals, features and landscapes that have archaeological, paleontological, historical, architectural, religious, ceremonial, aesthetic, or other cultural significance, whether located above or below ground, or under water.

Disposal means the discharge, abandonment, deposit, injection, dumping, spilling, leaking, or placing of any solid, hazardous, or bulky waste into or on any soil, air, or water, regardless of whether such disposal is in accordance with this ordinance.

Electronic waste/e-waste or universal waste includes but is not limited to:

- a. Common batteries (AA, AAA, C cells, D cells, 9 Volt and button batteries). *These may contain a corrosive chemical that can cause burns or toxic heavy metals like cadmium.*
- b. Fluorescent tubes and bulbs and other mercury-containing lamps. *These may contain mercury vapor that may be released into the environment when broken.*
- c. Electronic devices such as televisions and computer monitors, computers, printers, VCRs, cell phones, telephones, radios and microwave ovens. *These devices may contain heavy metals like lead, cadmium, copper and chromium.*
- d. Mercury containing devices such as light bulbs, thermostats, switches, thermometers, dental amalgam, pressure and vacuum gauges, novelty items, counterweights and dampers, certain rubber flooring and gas flow regulators. Non-empty aerosol cans that contain hazardous materials.
- e. Many products in aerosol cans are toxic and many aerosol cans contain flammables, like butane, as propellants for products like paint.

Environmentally Preferable Products are products that have a lesser or reduced negative effect on human health and the environment when compared with competing products that serve the same purpose. This comparison may consider raw material acquisition production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product of service.

Facility means any physical building/compound, department building or business on the Reservation.

Green Waste also called agricultural waste is biodegradable waste that can be composed of garden or park waste, such as grass or flower cuttings and hedge trimmings, as well as domestic and commercial food waste.

Hazardous Waste has the meaning established by the United States Environmental Protection Agency, including waste with properties that make it dangerous or capable of having a harmful effect on human health or the environment.

Household Hazardous Waste has the meaning established by the United States Environmental Protection Agency, including waste generated by the normal activities of households that is toxic, corrosive, or ignitable.

Landfill means any discrete area of land or an excavation where solid waste is disposed via confinement with adequate controls to restrict access to or movement of such waste.

Littering means the open dumping of any small amount (less than five pounds) of solid waste, such as by discarding restaurant waste from a car window.

Natural resources include but is not limited to land (surface and subsurface), fish, wildlife, biota, air, surface water, groundwater, drinking water supplies and any other resource owned, managed, held in trust for, or controlled by Bay Mills Indian Community.

Open Burning means any burning conducted in such a manner that combustion air is not effectively controlled and that combustion products are not vented through a stack or chimney, including but not limited to burning conducted in open outdoor fires, common burn barrels, and backyard incinerators.

Open Dumping means the depositing of solid waste or hazardous waste at any facility or site which is not a sanitary landfill or waste transfer station, or depositing solid waste and hazardous waste outside of hours of operation at a landfill or waste transfer station.

Person means any public or private corporation, company, partnership, firm, association or society of persons, or other legal entity, including governmental entities, as well as a natural person.

Pollution means the unauthorized disposal of any solid waste or hazardous waste into the air, land (surface and subsurface), surface water or groundwater.

Public Nuisance means a condition that occurs because of unreasonable handling, treatment, composting, or disposal of solid waste, which causes one or more of the following: (1) affects human health or safety; (2) interference with the comfortable enjoyment of life or property; (3) indecent or offensive effects to the senses of a community or neighborhood.

Reservation means all the lands within the exterior boundaries of the Bay Mills Indian Reservation as presently defined or modified in the future. This Ordinance applies to the Tribe's Reservation and its Tribal Trust Resources.

Recycling means the process of sorting, cleansing, treating, and reconstituting solid waste or other discarded materials in order to prepare the altered form for use.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of solid waste, oil, or hazardous substances into the environment. The term "release" also includes, but is not limited to the abandonment or disposal of waste or the abandonment or discarding of barrels, containers and other receptacles containing any hazardous substance, oil or threat thereof.

