



# **CHIPPEWA CREE TRIBE SURFACE WATER QUALITY STANDARDS**

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**TABLE OF CONTENTS**

**PART I. GENERAL PROVISIONS**.....4  
    Section 1.1 Purpose and Authority.....4  
    Section 1.1.2 Severability.....5  
    Section 1.1.3 Other Law.....5  
    Section 1.1.4 Review and Revisions of Standards.....5  
**PART II. PROCEDURES**.....5  
    Section 1.2.1 Water Quality Standards and Antidgradation Policy.....5  
**PART III. SURFACE WATER QUALITY STANDARDS**.....6  
    Section 1.3.1 Policy.....6  
    Section 1.3.18 Water Quality Standards for Wetlands.....6  
    Section 1.3.2 Application and Composition of Surface Water Quality Standards.....12  
    Section 1.3.3 Definitions.....13  
    Section 1.3.4 Classifications.....18  
    Section 1.3.5 A-1 Classification.....18  
    Section 1.3.6 B-1 Classification.....20  
    Section 1.3.7 B-2 Classification.....21  
    Section 1.3.8 B-3 Classification.....23  
    Section 1.3.9 C-1 Classification.....24  
    Section 1.3.10 C-2 Classification.....26  
    Section 1.3.11 C-3 Classification.....27  
    Section 1.3.12 General Requirements and Limitations.....29  
    Section 1.3.13 Sampling Methods.....31  
    Section 1.3.14 Biological Standards.....31  
    Section 1.3.15 Radiological Standards.....32  
    Section 1.3.16 Use Attainability Analysis (Reserved).....32  
**PART IV. ANTIDGRADATION POLICY**.....33  
    Section 1.4.1 Antidegradation Policy..... 33  
    Section 1.4.2 Tiered Classifications of Reservation Surface Waters..... 33  
    Section 1.4.3 Applicability and Limitations of Antidegradation..... 33  
    Section 1.4.4 Antidegradation Implementation (Reserved)..... 34  
    Section 1.4.5 Critical Condition Identification Procedures (Reserved)..... 35  
**PART V. MIXING ZONE POLICY**..... 35  
    Section 1.5.1 Mixing Zone Policy (Reserved)..... 35  
    Section 1.5.2 Narrative Toxic Standards (Reserved)..... 35  
**PART VI. COMPLIANCE WITH STANDARDS**.....36  
    Section 1.6.1 Investigation of Reported or Suspected Non Compliance.....36  
    Section 1.6.2 Preliminary Findings..... 36  
    Section 1.6.3 Investigation Report and Recommendations..... 36  
    Section 1.6.4 Compliance Order-Civil Action-Exemption.....37  
**PART VII. COMPLIANCE PROCEDURES, REQUIREMENTS, AND ORDERS**.....38  
    Section 1.7.1 Purpose..... 38  
    Section 1.7.2 Definitions.....38

Section 1.7.3 Notice of Unpermitted Discharge by Departments.....	38
Section 1.7.4 Required Notice to Department of Release or Unpermitted Discharge ..	39
Section 1.7.5 Unnediate Notice of Unpermitted Discharge-How Given by Responsible Party.....	39
Section 1.7.6 Contents of Immediate Notice of Unpermitted Discharge or Release....	39
Section 1.7.7 Contents of Subsequent Written Notice of Unpermitted Discharge or Release.....	40
Section 1.7.8 Failure to Notify May Be Basis of Civil Action.....	41
Section 1.7.9 Cleanup Orders, Plans, Operations.....	42
Section 1.7.10 Cleanup Order, Contents.....	43
Section 1.7.11 Noncompliance with Order.....	45
Section 1.7.12 Notices of Violation and Cease and Desist Order.....	45
<b>PART VIII NONPOINT SOURCE POLLUTION MANAGEMENT</b>	
<b>(RESERVED)</b> .....	46
<b>PART IX 401 CERTIFICATION</b> .....	46
Section 1.9.1 Introduction.....	46
Section 1.9.2 Purpose.....	46
Section 1.9.3 Definitions.....	47
Section 1.9.4 Authority to Act.....	47
Section 1.9.5 Application.....	47
Section 1.9.6 Public Notice and Public Hearings.....	49
<b>APPENDIX A- CCT Water Quality Standards Designated Use Table</b> .....	51
<b>APPENDIX B-CCT TRIBAL NUMERIC CHART: Priority Pollutants</b> .....	60
Priority Footnotes.....	64
<b>APPENDIX B-CCT TRIBAL NUMERIC CHART: Non-Priority Pollutants</b> .....	65
Non-Priority Pollutant Footnotes.....	66
<b>Aquatic Life Standards for Dissolved Oxygen</b> .....	67
<b>Aquatic Life Standards for Ammonia, Temperature and pH Dependent Values</b> .....	68
Fish Early Life Stages Present.....	69
Fish Early Life Stages Absent.....	70
<b>CCT Numeric Surface Water Maximum Contaminant Level (MCL) Standards Adopted to Protect the Water Supply Designated Use</b> .....	72
<b>APPENDIX C- CCT Wetland Rapid Assessment Methodology</b> .....	75

**Chapter 1: Water Quality**

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## **PART I. GENERAL PROVISIONS**

### **Section 1.1. Purpose and Authority.**

#### **1. Purpose**

These Water Quality Standards serve the dual function of establishing water quality goals for water bodies on the Rocky Boy Reservation of the Chippewa Cree Indian Tribe (CCT) and providing the legal basis for regulatory pollution controls. Establishing criteria and designated uses that provide for full protection of threatened and endangered species is also an important objective of these water quality standards.

a. Assessment. A primary purpose of these water quality standards is to guide and inform efforts to monitor and assess surface water quality. These water quality standards play a central role in the CCT's water quality protection program, and have broad application and use in evaluating potential impacts on water quality from a wide range of causes and sources. This purpose is not limited to evaluation of effects caused by the discharge of pollutants from point sources.

b. Regulatory Controls. For both point and Nonpoint sources, any regulatory pollution controls established by the CCT or the Federal Government must be developed to ensure a level of water quality that will satisfy these water quality standards. Regulatory pollution controls established for point sources shall be consistent with applicable portions of the Federal Clean Water Act. Tribal programs to control Nonpoint sources, whether regulatory or voluntary, or a combination, shall be designed to achieve these water quality standards.

c. Protection of Threatened and Endangered Species. It is the intent of the CCT that the designated uses and criteria assigned to reservation surface waters will provide a level of water quality fully protective of federally/Tribally listed threatened or endangered species. Where a question is raised about the protectiveness of a use designation and/or the assigned criteria as they apply to threatened or endangered species, the CCT will confer with the U.S. Fish and Wildlife Service to ensure, to the extent practicable, that the designated uses and criteria are fully protective.

