

SISSETON-WAHPETON SIOUX TRIBE

CHAPTER 4

PUBLIC HEALTH LAW

S.W.S.T. CODE
 Amendment
 New Adoption
Judicial Approved
02-06-82
Council Adopted
65-04-72

04-01-01 DECLARATION OF POLICY

It is declared to be the public policy of the Sisseton-Wahpeton Sioux Tribe to maintain reasonable standards of purity of the waters of the Reservation consistent with public health and public enjoyment thereof, the propagation and protection of fish and wildlife, including birds, mammals, and other terrestrial and aquatic life, and the industrial development of the Tribe. To that end, the use of all known available and reasonable methods to prevent and control the pollution of the waters of the Sisseton-Wahpeton Sioux Tribe is required.

04-02-01 WATER POLLUTION CONTROL. STATEMENT OF PURPOSE

It is the purpose of this Article to safeguard the waters of the Reservation from pollution by:

1. Preventing any new pollution; and
2. Abating pollution existing, when this Chapter is enacted, under a program consistent with the Declaration of Policy stated above in the provisions of this article.

04-03-01 DEFINITIONS

When used in this article, the following words and phrases shall have the meanings ascribed to them in this Section.

04-03-02 Person or Persons - Means any individual, public or private corporation, political subdivision, government agency, municipality, industry, co-partnership, association, firm, trust, estate or any other legal entity whatsoever.

04-03-03 Waters or Waters of the Reservation - shall be construed to include lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, within the territorial limits of the Lake Traverse Reservation and all other bodies of surface or underground water, natural or artificial, public or private (except those private waters which do not combine or effect a junction with natural surface or underground water) which are wholly or partially or within or bordering the Reservation within its jurisdiction.

04-03-04 Sewage - means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places together with such ground water infiltration and surface water as may be present. The admixture with sewage as above defined of industrial wastes or other wastes as hereafter defined, shall also be considered sewage within the meaning of this article.

- 04-03-05 **Industrial Waste** - means any liquid, gaseous, solid, or waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business; or from the development or recovery of any natural resources which may cause or might reasonably be expected to cause pollution of the waters of the Reservation in contravention of the standards adopted as provided herein.
- 04-03-06 **Other Waste** - means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, and all other discarded matter not sewage or industrial waste which may cause or might reasonably be expected to cause pollution of the waters of the Reservation in contravention of the standards adopted as provided herein.
- 04-03-07 **Standard or Standards** - means such measure or purity of quality for any waters in relation to their reasonable and necessary use as may be established by the Water Resources Commission pursuant to Section 04-04-01 herein.
- 04-03-08 **Department** - means the Sisseton-Wahpeton Sioux Tribe Department of Health.
- 04-03-09 **Commissioner** - means the Commissioner of Health of the Sisseton-Wahpeton Sioux Tribe.
- 04-03-10 **Sewer System or Sewage System** - means pipe lines or conduits, pumping stations, and force mains, and all other construction, devices and appliances appurtenant thereto, used for conducting sewage, industrial waste or other wastes to a point of ultimate disposal.
- 04-03-11 **Treatment Works** - means any plant, disposal field, lagoon, pumping stations, constructed drainage ditch, or surface water intercepting ditch, incinerator, area devoted to sanitary land fills, or other works not specifically mentioned herein, installed for the purpose of treating, neutralizing, stabilizing, or disposing of sewage, industrial or other wastes.
- 04-03-12 **Disposal System** - means a system for disposing of sewage, industrial waste or other wastes and including sewer systems and treatment works.
- 04-03-13 **Outlet** - means the terminus of a sewer system, or the point of emergence of any waterborne sewage, industrial waste, or other wastes or the effluent therefrom, into the waters of the Reservation.
- 04-04-01 **CLASSIFICATION OF WATERS AND ADOPTION OF STANDARDS BY WATER RESOURCES COMMISSION**
It is recognized that, due to variable factors, no single standard of quality and purity of the waters is applicable to all waters of the Reservation or to different segments of the same waters.