Removal means the cleanup or removal of solid waste, oil or a hazardous substance from a facility or the environment to address an immediately apparent threat to public health, safety, welfare, or the environment. It shall also mean the disposal of removed material, or the taking of such other actions as may be necessary to prevent, minimize or mitigate damage to the public health, safety, welfare or to the environment, that may otherwise result from a release or threat of release.

Response Action means to clean up hazardous substances at a site that presents an imminent threat to human health and the environment.

Solid Waste means any discarded material such as garbage or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material resulting from industrial, commercial, mining, agricultural operations, and community activities.

Storage means the confining, containing, holding, or stockpiling of solid waste for a limited period of time prior to collection, treatment, transportation, use, processing, recovery, or final disposal.

SWMP means the Tribal Solid Waste Management Plan which was adopted in May 2021. The SWMP was written by Inter-Tribal Council of Michigan and adopted by the Tribal Council as guidance for solid waste management on the Reservation. This Ordinance enforces the SWMP.

Toxic Waste means waste material that can cause death, injury or birth defects to living creatures or may cause environmental contamination leading to adverse effects.

Transfer Station means a site approved by the Tribe for the collection and/or disposal of solid waste. A transfer station may be fixed or mobile.

Tribal Council means the governing body of Bay Mills Indian Community.

Tribal Court means the Bay Mills Indian Community Tribal Court.

Tribal Lands means all lands under the jurisdiction of Bay Mills Indian Community.

Universal Waste means batteries, pesticides, mercury-containing equipment, and bulbs (lamps). See Electronic waste definition.

Waste means any substance which is discarded after primary use, or is worthless, defective and of no use; solid waste and hazardous waste.

White Goods means refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, clothes dryers, and other similar domestic and commercial large appliances.

1.07 Applicability

This ordinance shall be applicable to any person on Tribal lands. Any person who has generated, transported, or received, or by contract or agreement arranged for the recovery, transport, or disposal of any solid or hazardous waste shall be responsible for the proper storage, removal, transport, and disposal of such waste at a transfer station, permitted landfill, or other approved site.

1.08 Authority to Administer

Bay Mills Indian Community Administration and the Solid Waste Committee shall be the primary entities tasked with administering this Ordinance. Those departments, along with the Bay Mills Police Department and Conservation department, will be empowered to enforce the Ordinance.

1.09 Compliance with other Laws

Compliance with this Ordinance does not exempt the need to comply with other Tribal, local, state, and federal laws. Violations of this ordinance may have additional penalties under other laws.

CHAPTER 2. PROHIBITED ORDINANCES

2.01 Open Dumping

Open dumping is prohibited under this Ordinance. A person guilty of open dumping may also be subject to additional criminal penalties under § 625 of the criminal code, and criminal penalties may apply to a person guilty of dumping.

2.02 Littering

Littering is prohibited under this Ordinance. A person guilty of littering may also be subject to additional criminal penalties under § 625 of the criminal code, and criminal penalties may apply to a person guilty of littering.

2.03 Unsecured Load

Any person transporting solid waste shall cover, tie, or otherwise secure the waste so that it will not fall, leak, spill or be blown or dropped from the transport.

2.04 Solid Waste Disposal

Solid Waste generated on the Reservation shall be deposited at a waste disposal facility or landfill regulated by the jurisdictional authority of that facility in accordance with applicable federal, Tribal, state, or county laws.

The occupant of a premise shall be responsible for disposing of the wastes in a timely manner, not to exceed fourteen (14) days.

It shall be unlawful to leave, dispose, deposit, burn or dump Solid Waste or Hazardous Waste anywhere within the lands of the Reservation, except at designated collection sites in the manner set forth by the private solid waste collector or the Tribe.

2.05 Profiting from or Allowing Open Dumping

Knowingly accommodating open dumping on Tribal lands and/or receiving payment for such accommodations is prohibited.

2.06 Improper Disposal of Hazardous Waste

Disposing of hazardous waste anywhere on Tribal lands other than an authorized hazardous waste facility or collection event is prohibited. This prohibition also applies to household hazardous waste, which may be lawfully disposed of at a solid waste facility during authorized collection events.

2.07 Open Burning

Open burning should follow State regulations. Burn permits should be obtained through the Michigan Department of Natural Resources. Burning of demolition debris, construction materials, automotive parts, or household trash that contains plastic, rubber, foam, chemically treated wood, textiles, electronics, chemicals or hazardous materials is prohibited.