#### **2. Authority**

These regulations are adopted by the Chippewa Cree Indian Tribe (CCT) Business Committee upon recommendation from the Tribal Water Resources Department, under authority of the Chippewa Cree Tribe Constitution. These water quality standards are to be used for all purposes of water quality standards under the Federal Clean Water Act (CWA) consistent with CWA § 518(e) and § 303(c). The Tribal Water Resources Department is responsible for the administration and enforcement of these regulations under the Water Code.

### **Section 1.1.2 Severability.**

If any word, phrase, clause, sentence, paragraph, section, or other part of these rules is held invalid by any court of competent jurisdiction, such judgment shall affect only that portion held invalid.

### **Section 1.1.3 Other Law.**

These rules in no manner supersede or negate the necessity of any person to obtain permits or conduct such environmental studies as may be required by Federal or Tribal authorities for any conduct or activity affecting or potentially affecting Reservation waters.

### **Section 1.1.4 Review and Revision of Standards.**

The CCT shall from time to time, but at least every three years, hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting standards. Public hearings shall be held in accordance with tribal law and U.S. Environmental Protection Agency (EPA) regulations. Any proposed revisions to water quality standards, and supporting analyses, shall be made available to the public prior to the hearing. The CCT shall submit any revised water quality standards and any supporting analyses to the EPA Regional Administrator for review and approval. Standards will be reviewed and revised as necessary from time to time, but not less often than every three years from the time of final EPA approval.

## **PART II. PROCEDURES**

### **Section 1.2.1 Water Quality Standards and Antidegradation Policy.**

1. The Chippewa Cree Tribe Water Resources Department, hereafter referred to as the “Department,” shall develop and recommend to the Chippewa Cree Tribe Business Committee for adoption as part of the water quality standards an antidegradation policy and methods for implementing the same for all Reservation surface waters.
2. At a minimum, the antidegradation policy and implementation methodology shall include the following:
  - a) The maintenance and protection of existing Instream uses and a level of water quality necessary to protect existing Instream uses.
  - b) Where the quality of waters exceed levels necessary to support propagation of fish and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the Department and Business Committee finds, after full satisfaction of any intergovernmental coordination and public provisions mentioned in this document, that

allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. Moreover, in allowing any degradation or lower water quality, the Department and the Business Committee shall assure water quality adequate to protect existing uses fully, and assure the highest requirements for all new and existing point sources and all cost effective and reasonable best management practices for point source and Nonpoint source control.

- c) Where high quality waters constitute an outstanding Tribal resource, such as waters of ecological, recreational, or cultural significance, that water quality shall be maintained and protected.

## **PART III SURFACE WATER QUALITY STANDARDS**

### **Section 1.3.1 Policy.**

The following standards are adopted to preserve, protect, restore, and maintain the chemical, physical, and biological integrity of the surface waters and wetlands found within the exterior boundaries of the Rocky Boy's Indian Reservation. New or revised parts of the water quality standards will become effective after adoption by the Tribal Business Committee and EPA approval.

### **Section 1.3.18 Water Quality Standards for Wetlands**

#### **Subchapter I –Standards**

##### **A. Purpose.**

(1). the purpose of this chapter is to establish water quality standards for wetlands of the Rocky Boy's Indian Reservation. This is to be included with the Chippewa Cree Tribe's Surface Water Quality Standards.

(2). Water quality standards are intended to protect tribal rights and interest, tribal health and welfare and the present and prospective uses of all waters of the tribe for tribal and member water supplies, propagation of fish and other aquatic life and wild and domestic animals, preservation of natural flora and fauna, domestic and recreational uses, and agricultural, commercial and cultural uses. These water quality standards for wetlands shall be administered to protect the tribal interest for water quality.

(3). This subchapter sets forth the conditions necessary to protect water quality related functions and values of wetlands including sediment and pollutant

attenuation, storm and flood water retention, hydrologic cycle maintenance, shoreline and stream bank protection against erosion, biological diversity and production, as well as, tribal cultural and recreational uses.

(4). Water quality standards serve as a basis for developing and implementing strategies to achieve legislative policies and goals. These standards also serve as a basis for potential decisions in regulatory, permitting, planning or funding activities which may impact water quality including wetlands.

(5). Narrative Water Quality Standards and anti-degradation policies as outlined in the Chippewa Cree Tribe's Surface Water Quality Standards apply to wetlands of the Rocky Boy's Indian Reservation.

**B. Wetland water quality standards.**

(1). To protect, preserve, restore and enhance the quality of waters in wetland and other waters of the tribe influenced by wetlands, the following water quality related functional values or uses of wetlands, within the range of natural variation of the affected wetland, shall be protected:

- (a). Storm and flood water storage and retention and the moderation of water level fluctuation extremes;
- (b). Hydrologic functions including the maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area and the flow of groundwater through a wetland;
- (c). Filtration or storage of sediments, nutrients or toxic substances that would otherwise adversely impact the quality of other waters of the tribe;
- (d). Shoreline protection against erosion through the dissipation of wave energy and water velocity and anchoring of sediments;
- (e). Habitat for aquatic organisms in the food web including, but not limited to fish, crustaceans, mollusks, insects, annelids, planktonic organisms and the plants and animals upon which these aquatic organisms feed and depend upon for their development in all life stages;
- (f). Habitat for resident and transient wildlife species, including mammals, birds, reptiles and amphibians for breeding, resting, nesting, escape cover, travel corridors and food; and
- (g). Recreational, culturally significant wetland plant species, educational, scientific and natural scenic beauty values and uses.