04-04-02 In order to attain the objectives of this article, the Water Resources Commission after proper study, and after conducting public hearing upon due notice, shall group the designated waters of the Reservation into classes. Such classification shall be made in accordance with considerations of best usage in the interest of the public and with regard to the considerations mentioned in Section 04-04-03 thereof.

04-04-03 In adopting the classification of waters and the standards of purity and quality above mentioned, the Water Resources Commission shall give consideration to:

1. The size, depth, surface area covered, volume, direction, and rate of flow, stream gradient, and temperature of the water.
2. The character of the district bordering said waters and its peculiar suitability for the particular uses and with a view to conserving the value of the same and encouraging the most appropriate use of lands bordering said waters, for residential, agricultural, industrial or recreational purposes.
3. The extent of present defilement or fouling of said waters which has already occurred or resulted from past discharges therein

04-04-04 The Water Resources Commission, after proper study, and after conducting public hearing upon due notice, shall adopt and assign standards of quality and purity for each such classification necessary for the public use or benefit contemplated by such classification. Such standards shall prescribe what qualities and properties of water shall indicate a polluted condition of the waters of the Reservation which is actually or potentially deleterious, harmful, detrimental, or injurious to the public health, safety or welfare, to terrestrial or aquatic life or the growth and propagation thereof, or to the use of such waters for domestic, commercial, industrial, agricultural, recreational, or other reasonable purposes, with respect to various classes established pursuant to Section 04-04-02 hereof.

04-04-05 In establishing such standards, consideration shall be given to the following factors:

1. The extent, if any, to which floating solids may be permitted in the water.
2. The extent to which suspended solids, colloids, or a combination of solids with other substances suspended in water, may be permitted.
3. Organisms of the coliform group or any other organisms from wastes of animal or human origin shall not exceed the following prescribed standards for usage of the classified waters of the Reservation:

- a. Sources of water supply for drinking, culinary or food processing purposes which, if subjected to approved disinfection treatment, with addition treatment, if necessary, to remove naturally present impurities meet or will meet the Sisseton-Wahpeton Sioux Tribal Health Department drinking water standards and any other usages: For such sources the monthly median coliform value for one hundred ml. of sample shall not exceed five thousand from a minimum of five examinations and provided that not more than twenty percent of the samples shall exceed a coliform value of twenty thousand for one hundred ml. of sample.
 - b. Sources of water for bathing, fishing, boating, and any other usages for market purposes in waters: For such sources the monthly median coliform value for one hundred ml. of sample shall not exceed two thousand, four hundred from a minimum of five examinations, and provided that not more than twenty percent of the samples shall exceed a coliform value of five thousand for one hundred ml. of sample and provided further that surface waters receiving treated sewage discharges which pass through residential communities where there is a potential exposure of population to the surface waters shall be protected by the requirements that all affluent from sewage treatment plants shall be adequately disinfected prior to discharge into the surface waters in order that the monthly median coliform value for one hundred ml. shall not exceed two thousand four hundred, from a minimum of five examinations and provided that not more than twenty percent of the samples shall exceed a coliform value of five thousand for one hundred ml. of sample.
 - c. All samples shall be collected, analyzed, and reported in a manner satisfactory to the Tribal Commissioner of Health.
 - d. When the above prescribed standards are exceeded the Commissioner shall make an investigation to determine the source or sources of pollution. When it shall appear to the Commissioner, after investigation, that there has been a violation of any provisions of this article, he shall take further proceedings as provided in Sections 04-17-01 through 04-17-04 of this Chapter.
 - e. The Water Resources Commission may adopt and assign more restricted standards for the best usages of the waters of the Reservation.
4. The extent of the oxygen demand which may be permitted in the receiving waters.
 5. Such other physical, chemical or biological properties necessary for the attainment of the objectives of this Chapter, as set forth in Section 04-01-01 hereof.

04-04-06 The adoption, alteration or modification of the standards of quality and purity above prescribed, shall be made by the Water Resources Commission only after public hearing on due notice.