Burning of refuse in burn barrels is prohibited.

2.08 Improper Storage

It shall be unlawful for any person or department to store solid waste in a manner that creates a public nuisance. Outside storage of solid waste must be in durable, water tight, rust-resistant, rodent proof, and easily cleanable bins, trash cans or containers with a close fitting and insect protective tight cover. Containers shall be maintained in such a manner as to prevent the creation of a nuisance or menace to the public health. The containers and their storage are to be maintained in a clean orderly condition. Containers

that are broken or otherwise fail to meet the requirements shall be replaced with acceptable containers by the person.

2.09 Bulky Waste

Placing, leaving, dumping, or allowing the accumulation of bulky waste in any open and visible location on Tribal lands is prohibited.

2.10 Construction and Demolition Waste

Proper disposal of construction and/or demolition waste shall be arranged prior to conducting such construction and/or demolition activities through a verifiable contract of services with a designated waste disposal service which is licensed in the county where the collection and disposal occurs.

2.11 Abandoned Vehicle

Keeping or storing an abandoned vehicle is prohibited. The Tribe has the authority to enter any Tribal, public, or private property to remove, or cause the removal of, any abandoned vehicle.

2.12 Abandoned Mobile Home or Trailer

Keeping or storing an abandoned building, mobile home or trailer is prohibited.

The Tribe may identify abandoned buildings, mobile homes and trailers and notify the owner of the abandoned mobile home or trailer through written correspondence.

Upon receipt of the correspondence, the owner of an abandoned building, mobile home or trailer shall repair or dispose of the abandoned mobile home or trailer within sixty (60) days.

An owner may petition the Tribe for additional time to repair, or dispose of the abandoned building, mobile or trailer, and the Tribe may grant an additional sixty (60) day period for repair or disposal in its discretion.

If at the end of the period allowed under this section for repair or disposal the abandoned building, mobile home or trailer has not been repaired or disposed of, the Tribe may remove the abandoned building, mobile home or trailer for disposal. The Tribe may recover the costs of disposal from the owner.

2.13 Dead Animals

The bodies of deceased animals shall be disposed of through burial, taken to regional landfill or other method approved by the Tribe.

2.14 Fish Scraps

Fish scraps and bi-catch fish waste should be disposed of through burial, taking to regional landfill or other method approved by the Tribe.

2.15 Medical Waste

Infectious waste from medical, dental, and other clinics on Tribal lands shall be stored in containers with disposable plastic liners with special identification and stored in a manner that is not accessible to the public and in an area that is not harmful to the environment. Medical waste that has edges or projections capable of cutting or piercing the skin (i.e., “sharps”) may not be disposed of on Tribal lands unless they are contained in leak-proof, rigid, puncture-resistant containers such as cartons or metal cans which are taped closed or tightly lidded.

Expired prescriptions from Tribal community members should be disposed of by utilizing the Bay Mills Health Center, Ellen Marsh Memorial Campus pharmacy Medsafe disposal program. Prescription, over the counter and recreational drugs should not be disposed of down drains or toilets.

2.16 Waste Reduction, Reuse, and Recycling Policy

It shall be the policy of the Tribe to require all Tribal departments and businesses to cooperate with waste recycling programs that are available on the Reservation for the purpose of reducing the amount of solid waste sent to landfills, reducing waste disposal costs and conserving natural resources.

Measures to reduce the amount of waste produced should be taken whenever possible, and waste that can be recycled should be recycled. Green procurement purchasing policy should be followed,

2.17 Green Waste Practices

The Tribe encourages the implementation of green waste practices in all facilities on the Reservation. Some green waste practices include but are not limited to: purchase of recycled or reusable materials over one-time-use materials, purchase of environmentally preferable products, and reducing material use where practicable.

2.18 Open Dumping and Release Reporting, Monitoring, and Response

Any dumping or release of solid waste or hazardous waste on Tribal land shall be reported to the Tribe Environmental Coordinator as soon as possible, but within 24 hours of the dumping activity or release. Failing to report such findings, or reporting of misleading or false information, shall subject the responsible party to a civil penalty.