(2). the following criteria shall be used to assure the maintenance or enhancement of the functional values and uses identified in sub. (1):

- (A). Liquids, fill or other solids or gas may not be present in amounts which may cause significant adverse impacts to wetlands;
- (b). Floating or submerged debris, oil or other material(s) may not be

present in amounts which may interfere with tribal rights or interest or which may cause significant adverse impacts to wetlands;

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

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

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

(i). Water currents, erosion, or sedimentation patterns;

(ii). Water temperature variations;

(iii). the chemical, nutrient and dissolved oxygen regime of the wetland;

(iv). the movement of aquatic flora and/or fauna;

(v). the pH of the wetland; and

(vi). Water levels or elevations.

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

(i). Protecting food supplies for fish and wildlife;

(ii). Protecting reproductive and nursery areas, and

(iii). Preventing conditions conducive to the establishment or proliferation of nuisance organisms.

**C. Wetlands in areas of special natural resource interest.** Wetlands in areas of special natural resource interest include those wetlands both within the boundary of designated areas of special natural resource interest, such as outstanding tribal resource waters, and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas. For the purposes of this chapter, the following are designated as areas of special natural resource interest:

(1). Cold water communities as defined in the Tribal surface water quality standards, including all salmonid streams and their tributaries;

(2). Tribal designated wild and scenic rivers and waterways;

(3). Unique and significant wetlands identified by the Tribe as possessing culturally significant wetlands plant species and areas designated by the United States Environmental Protection Agency under §404, 33USC 1344 (c);

(4). Calcareous fens (Low, flat, swampy land; bog areas, composed of, containing or characteristic of calcium carbonate, calcium, or limestone; chalky).



- (5). Habitat used by Tribal or federally designated threatened or endangered species;
- (6). Tribal parks, forests, trails and recreation areas;
- (7). Tribal fish and wildlife refuges and fish and wildlife management areas;
- (8). Tribal designated wilderness areas;
- (9). culturally significant wetland areas;
- (10). any other surface waters identified as outstanding tribal resources waters (OTRW) in the Tribal surface water quality standards.
- (11). Springs (Groundwater issues or discharge at the earth's surface, the formation is resultant of various subsurface conditions).
- (12). Seeps (A spot where water trickles out of the ground to form a pool).

## **Subchapter II –Implementation**

### **A. Purpose.**

- (1). the purpose of this subchapter is to establish implementation procedures for application of wetland water quality standards contained in Subchapter I.
- (2). these procedures are promulgated under the Tribal surface water quality standards.

### **B. Applicability.** The provisions of this chapter shall, subject to the provisions below, apply to all department regulatory, planning, resource management, liaison and financial aid determinations that affect wetlands.

- (1). Activities subject to the requirements of this chapter include, but are not limited to:
  - (a). permit reviews, approvals and other actions of the Tribe
  - (b). Water quality certification
  - (c). Department development and management projects.
- (2). this chapter shall apply to new or increased point source discharges to wetlands.
- (3). Wetland alterations which are directly caused by operations on a metallic

mineral prospecting site or mining site shall be regulated pursuant to specific wetland standards under Tribal surface water quality standards.

(4). EXEMPTIONS. A person who proposes a project that may affect an artificial wetland shall notify the department at least 15 working days prior to initiating the project. For purposes of this chapter, the following artificial wetlands are exempt from the provisions of this chapter unless the department notifies the applicant 15 working days from when the department receives the notice of the proposed project from the applicant that the artificial wetland has significant functional values or uses.

- (A). Sedimentation and storm water detention basins and associated conveyance features operated and maintained only for sediment detention;
- (b). Active sewage lagoons, cooling ponds, waste disposal pits;
- (c). Artificial wetlands within active nonmetallic mining operations.

**C. Department determinations.**

(1). the department shall review all proposed activities subject to this chapter and shall determine whether the project proponent has shown if activities are in conformance with the provisions of this chapter. The department shall, upon request, meet with a project proponent and other interested persons to make a preliminary assessment of the scope for analysis of alternatives and the potential for compliance with this chapter.

- (A). the department shall review the application for completeness within 30 days of receipt of the application. The department shall notify the applicant of any additional information reasonably necessary to review the application. Response time will be within 180 days of receipt of a complete application.
- (b). the applicant shall submit, at any time during the review process, additional information which the department finds to be reasonably necessary for review of the application.
- (c). the department may rely upon wetland boundary determinations made by other agencies and consultants. If there is a dispute concerning wetland boundary delineation, the review of the delineation shall be consistent with the procedures identified in the “Corps of Engineers Wetlands Delineation Manual, 1987.”

(2). Wetland functional values and the impact of a proposed activity upon those functional values shall be determined using wetland ecological evaluation methods, such as CCRAM (Chippewa Cree Rapid Assessment Methodology), that are appropriate to assess the affected wetland (see Appendix C). The department shall consider available land use studies in its determinations.

(3). to protect all present and prospective future uses of wetlands, the following factors shall be considered by the department in making determinations under this section:

- (a). Wetland dependency of the proposal;
- (b). Practicable alternatives to the proposal which will avoid and minimize adverse impacts to wetlands and will not result in other significant adverse environmental consequences;
- (c). Impacts which may result from the activity on the maintenance, protection, restoration or enhancement of standards under the “Wetland water quality standards’ section;
- (d). Cumulative impacts attributable to the proposed activity which may occur, based upon past or reasonably anticipated impacts on wetland functional values of similar activities in the affected area;
- (e). Potential secondary impacts on wetland functional values from the proposed activity;
- (f). any potential adverse impacts to wetlands in areas of special natural resource interest; and
- (g). any potential adverse impact to wetlands in environmentally or culturally sensitive areas and environmental corridors identified in Reservation-wide water quality management plans of the water quality standards.

(4). the department shall make a finding that the requirements of this chapter are satisfied if it determines that the project proponent has shown all of the following:

- (a). No practicable alternatives exists which would avoid adverse impacts to wetlands.
- (b). All practicable measures to minimize adverse impacts to the functional values of the affected wetlands have been taken.
- (c). Considering potential wetland functional values provided by any mitigation project that is part of the subject application, that the activity will not result in significant adverse impacts to wetland functional values, significant adverse impacts to water quality or other significant adverse environmental consequences.
- (d). For all activities that will adversely affect a wetland in an area of special natural resource interest, the department may not consider potential functional values provided by any mitigation project that is part of the subject application.
- (e). for all activities that meet the above stipulations, the department must determine that proposed activities comply with the following:
  - (1). the activity is wetland dependent.
  - (2). the surface area of the wetland impact is 0.10 acres or less.
  - (3). All wetlands that may be affected by an activity are less than one acre in size, located outside a 100-year floodplain, and not any of the following types:

- (i). Wetland area dominated by culturally significant wetland plant species.
- (ii). Deep marsh.
- (iii). Ephemeral pond in a wooded setting
- (iv). Area dominated by a significant population of native species.
- (v). Mitigation projects and the use of wetland mitigation banks shall be carried out in accordance with water quality standards, and shall follow guidelines as provided by the United States army corps of engineers for mitigation projects and wetland mitigation banks.