04-07 Rules and Classifications and Standards of Quality and Purity of Waters of the Sisseton-Wahpeton Sioux Tribe:

1. The Rules and Classifications and Standards of Quality and Purity for Waters of the Sisseton-Wahpeton Sioux Tribe hitherto adopted by the Sisseton-Wahpeton Sioux Tribe Health Board.
2. All classification and standards of quality and purity hitherto assigned by the Sisseton-Wahpeton Sioux Tribe Water Pollution Control Board, by order, duly and respectively made and entered, to designated and specified waters of the Tribe, are hereby approved and adopted as the classification and standards of quality and purity for such specified waters so respectively hitherto classified and are hereby deemed established, adopted and so assigned by the Water Resources Commission.
3. The Rules and classifications and Standards of Quality and Purity for Waters of the Lake Traverse Reservation, so hitherto adopted by the former Water Pollution Control Board and herein above readopted may, from time to time, be altered or modified by the Water Resources Commission after public hearing thereon. Any classification of the specified waters of the Reservation, so hitherto assigned by the former water pollution control board and herein above readopted may, from time to time, be altered or modified by the Water Resources Commission after public hearing thereon.

04-04-08 Notices of public hearing for the consideration, adoption, modification, alteration and/or amendment of the general classification standards of purity and quality thereof shall specify the time, date, and place of hearing, and the waters concerning which a classification is sought to be made or for which standards are sought to be adopted or modified.

04-04-09 Copies of said notice shall:

1. Be published at least twice in a newspaper regularly published or circulated in the county or counties bordering or through which the waters sought to be classified, or for which standards are sought to be adopted flow; the first date of publication of which shall be not more than thirty (30) days nor less than twenty (20) days before the date fixed for such hearing; and
2. Be mailed at least twenty (20) days before such hearing to the chief executive of each municipal corporation bordering or through which said waters, for which standards are sought to be adopted, flow; and to such others persons as the Board has reason to believe may be affected by the proposed standards.

04-04-10 Application:

1. The fact that an application for the modification or alteration of classification and standards of quality and purity has been made pursuant to this Section shall not of itself constitute a sufficient ground for an injunction against, or a stay of, any proceeding or order authorized by this Chapter.
2. In all hearings in connection with the modification and standards of quality and purity hereafter assigned by the Water Resources Commission by order, duly and respectively made and entered, to designated and specified waters of the Reservation, except as provided in Section 04-04-09.

04-04-11 The classification of waters and standards of quality and purity thereof, upon adoption, shall before becoming effective, be filed with the Tribal Secretary of the Lake Traverse Reservation for publication in the Code of the Sisseton-Wahpeton Sioux Tribe.

04-05-01 JURISDICTION OF DEPARTMENT - AUTHORITY - POWERS AND DUTIES

The Department shall have administrative jurisdiction to abate and prevent the pollution of waters of the Reservation in the manner herein provided in accordance with the classification of waters adopted by the Water Resources Commission pursuant to Sections 04-04-01 through 04-04-11 of this Chapter.

04-05-02 The Department, acting through the Commissioner, may from time to time, adopt, amend, or cancel administrative rules and regulations governing the procedure to be followed with respect to hearing, filing of reports, and issuance of permits, and such administrative rules and regulations, and do and perform any and all acts, not inconsistent with provisions of this Chapter, as may be necessary or proper to carry into effect the provisions of this Chapter and may make, amend and repeal rules and regulations for the storage of liquids likely to pollute the waters of the Reservation, including but not limited to, standards for the construction, installation, maintenance, protection and diking of tanks used to store any such liquids and their associated structures, piping, valves, fittings, fixtures and outlets, in conjunction with the promulgation of which, the Commissioners shall consider codes and practices of industries concerned with the handling and storage of such liquids and the time required for persons engaged in such industries to conform with such rules and regulations. All such rules and regulations shall be consistent with the policy of the Tribe.

04-05-03 The Commissioner is hereby authorized to:

1. Hold public hearings, receive pertinent and relevant proof from any party in interest who appears at such hearing, compel the attendance of witnesses, make findings of facts and determinations, and assess such penalties therefore as are herein after prescribed, all with respect to the violations of the provisions of this Chapter or the orders issued by the Commissioner.