The Tribe or other party designated by the Tribe is authorized to access any site on Tribal land for which there is a reasonable basis to believe there may be a release or threat of release of solid waste or hazardous Waste. The Tribe or designated party is also authorized to undertake investigations, monitoring, sampling, and related activities at the impacted site.

Information related to the release of solid waste or hazardous waste shall be shared with the public unless it qualifies as confidential information.

When there is a release or threat of a release of a pollutant or contaminant, the Tribe may investigate, remove or take remedial action or other response measures to protect public health and the environment. If there is a responsible party, the responsible party must take a response action to remediate the release or make reasonable progress toward an ordered response action. If the responsible party does not comply, the Tribe will hold the party responsible by bringing a suit and/or requiring the party to pay a civil penalty.

The Tribe is authorized to conduct a survey of Brownfield sites and potential Brownfield sites under jurisdiction of the Tribe, prepare an inventory of such sites, and update the inventory at least annually. The Tribe is also authorized to prioritize such sites for cleanup based on specified criteria including the relative risk or danger to the public health, welfare, or the environment; the hazard potential of the hazardous substances or the pollutants or contaminants at such sites; the potential for contamination of drinking water supplies; the potential for direct human contact; and the damage to natural or cultural resources.

The Tribe will publish and periodically update minimum cleanup standards for remedial actions. Tribal cleanup standards shall be maintained and available for review from the Environmental Coordinator. Cleanup standards, at a minimum shall meet State of Michigan Cleanup Criteria Requirements for Response Activity.

CHAPTER 3. ENFORCEMENT

3.01 Enforcement Authority

The Tribe shall have authority to enforce this Ordinance. This authority extends to the enforcement of relevant criminal provisions, including § 625 of the criminal code.

3.02 Evidentiary Presumption

When solid waste is dumped or deposited in violation of this ordinance, in the event there is no other evidence available, if there are two (2) or more items in the waste identifying the same person as the owner or recipient of that item, there shall be a refutable presumption that such person is responsible for the unlawful dumping of the solid waste.

3.03 Enforcement Actions

If the Tribe determines that a violation of this ordinance has occurred, it may:

- (a) Engage the violator through a notice of education or other non-punitive method; or
- (b) Take any of the following civil actions:
 - 1) Issue a warning explaining what violation(s) of the ordinance took place;
 - 2) Issue an order requiring compliance with the ordinance;
 - 3) Issue an order requiring corrective action, which may include clean up or abatement;
 - 4) Issue a fine not to exceed [\$25] per day per violation;
 - 5) Terminate any Tribal contract if related to the violation;
 - 6) Initiate an action against the violator in Tribal Court, state court, or federal court; and
 - 7) Pursue any other lawful action against the violator in order to mitigate the environmental harm caused by the violation(s). This may include a criminal action pursuant to § 625 of the criminal code for unlawful disposal of trash.

3.04 Guidelines for Assessing Penalties

- (a) The Tribe and Tribal Court shall take the following factors into consideration when determining the appropriate civil penalty for a violation of this ordinance:
 - 1) The size of the business or financial resources of the person(s) responsible for the violation;
 - 2) The environmental harm caused by the violation;
 - 3) The economic impact of the penalty on the business or person(s);
 - 4) Whether the Tribe has previously found the violator to have committed a violation of this ordinance;
 - 5) The actual cost of enforcing this ordinance;
 - 6) The actual cost of repairing the damage to the Tribe and to the environmental resources of the Tribe;
 - 7) Whether the violator has attempted to repair the damage caused by the violation(s).

3.05 Notice of Violation—Rescinded

- (a) The Tribe may rescind a notice of violation if the violator:
 - 1) Demonstrates to the satisfaction of the Tribe that no violation(s) occurred; or
 - 2) Demonstrates that the violator has made a good faith effort to abate the harm caused by the violation(s) and the Tribe, in its discretion, finds the violator’s abatement efforts satisfactory.

CHAPTER 4. JUDICIAL REVIEW

4.01 Judicial Review

Any person subject to a civil penalty under Chapter 3 of this Ordinance may seek review of such penalty assessment in Tribal Court by filing a petition for review within 30 days following the date that the penalty becomes final. After a filing, the Tribe shall have 30 days to file in Tribal Court a copy 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 Tribe may seek to recover civil penalties ordered or assessed under this section.