### **Section 1.3.2 Application and Composition of Surface Water Quality Standards.**

1. The standards in this Part are adopted to:
  - a) Establish maximum or minimum allowable levels or concentrations of pollutants and pollution, and;
  - b) Provide a basis for protecting water quality that is currently better than standards require for surface water quality and;
  - c) Establish a basis for limiting the introduction of pollutants and/or pollution that could affect existing or designated uses of Reservation surface waters.
2. The provisions of Sections 1.3.13 and 1.3.14 apply to all surface waters. Where interpretation of the narrative water quality standard is more stringent than the applicable numeric standard located within the numeric criteria chart or the specific standards set forth in Sections 1.3.4 through 1.3.12, the narrative standard will always take precedence. (Note: the narrative requirements for “free forms” and “no toxics in toxic amounts” are contained in Section 1.3.13 (1) (a-e) (2)).
3. The Department will utilize the updated human health carcinogen risk levels (1/1,000,000) for priority pollutants and other pollutants specified in the EPA 822-R-02-047, December, 2002, National Recommended Water Quality Criteria as amended in the CCT Tribal Numeric Chart as its standard for allowable levels.

### **Section 1.3.3 Definitions.**

The following terms have the meanings indicated below.

1. “Best Management Practices” (BMPs) means schedules of activities, operational

practices, maintenance procedures, and other management practices adopted by rules or incorporated by an agency as a condition of a permit or contract to prevent or reduce the pollution of Reservation waters. Best Management Practices may also include treatment requirements, operation procedures, and practices to control storm water runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage that enter or have the potential to enter surface waters or groundwater of the Tribes.

2. “Biological criteria” means numeric and narrative measures of biological health of waters, such as the number and kind of benthic,, or bottom-dwelling, insects living in a stream.
3. “Constructed wetlands” means engineered wetlands that utilize natural processes involving wetland vegetation, soils, and their associated microbial assemblages to assist, at least partially, in treating an effluent or other source water. These wetlands may have been designed and built to mitigate for the loss of naturally occurring wetlands or to mimic functions of natural wetlands, including: pollutant removal, flood storage, ground water exchange, or other functions associated with natural wetlands.
4. “Contaminated sediments” means sediments containing any of the specifically regulated toxic pollutants included in the Tribal Numeric Chart and any other pollutants in sediments determined to be deleterious to existing and designated uses.
5. “Conventional water treatment” means, in order of application, the processes of coagulation, sedimentation, filtration, and chlorinating. It may also include taste and odor control and lime softening.
6. “Cultural uses” means waters may be used for cultural, ceremonial, and religious uses to support and maintain the way of life and traditional activities practiced on the Rocky Boy Reservation. These activities include, but are not limited to cultural, spiritual, and medicinal practices which include the preservation and utilization of riparian habitat, as well as associated wetland species, significant to the cultural values of the Chippewa Cree Tribe. These practices may include full contact and incidental contact with surface waters.
7. “Criteria” means EPA-recommended water quality criteria, expressed as constituent concentrations, levels, or narrative statements, representing a quality of water that supports a particular use necessary to protect beneficial uses. Criteria that are adopted by the Tribes become Tribal standards.
8. “Deleterious substances” means any physical, chemical, or biological materials in concentrations or amounts that impair or could impair the existing or designated

uses of Reservation surface waters.

9. “Department” means the Chippewa Cree Tribe Water Resources Department.
10. “Designated use” means those beneficial uses of Reservation waters that specified under Sections 1.3.4 through 1.3.12, whether or not they are being attained. In addition, it is the intent of these regulations that all “existing uses” as defined under 1.3.3 (12 11?) Be designated as they become known.
11. “Discharge” means any addition of pollutants or combination of pollutants to Reservation waters from any point source. Discharge also means any waters entering surface waters of the Tribes as the result of a direct hydrologic connection from groundwater that have been degraded by surface sources.
12. “EPA” means the U.S. Environmental Protection Agency.
13. “Ephemeral stream” means a stream or part of a stream that flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice and that has a channel bottom that is always above the local water table.
14. “Existing use” means a use actually attained in the water body (or a use that the existing water quality would have allowed the water body to attain) on or after November 28, 1975, whether or not it is a designated use and included in water quality standards.
15. “Geometric mean” means the value obtained by taking the nth root of the product of the measured values where zero values for measured values are taken to be the detection limit. Note: the geometric mean for E. coli criteria is calculated from a series of five samples collected > 24 hours apart over a maximum of a 30-day period.
16. “Intermittent stream” means a stream or reach of a stream that is below the local water table for at least some part of the year and that obtains its flow from both surface runoff and groundwater discharge.
17. “Mixing zone” means the area of a water body contiguous to an effluent with characteristics qualitatively or quantitatively different from those of the receiving water. The mixing zone is a place where effluent and receiving water mix and not a place where effluents are treated. Certain water quality standards may not apply in the mixing zone for those parameters regulated by a Tribal or NPDES permit. An effluent, in its mixing zone, may not block passage of aquatic organisms nor may it cause acutely toxic conditions. The area in which this exceedence may be allowed shall be as small as practicable. Provisions for specific mixing zones

will be determined on a case-by case basis.