2. Make, modify or cancel orders requiring the discontinuance of the discharge of sewage, industrial waste or other wastes into any waters of the Reservation in accordance with the provisions of this Chapter, and specifying the conditions and time within which such discontinuance must be accomplished.
3. Institute or cause to be instituted in a Court of competent jurisdiction, proceedings to compel compliance with the provisions of this Chapter or the determinations and orders of the Commissioner.
4. Issue or deny permits, under such conditions as may be prescribed for the prevention and abatement of pollution for the discharge of sewage, industrial waste, or other waters, or for the installation or operation of disposal systems or parts thereof.
5. Continue any permit hereafter issued under this Chapter, whenever, after hearing thereon, the Commissioner determines that such continuation is necessary or desirable to prevent or abate pollution of any waters of the Reservation.
6. Revoke or modify any permit hereafter issued under this Chapter, whenever after hearing thereon, the Commissioner determines that such revocation or modification is necessary or desirable to prevent or abate pollution of any waters of the Reservation.
7. Conduct such investigations as may be deemed advisable and necessary to carry out the intents and purposes of this Chapter.
8. Settle or compromise, with the approval of the Tribal Chairman, any action or course of action for the recovery of a penalty under this Chapter as he may deem advantageous to the Reservation.
9. Perform such other and further acts as may be necessary, proper or desirable, to carry out effectively, the duties and responsibilities prescribed in this Chapter.

04-05-04 It shall be the duty and responsibility of the Department to:

1. Encourage voluntary cooperation by all persons in preventing and abating pollution of the waters of the Reservation.
2. Encourage the formulation and execution of plans by cooperative groups or associations of municipalities, industries, and other users of the waters who, severally or jointly, are or may be the source of pollution in the same waters, for the prevention and abatement of pollution.

3. Cooperate with the appropriate intersovereign agencies of the United States, or States, or any agencies in respect to pollution control matters, or for the formulation for submission to the legislature or intersovereign pollution control compacts or agreements.
4. Conduct or cause to be conducted studies and research, and provide services by itself or in cooperation with Federal or interstate agencies, in control problems, disposal systems, and treatment of sewage, industrial waste and other wastes, which shall include but not be limited to:
 - a. Advances in effectiveness and economy in waste water treatment, plant design, and operation;
 - b. Feasible and economical means for providing sewers and sewage treatment works for small communities;
 - c. Economical means for future incorporation of separate sewer service units into area wide systems;
 - d. Studies of selected problems such as industrial wastes and changing sewer characteristics;
 - e. Development of a data processing system for periodic determination of the status of water pollution control throughout the Reservation;
 - f. Provisions of advisory services for official on the Reservation concerned with water pollution in relation to sewage problems, including information material concerning planning, construction, and operation, financial assistance programs and methods of defraying the costs of sewers and sewage treatment plants; and
 - g. Assimilative capacities of streams, lakes, and other waters of the Reservation.
5. Prepare and develop a general comprehensive plan, which shall be approved by the Water Resources Commission, for the abatement of existing pollution and prevention of new pollution, by the installation, use, and operation of practical and available systems, methods and means for controlling pollution, recognizing different requirements for separate waters and for different segments of the same waters.
6. Require to be submitted to it, and to consider for approval, plans for disposal systems, or any parts thereof, and to inspect the construction thereof for compliance with the approved plans.

7. Serve as an agency of the Reservation for the receipt of monies from the Federal government, or other public or private agencies, and to expend the same, after appropriation therefore, for the purpose of pollution control, studies or research. Nothing herein is intended to prevent the Water Resources Commission from exercising like authority with respect to the matters contained in paragraphs 3., 4., and 7. of this subsection.
8. Establish a water quality surveillance network with sufficient stations and sampling schedule to meet the needs of the Reservation, including ground water and surface water, and publish the results of such water quality surveillance network periodically. Such water quality surveillance network shall be consistent with the policy of the Reservation as integrated by the Water Resources Commission.
9. Develop a public education and promotion program to aid and assist public officials in publicizing needs and securing support for pollution control action.
10. Prepare an annual report, which shall be transmitted to the Water Resources Commission for review and evaluation, on the status of the water pollution control program, covering all phases of the program.
11. Promulgate rules, regulations, and standards subject to the requirements of Section 04-05-02, providing for the testing and measuring of sewage, industrial wastes, or other wastes, at their outlet into classified waters of the Reservation, and further providing for the maintaining of a permanent record of the resulting data, and periodically reporting such record to the Commissioner subject to the restriction set forth in Section 04-05-06.