18. “Naturally occurring water quality” means the quality of a Waterbody over which there has been little or no human influence and is described by the range, mean, mode, and other appropriate descriptors of seasonal water quality in Reservation waters.
19. “Near instantaneous and complete mixing” means where a discharge mixes with the receiving water in a rapid and complete manner.
20. “Outstanding Tribal Resource Waters (OTRW)” means waters that because of their quality, location, and significance constitute an outstanding Tribal resource, recognized as possessing special ecological, cultural, aesthetic, educational, recreational, or scientific qualities.
21. “Person” means an individual, association, partnership, corporation, commercial or professional establishment, firm agency, or any agent or employee thereof.
22. “Pesticide” means any insecticide, herbicide, rodenticide, fungicide, or any substance or mixture of substances intended for preventing, destroying, repelling, altering life processes, or controlling insects, rodents, nematodes, fungi, weeds, and other undesirable forms of plant and animal life.
23. “Point Source” means any discernable, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, dam gate or spillway, well, discrete fissure, container, rolling stock, or vessel or other floating craft from which pollutants are or may be discharged. Point source may also include waters originating at discrete locations on the surface that subsequently enter groundwater and reenter Tribal surface waters, as described under the definition of “Discharge”.
24. “Pollutant” means any material that enters or has the potential to enter surface waters of the Tribe and impairs or has the potential to impair any designated or existing use of Tribal waters or that results in the exceedence of any numeric standard or narrative standard. Pollutants include, but are not limited to, dredged spoil, dirt, slurry, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, or any industrial, municipal, or agricultural wastes discharged into, or that in any way enter, waters of the Tribes.
20. “Pollution” means any man-made or man-induced alteration that results in or has the potential to result in the degradation of the chemical, physical, biological, and radiological integrity of any Tribal waters.

21. “Primary contact recreation” means activities in or on the water where it could be expected to result in the ingestion of, or immersion in, water, such as swimming, water skiing, kayaking, ceremonial and cultural uses, or other activities where ingestion or immersion in the water is likely.
22. “Secondary contact recreation” means activities in or on the water where the potential for immersion or ingestion of water is low, such as wading or boating.
23. “Sediment” means solid material settled from suspension in a liquid; mineral or organic solid material that is being transported or had been moved from its site of origin by air, water, or ice and has come to rest on the earth’s surface either above or below sea level; or inorganic particles originating from weathering, chemical precipitation, or biological activity.
24. “Settleable solids” means inorganic or organic particles that are being transported or have been transported by water from the site or sites of origin and are settled or are capable of being settled from suspension.
25. “Surface waters” means any waters on the surface of the Reservation, including but not limited to streams (permanent, intermittent, and ephemeral), lakes, ponds, wetlands, seeps, fens, and springs, reservoirs, and irrigation and drainage systems discharging into a stream, lake, pond, wetland, reservoir, or other surface water. Treatment works used solely for treating, transporting, or impounding pollutants are not considered surface waters.
26. “Toxic substances” means EPA’s most recently published list of priority pollutants in EPA the CWA § 304 (a) Criteria Chart and any concentrations or combinations of materials that are toxic or harmful to human, animal, plant, or aquatic life.
27. “Tribal Numeric Criteria Chart Levels” means the levels and concentrations for priority toxic and other pollutants, as shown in Appendix A. This chart adopts the latest EPA Updates to CWA 304 (a) Criteria Chart for priority toxic and other pollutants. Criteria are based on the 1999 most recently updated carcinogen risk levels (1/1,000,000) to protect human health. Chronic or acute concentration levels may not be exceeded more than once in any consecutive 3-year period for any water quality parameter unless specifically stated otherwise. Levels are used throughout this Part to determine the maximum or minimum allowable concentrations of toxic or deleterious substances. Metals are based upon total recoverable analytical methods.
28. “True color” means the color of water from which turbidity had been removed.



29. “Turbidity” means a condition in water or wastewater caused by the presence of suspended matter that result in the scattering and absorption of light rays. Expressed as nephelometric turbidity units (NTU).
30. “Use Attainability Analysis” (UAA) means an assessment of the ability of a Waterbody to attain a particular use. It is based on the physical, chemical, biological, and economic factors that affect the attainment of an existing or designated use. A use attainability analysis consists of a Waterbody survey and assessment, a waste load allocation (usually not part of a UAA), and, if appropriate, an economic analysis.,(end sentence) UAAs may be used to determine whether a use could be attained were it not for natural or anthropogenic conditions that are not reparable within 20 years and must conform to EPA’s latest guidance on use attainability analysis.
31. “Waste” means any material, gas, liquid or solid, that is a product or byproduct of any human activity and that is disposed of or that enters waters of the Tribes and impairs or has the potential to impair any Tribal standards.
32. “Water Quality” is the physical, chemical and biological characteristics of water in relationship to a set of standards.
33. “Water Quality Standards” means all designated uses, all numeric standards criteria, all narrative standards criteria, and all policies and procedures related to antidegradation or other written implementation procedures designed to protect public health or welfare, and to enhance the quality of Tribal waters, and serve the purposes of the Clean Water Act (40 CFR 131.3).
34. “Waters of the Tribe” includes those portions of all reservation watersheds within the exterior boundary of the reservation, and all wetlands, ponds, reservoirs, streams, springs, wells, marshes, watercourses, drainage systems, and other surface or ground water, natural or artificial, tribal or allotted, within the reservation or its jurisdiction.
35. “Wetlands” mean those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including lotic, riparian, and lentic, pothole, and isolated areas. Wetlands generally include but are not limited to stream riparian corridors, swamps, marshes, bogs, potholes, springs, fens and similar areas, whether or not a nexus to navigable waters, as defined in the Federal Clean Water Act, has been determined. Wetlands are recognized as “Waters of the Tribe.”

#### **Section 1.3.4 Classifications.**

1. Water quality segments specified in Sections 1.3.5 through 1.3.12 include all elements referred to in the definition of surface water. Standards must be met within each stream reach specified in each classification. Discharges occurring upstream or downstream of a stream reach specified within a classification may not lead to standards exceedence for the receiving reach and any downstream stream(one word) reach to the extent that such discharges are subject to regulation. Downstream toxicity tests may be required if the fate and transport of dissolved and/or particulate pollutants negatively impacts downstream water quality or impair any designated or existing use.
2. The Department recognizes that the natural water quality of wetlands may differ from that of associated streams. The existing water quality of unimpaired wetlands and wetland functions and values will be protected. Wetlands will be restored and enhanced when considered degraded. Wetlands are recognized as “Waters of the Tribe,” and “are subject to applicable narrative criteria and antidegradation policies.”

**Section 1.3.5 A-1 Classification.**

1. See Appendix A, Table 1. For Class A-1 water segments and listed Designated Uses.
2. Designated Uses:  
Waters classified A-1 must be maintained suitable for drinking, culinary, and food processing purposes after conventional treatment for removal of naturally present impurities. Water quality is to be suitable for bathing, swimming and recreation; wildlife (including, but not limited to, birds, mammals, amphibians and reptiles); the growth and propagation of salmonid fishes and associated aquatic life; and agricultural and industrial water supply purposes. In addition, there are certain areas on the water bodies listed as “A-1” that are protected for cultural and ceremonial uses.
3. Tribal Standards are intended to protect and restore waters. No person may conduct activities that lead to exceedence of numeric or narrative water quality standards. The following are the specific water quality standards for waters classified A-1:
  - a) The geometric mean number of Escherichia coli bacteria may not exceed 32 colony forming units per 100 milliliters and 10% of the samples may not exceed 64 colony forming units per 100 milliliters during any 30-day period if resulting from domestic sewage. A single instantaneous sample may not exceed a maximum of 126 E. coli organisms per 100 milliliters.

- b) Dissolved oxygen concentration must not be reduced below the applicable levels given in the Tribal Numeric Chart.
- c) Induced variation of hydrogen ion concentration (pH) within the range of 6.5 to 8.5 must be less than 0.5 pH unit. Natural pH outside this range must be maintained without change. Natural pH above 7.0 must be maintained above 7.0.
- d) No increase above naturally occurring turbidity is allowed.
- e) Temperature-Cold Water Aquatic Life (°C): 19.3°C Maximum weekly average maximum temperature (MWAT); 23.8°C Daily maximum (DM); 12.6°C spawning (season is dependent on the species expected to be present in the segment), implemented as a MWAT. For cutthroat trout: 17.8°C MWAT; 25.6°C DM; 16.3°C cutthroat/spawning MWAT. Instream temperature shall maintain a normal pattern of diurnal and seasonal fluctuation, and spatial diversity, with no abrupt changes and shall have no increase or decrease in temperature of a magnitude, rate and duration deemed deleterious to the resident aquatic life.
- f) No increases are allowed above naturally occurring concentrations of sediment or suspended sediment, contaminated sediment, settleable solids, oils, or floating solids that create or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, fish, or wildlife.
- g) True color must not be increased more than two color units above naturally occurring color.
- h) For waters classified A-1, concentrations of toxic or deleterious substances which would remain in the water after conventional water treatment may not exceed the maximum contaminant levels set forth in the U.S. EPA National Primary Drinking Water Regulations (40 CFR Part 141) or the U.S. EPA National Secondary Drinking Water Regulations (40 CFR Part 143). Nor may concentrations of toxic or deleterious substances exceed Tribal Numeric Chart levels.

**Section 1.3.6 B-1 Classification:**

1. See Appendix A, Table 1. For Class B-1 water segments and listed Designated Uses.
2. Designated Uses:  
Waters classified B-1 must be maintained suitable for drinking and culinary and

food processing purposes after conventional treatment; bathing, swimming, and recreation; wildlife (including, but not limited to, birds, mammals, amphibians and reptiles); the growth and propagation of salmonid fishes and associated aquatic life; and agricultural and industrial water supply purposes. In addition, there are certain areas on the water bodies listed as “B-1” that are protected for cultural and ceremonial uses.

3. Standards:

Tribal Standards are intended to protect and restore waters. No person may conduct activities that lead to exceedence of numeric of or narrative water quality standards. The following are the specific water quality standards for waters classified B-1:

- a) The geometric mean number of Escherichia coli bacteria may not exceed 126 colony forming units per 100 milliliters and 10% of the total samples may not exceed 252 colony forming units per 100 milliliters during any 30-day period. A single instantaneous sample may not exceed a maximum of 235 E. coli organisms per 100 milliliters.
- b) Dissolved oxygen concentration must not be reduced below the applicable levels set forth in the Tribal Numeric Chart.
- c) Induced variation of hydrogen ion concentration (pH) within the range of 6.5 to 8.5 must be less than 0.5 pH units. Natural pH outside this range must be maintained without change. Natural pH above 7.0 must be maintained above 7.0.
- d) The maximum allowable increase above naturally occurring turbidity is 5 Nephelometric turbidity units.
- e) Temperature-Cold Water Aquatic Life (°C): 19.3°C Maximum weekly Average maximum temperature (MWAT); 23.8°C Daily maximum (DM); 12.6°C spawning (season is dependent on the species expected to be present in the segment), implemented as a MWAT. For cutthroat trout: 17.8°C MWAT; 25.6°C DM; 16.3°C cutthroat/spawning MWAT. Instream temperature shall maintain a normal pattern of diurnal and seasonal fluctuation, and spatial diversity, with no abrupt changes and shall have no increase or decrease in temperature of a magnitude, rate and duration deemed deleterious to the resident aquatic life.
- f) No increases are allowed above natural concentrations of sediment or suspended sediment, contaminated sediment, settleable solids, oils, or floating solids that create or are likely to create a nuisance or render the

waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, fish, or other wildlife.

- g) True color must not be increased more than five color units above naturally occurring color.
- h) For waters classified B-1, concentrations of toxic or deleterious substances which would remain in the water after conventional water treatment may not exceed the maximum contaminant levels set forth in the U.S. EPA National Primary Drinking Water Regulations (40 CFR Part 141), the Tribal Numeric Chart, and the U.S. EPA National Secondary Drinking Water Regulations (40 CFR Part 143). Nor may concentrations of toxic or deleterious substances exceed Tribal Numeric Chart levels.

**Section 1.3.7 B-2 Classification:**

- 1. See Appendix A, Table 1. For Class B-2 water segments and listed Designated Uses.
- 2. Designated Uses:  
Waters classified B-2 must be maintained suitable for drinking, culinary, and food processing purposes after conventional treatment; bathing, swimming and recreation; wildlife (including, but not limited to, birds, mammals, amphibians and reptiles); the growth and marginal propagation of salmonid fishes and associated aquatic life; and agricultural and industrial water supply purposes. In addition, there are certain areas on the water bodies listed as “B-2” that are protected for cultural and ceremonial uses.
- 3. Standards:  
Tribal Standards are intended to protect and restore waters. No person may conduct activities that lead to exceedence of numeric or narrative water quality standards. The following are the specific water quality standards for waters classified B-2:
  - a) The geometric mean number of Escherichia coli bacteria may not exceed 126 colony forming units per 100 milliliters and 10% of the total samples may not exceed 252 colony forming units per 100 milliliters during any 30-day period. A single instantaneous sample may not exceed a maximum of 235 E. coli organisms per 100 milliliters.
  - b) Dissolved oxygen concentration must not be reduced below the applicable levels given in the Tribal Numeric Chart.