04-05-05 The Commissioner, or his authorized representative shall have the right to enter at all reasonable times, in or upon any property, public or private, for the purpose of inspecting and investigating conditions relating to pollution, or the possible pollution of any waters of the Reservation, which inspection or examination does not involve confidential information relative to secret processes or economics of operation.

04-05-06 The Commissioner, or his authorized representative may examine any records or memoranda pertaining to the operation of disposal systems or treatment works which examination does not involve confidential information relating to secret processes or to economics of operations.

04-06-01 GENERAL PROHIBITION AGAINST POLLUTION
It shall be unlawful for any person, directly or indirectly, to throw, drain, run or otherwise discharge into such waters organic or inorganic matter that shall cause or contribute to a condition in contravention of the standards adopted by the Water Resources Commission pursuant to Sections 04-04-01 through 04-04-11 of this Chapter.

- 04-07-01 PROHIBITION AGAINST POLLUTION OF WATERS**
Sewage, industrial waste, garbage, cinders, ashes, oils, sludge or refuse of any kinds shall not be thrown, dumped, or permitted to run from any building into the waters of the Lake Traverse Indian Reservation.
- 04-08-01 PROHIBITION AGAINST CERTAIN ACTS WITHOUT PERMITS**
The making or use of a new outlet into the waters of the Reservation, and the operation or construction of disposal systems, without a valid permit as provided in Sections 04-13-01 through 04-13-08 of this Chapter are prohibited.
- 04-09-01 EXTENT OF APPLICABILITY TO EXISTING DISCHARGES**
If the Commissioner finds, after a hearing conducted, that such discharge constitutes pollution in contravention of the classification made and the standards adopted by the Water Resources Commission, he shall enter an order directing the polluter to take such steps as may be necessary to abate the polluting content of such discharge to conform to the standards so established.
- 04-09-02** The Commissioner shall consider evidence received at such hearing relating to the adequacy and practicability of various means of abating the polluting content of such discharge and the financial ability of the polluter so to abate. If the Commissioner finds that immediate abatement of such discharge would be impossible or impracticable either because no adequate or practical means of disposal or treatment is known or because of financial inability, his order shall establish the reasonable time or times within which the required steps, both intermediate and final, are to be taken. The burden of proving impossibility, impracticability or financial inability shall be upon the person claiming the same.
- 04-10-01 PROHIBITION AGAINST MODIFICATION OF WASTES DISCHARGED THROUGH EXISTING OUTLET WITHOUT PERMIT**
Increasing or altering the content of wastes discharged through an outlet into the water of the Reservation by a change in volume or physical, chemical, or biological characteristics without a permit so to do as provided in Sections 04-13-01 through 04-13-08 of this Chapter is prohibited.
- 04-11-01 MINIMUM TREATMENT REQUIRED**
As used in this Section, the term "effective primary treatment" shall mean the removal of substantially all floating and settleable solids normally expected from primary settling designed in accordance with rules and regulations adopted pursuant to Section 04-05-02, for the preparation and submission of plans for sewage and waste disposal systems.
- 04-11-02** The minimum degree of treatment required for the discharge of sanitary sewage into the classified surface waters of the Reservation shall be effective primary treatment, provided however, that additional treatment may be required consistent with the standards established for specific water by the Water Resources Commission pursuant to Sections 04-04-01 through 04-04-11 of this Chapter.

04-12-01 RESTRICTIONS OF DISCHARGE OF SEWAGE, INDUSTRIAL, WASTE OR OTHER WASTES

The use of existing or new outlets, which discharge sewage, industrial waste or other wastes into classified waters of this Reservation is prohibited unless the use of such outlet is in compliance with all rules and regulations promulgated by the debarment pursuant to authority provided in Section 04-05-04, subsection (k) of this Chapter.