- c) Induced variation of hydrogen ion concentration (pH) within the range of 6.5 to 9.0 must be less than 0.5 pH units. Natural pH outside this range must be maintained without change. Natural pH above 7.0 must be maintained above 7.0.
- d) The maximum allowable increase above naturally occurring turbidity is 10 nephelometric turbidity units.
- e) Temperature-Cold Water Aquatic Life (°C): 19.3°C Maximum weekly average maximum temperature (MWAT); 23.8°C Daily maximum (DM); 12.6°C spawning (season is dependent on the species expected to be present in the segment), implemented as a MWAT. Instream temperature shall maintain a normal pattern of diurnal and seasonal fluctuation, and spatial diversity, with no abrupt changes and shall have no increase or decrease in temperature of a magnitude, rate and duration deemed deleterious to the resident aquatic life.
- f) No increases are allowed above naturally occurring concentrations of sediment or suspended sediment, contaminated sediment, settleable solids, oils, or floating solids that create or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, fish, or wildlife.
- g) True color must not be increased more than five color units above the natural color.
- h) For waters classified B-2, concentrations of toxic or deleterious substances which would remain in the water after conventional water treatment may not exceed the maximum contaminant levels set forth in the U.S. EPA National Primary Drinking Water Regulations (40 CFR Part 143). Nor may concentrations of toxic or deleterious substances exceed Tribal Numeric Chart levels.

**Section 1.3.8 B-3 Classification:**

1. See Appendix A, Table 1. for Class B-3 water segments and listed Designated Uses.
2. Designated Uses:  
Waters classified B-3 must be maintained suitable for drinking, culinary, and food processing purposes after conventional treatment; bathing, swimming and recreation; wildlife (including, but not limited to, birds, mammals, amphibians and reptiles); the growth and propagation of non-salmonid fishes and associated

aquatic life; and agricultural and industrial water supply purposes. In addition, there are certain areas on the water bodies listed as “B-3” that are protected for cultural and ceremonial uses.

3. Standards:

Tribal Standards are intended to protect and restore waters. No person may conduct activities that lead to exceedance of numeric or narrative water quality standards. The following are the specific water quality standards for waters classified B-3:

- a) The geometric mean number of Escherichia coli bacteria may not exceed 126 colony forming units per 100 milliliters and 10% of the total samples may not exceed 252 colony forming units per 100 milliliters during any 30-day period. A single instantaneous sample may not exceed a maximum of 235 E. coli organisms per 100 milliliters.
- b) Dissolved oxygen concentration must not be reduced below the applicable levels given in the Tribal Numeric Chart.
- c) Induced variation of hydrogen ion concentration (pH) within the range of 6.5 to 9.0 must be less than 0.5 pH units. Natural pH outside this range must be maintained without change. Natural pH above 7.0 must be maintained above 7.0.
- d) The maximum allowable increase above naturally occurring turbidity is 10 nephelometric turbidity units.
- e) Temperature-Cool Water Aquatic Life (°C): 24.2°C Maximum weekly average maximum temperature (MWAT); 29.4°C Daily maximum (DM). Instream temperature shall maintain a normal pattern of diurnal and seasonal fluctuation, and spatial diversity, with no abrupt changes and shall have no increase or decrease in temperature of a magnitude, rate and duration deemed deleterious to the resident aquatic life.
- f) No increases are allowed above natural concentrations of sediment or suspended sediment, contaminated sediment, settleable solids, oils, or floating solids that create or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, fish, or wildlife.
- g) True color must not be increased more than five color units above the natural color.

- h) For waters classified B-3, concentrations of toxic or deleterious substances which would remain in the water after conventional water treatment may not exceed the maximum contaminant levels set forth in the U.S. EPA national Primary Drinking Water Regulations (40 CFR Part 141), the Tribal Numeric Chart, and the U.S. EPA National Secondary Drinking Water Regulations (40 CFR Part 143). Nor may concentrations of toxic or deleterious substances exceed Tribal numeric Chart levels.

**Section 1.3.9 C-1 Classification:**

- 1. There are no Reservation surface waters presently classified C-1.
- 2. Designated Uses:  
Waters classified C-1 must be maintained suitable for bathing, swimming and recreation; wildlife (including, but not limited to, birds, mammals, amphibians and reptiles); the growth and propagation of salmonid fishes and associated aquatic life; and agricultural and industrial water supply purposes. In addition, there may be certain areas on the water bodies listed as “C-1” that are protected for cultural and ceremonial uses.
- 3. Standards:  
Tribal Standards are intended to protect and restore waters. No person may conduct activities that lead to exceedence of numeric or narrative water quality standards. The following are the specific water quality standards for waters classified C-1:
  - a) The water quality standard for Escherichia coli varies according to season as follows:
    - (i) From April 1 through October 31, the geometric mean number of Escherichia coli bacteria may not exceed 126 colony forming units per 100 milliliters and 10% of the total samples may not exceed 252 colony forming units per 100 milliliters during any 30-day period. A single instantaneous sample may not exceed a maximum of 235 E.coli organisms per 100 milliliters.
    - (ii) From November 1 through March 31, the geometric mean number of Escherichia coli bacteria may not exceed 630 colony forming units per 100 milliliters and 10% of the total samples may not exceed 1,260 colony forming units per 100 milliliters during any 30-day period. A single instantaneous sample may not exceed a maximum of 1,260 E.coli organisms per 100 milliliters.
  - b) Dissolved oxygen concentration must not be reduced below the applicable levels given in the Tribal Numeric Chart.