04-13-01 PERMIT FOR NEW OUTLET AND FOR DISPOSAL SYSTEM REQUIRED

Except as provided in Section 04-13-06 of this chapter, it shall be unlawful for any persons, until a written permit therefor has been granted by the Commissioner, or by his designated representative, and unless such permit remains in full force and effect to:

1. Make or cause to be made or use any new outlet for the discharge of sewage, industrial waste or other wastes, or the effluent therefrom, into the waters of this Reservation; or
2. Construct or operate and use a new disposal system for the discharge of sewage, industrial waste, or other waste, or the effluent therefrom, into the waters of the Reservation, or make any change in addition to or an extension of any existing disposal system or part thereof which would materially alter the volume of, or the method or effect of treating or disposing of the sewage, industrial waste, or other wastes; or
3. Increase or alter the content of the waters discharged through an outlet into the waters of the Reservation by a change in volume or physical, chemical or biological characteristics.

04-13-02 Notwithstanding any other provisions of this Chapter, for the purposes of this title, the following definitions shall be applicable:

1. Industrial Waste - means any liquid, gaseous, solid or waste substance or a combination thereof resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources which may cause or might reasonable be expected to cause or might reasonable be expected to cause pollution of the waters of the Reservation.
2. Other Wastes - means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, and all other discarded matter not sewage or industrial waste which might cause or reasonably be expected to cause pollution of the waters of the Reservation.

- 04-13-03 No permit prescribe by Section 04-13-01, shall be issued by the Commissioner or his designated representative until the plans therefore have first been submitted to and approved by the Public Health Committee.
- 04-13-04 No person, corporation, public authority, or public benefit corporation shall construct or operate any new steam-electric generating facility or increase the capacity of any existing steam-electric generating facility without a permit issued in accordance with the provisions of this subsection allowing thermal discharge from such facility to the waters of the Reservation. A public hearing may be conducted by the department prior to the issuance of any such permit.
- 04-13-05 A permit prescribed by Section 04-13-01, shall be issued to the applicant upon such conditions as the Commissioner may direct:
1. If the Commissioner finds on the basis of the submitted plans that the discharge from the outlet or from the proposed number of modified disposal systems will not be in contravention of the standards adopted by the Water Resources Commissioner; or
 2. In case no classification has been made of the receiving waters at said outlet or into which such proposed discharge is to be made, if the Commissioner finds that such proposed discharge will not be injurious to public health and public enjoyment thereof, the propagation and protection of fish and wildlife, and the industrial development of the Reservation.
- 04-13-06 No permit prescribed by Sections 04-13-01 through 04-13-08, shall be issued to the applicant upon such conditions as the Commissioner may direct.
- 04-13-07 The permit herein above described by section 04-13-05, subsection 1., shall not be required for the construction and use of a new or modified disposal system or outlet when such disposal system or outlet is designed to discharge; and discharges of sewage effluent without the admixture of industrial wastes or other wastes from a private dwelling designed to house not less than three families or from ten or less people computed on the basis of twenty-four hour per day occupancy, and when the discharge from such disposal system consists of a flow of less than one thousand gallons per day. Nothing contained in this subdivision shall be construed to permit the making or use of an outlet discharging an effluent to the waters of the Reservation in contravention of any standards adopted by this Chapter or adopted by the Water Resources Commission, or discharging an effluent in such manner as to expose sewage on the ground surface, impair the quality of ground water used for drinking purposes, or otherwise create a nuisance or menace to health.
- 04-13-08 The Commissioner may delegate, to qualified personnel of county and city health departments, his duties to review and approve plans and issue permits required in Sections 04-13-01, 04-13-03 and 04-13-04, subject to such conditions as he may establish.

- 04-14-01 ISSUANCE, DENIAL, REVOCATION OF PERMITS**
The permits provided in Sections 04-13-01 through 04-13-08 shall be issued by the Commissioner or by his designated representative, pursuant to regulations of the department adopted in accordance with Section 04-05-02 of this Chapter.
- 04-14-02** Public hearings, on due notice, shall be conducted by the Commissioner or his designated representative in connection with and prior to the issuance of any order or determination denying, revoking, or modifying a permit as provided by Sections 04-13-01 through 04-13-08 and Section 04-05-03, 5.
- 04-15-01 HEARINGS**
Public hearings shall be conducted by the Commissioner, or his duly designated representative prior to issuance of an order directing any persons to discontinue discharge of sewage, industrial waste or other wastes which contravene the standards established for any waters of this Reservation.
- 04-15-02** The hearings herein provided may be conducted by the Commissioner, or by the duly designated hearing officer or officers, at any time and any place.
- 04-15-03** A record, or summary thereof, of the proceedings of said hearings shall be made and filed with the department and a copy thereof forwarded to the Water Resources Commission. If requested to do so by any party concerned with said hearings, the notes of the testimony presented at said hearing shall be taken and filed. The recorder shall, upon the payment of his fees allowed by law therefore, furnish a certified copy of the whole or any part of his notes to any party to the action requiring the same.
- 04-15-04** In any such hearing, the hearing officer or any member of the hearing panel, may administer oaths, examine witnesses, and issue, in the name of the department, notices of hearings and subpoenas requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearing. A designation of a person or persons by the Commissioner to perform the functions herein authorized shall be in writing and filed in the department.
- 04-15-05** In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this Section, the Tribal Court shall have jurisdiction, upon application of the Commissioner or his duly designated representative to issue an order requiring such person to appear and testify or produce evidence, as the case may require, and any failure to obey such order of the court may be punished by said Court as contempt thereof.
- 04-16-01 NOTICES - SERVICE OF PROCESS**
Notices of all public hearings shall specify the time, date, and place of hearing.

04-16-02 Service of all processes, except subpoenas, shall be made in the same manners as a summons in a civil action or by registered or certified mail with a return receipt requested, addressed to the individual served in person or in a representative capacity as herein after provided at his last known residence, office of place of business. Such service shall be made upon a municipality by serving the chief executive or counsel thereon; upon a sewer district, authority, commission or private commission or private corporation by serving any officer thereon, or upon an unincorporated or association of partnership or other company of persons which has a president or treasurer, by serving either of such officers.

04-16-03 Subpoenas shall be served upon the witnesses personally, together with such fees therefor as may be provided by law.

04-17-01 **PROCEEDINGS BEFORE THE COMMISSIONER**

The Commissioner may, on his own motion, investigate or make inquiry in a manner to be determined by him, as to the condition of any of the waters of the Reservation and as to any alleged act of pollution or omission or failure to comply with any provisions of this Chapter.

04-17-02 Whenever it shall appear to the Commissioner, after investigation that there has been a violation of any of the provisions of this chapter, he shall give written notice to the alleged violator or violators setting forth any act done or omitted, or claimed to be in violation of any provisions of this Chapter, and requiring that the matter complained of be corrected, or that the alleged violator appear in person or by attorney before the Commissioner or his duly designated representative, at the time and place in said notice specified, and answer the charges made against him or them.

04-17-03 At least twenty (20) days notice of such hearing shall be given to such person or persons.

04-17-04 Upon the return day of such notice the person so notified shall file with the Commissioner, a statement setting forth the position of the person so notified, the answer, if any to the charges made against him, the methods, practices, and procedures, if any, which are being taken to prevent polluting discharges into the waters of the Reservation or the sewer or sewage disposal system which ultimately empties into said waters, and any other defenses or information pertinent to the case. Pertinent and relevant testimony of witnesses shall be received in support of our opposition to said statement.

04-18-01 **SEVERABILITY**

If any clause, sentence, paragraph, section, or part of this code shall, for any reason be adjudicated by any Court of competent jurisdiction, to be invalid or unconstitutional, such judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgement shall have been rendered.

S. W. S. T. CODE

Amendment

New Adoption

Judicial Approved

02-24-88

Council Adopted

02-01-88