- c) Induced variation of hydrogen ion concentration (pH) within the range of 6.5 to 8.5 must be less than 0.5 pH units. Natural pH outside this range must be maintained without change. Natural pH above 7.0 must be maintained above 7.0.
- d) The maximum allowable increase above naturally occurring turbidity is 5 nephelometric turbidity units.
- e) Temperature-Cold Water Aquatic Life (°C): 19.3°C Maximum weekly average maximum temperature (MWAT); 23.8°C Daily maximum (DM); 12.6°C spawning (season is dependent on the species expected to be present in the segment), implemented as a MWAT. Instream temperature shall maintain a normal pattern of diurnal and seasonal fluctuation, and spatial diversity, with no abrupt changes and shall have no increase or decrease in temperature of a magnitude, rate and duration deemed deleterious to the resident aquatic life.
- f) No increases are allowed above naturally occurring concentrations of sediment or suspended sediment, contaminated sediment, settleable solids, oils, or floating solids that create or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, fish, or wildlife.
- g) True color must not be increased more than five color units above naturally occurring color.
- h) For waters classified C-1, concentrations of toxic or deleterious substances may not exceed levels that render the waters harmful, detrimental, or injurious to public health. Nor may concentrations of toxic or deleterious substances exceed Tribal Numeric Chart levels.

**Section 1.3.10 C-2 Classification:**

1. There are no Reservation surface waters presently classified C-2.
2. Designated Uses:  
Waters classified C-2 must be maintained suitable for bathing, swimming and recreation; wildlife (including, but not limited to, birds, mammals, amphibians and reptiles); the growth and marginal propagation of salmonid fishes and associated aquatic life, and agricultural and industrial water supply purposes. In addition, there may be certain areas on the water bodies listed as “C-2” that are protected for cultural and ceremonial uses.

3. Standards:

Tribal Standards are intended to protect and restore waters. No person may conduct activities that lead to exceedence of numeric or narrative water quality standards. The following are the specific water quality standards for waters classified C-2:

a) The water quality standard for Escherichia coli varies according to season as follows:

(i) From April 1 through October 31, the geometric mean number of Escherichia coli bacteria may not exceed 126 colony forming units per 100 milliliters and 10% of the total samples may not exceed 252 colony forming units per 100 milliliters during any 30-day period, and a single instantaneous sample may not exceed a maximum of 235 E.coli organisms per 100 milliliters.

(ii) From November 1 through March 31, the geometric mean number of Escherichia coli bacteria may not exceed 630 colony forming units per 100 milliliters and 10% of the total samples may not exceed 1,260 colony forming units per 100 milliliters during any 30-day period. A single instantaneous sample may not exceed a maximum of 1,260 E.coli organisms per 100 milliliters.

b) Dissolved oxygen concentration may not be reduced below the applicable levels given in the Tribal numeric Chart.

c) Induced variation of hydrogen ion concentration (pH) within the range of 6.5 to 9.0 must be less than 0.5 pH units. Natural pH outside this range must be maintained without change. Natural pH above 7.0 must be maintained above 7.0.

d) The maximum allowable increase above naturally occurring turbidity is 10 nephelometric turbidity units.

e) Temperature-Cold Water Aquatic Life (°C): 19.3°C Maximum weekly average maximum temperature (MWAT); 23.8°C Daily maximum (DM); 12.6°C spawning (season is dependent on the species expected to be present in the segment), implemented as a MWAT. Instream temperature shall maintain a normal pattern of diurnal and seasonal fluctuation, and spatial diversity, with no abrupt changes and shall have no increase or decrease in temperature of a magnitude, rate and duration deemed deleterious to the resident aquatic life.

- f) No increases are allowed above natural concentrations of sediment or suspended sediment, contaminated sediment, settleable solids, oils, or floating solids that create or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, or fish and wildlife.
- g) True color must not be increased more than five color units above naturally occurring color.
- h) Concentrations of toxic or deleterious substances may not exceed levels that render the waters harmful, detrimental or injurious to public health. Nor may concentrations of toxic or deleterious substances exceed Tribal numeric Chart levels.

**Section 1.3.11 C-3 Classification:**

1. There are no Reservation surface waters presently classified C-3.
2. Designated Uses:  
Waters classified C-3 must be maintained suitable for bathing, swimming and recreation; wildlife (including, but not limited to, birds, mammals, amphibians and reptiles); the marginal growth and propagation of non-salmonid fishes and associated aquatic life; and agricultural and industrial water supply purposes. In addition, there may be certain areas on the water bodies listed as “C-3” that are protected for cultural and ceremonial uses.
3. Standards:  
Tribal Standards are intended to protect and restore waters. No person may conduct activities that lead to exceedence of numeric or narrative water quality standards. The following are the specific water quality standards for waters classified C-3:
  - a) The water quality standard for Escherichia coli varies according to season as follows:
    - (i) From April 1 through October 31, the geometric mean number of Escherichia coli bacteria may not exceed 126 colony forming units per 100 milliliters and 10% of the total samples may not exceed 252 colony forming units per 100 milliliters during any 30-day period; and a single instantaneous sample may not exceed a maximum of 235 E.coli organisms per 100 milliliters.
    - (ii) From November 1 through March 31, the geometric mean number of Escherichia coli bacteria may not exceed 630 colony forming units per 100

milliliters and 10% of the total samples may not exceed 1,260 colony forming units per 100 milliliters during any 30-day period. A single instantaneous sample may not exceed a maximum of 1,260 E.coli organisms per 100 milliliters.

- b) Dissolved oxygen concentration must not be reduced below the applicable levels given in the Tribal numeric Chart.
- c) Induced variation of hydrogen ion concentration (pH) within the range of 6.5 to 9.0 must be less than 0.5 pH units. Natural pH outside this range must be maintained without change. Natural pH above 7.0 must be maintained above 7.0.
- d) The maximum allowable increase above naturally occurring turbidity is 10 nephelometric turbidity units.
- e) Temperature-Cool Water Aquatic Life (°C): 24.2°C Maximum weekly average maximum temperature (MWAT); 29.4°C Daily maximum (DM). Instream temperature shall maintain a normal pattern of diurnal and seasonal fluctuation, and spatial diversity, with no abrupt changes and shall have no increase or decrease in temperature of a magnitude, rate and duration deemed deleterious to the resident aquatic life.
- f) No increases are allowed above naturally occurring concentrations of sediment or suspended sediment, contaminated sediment, settleable solids, oils, or floating solids that create or are likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, or fish and wildlife.
- g) True color must not be increased more than five color units above naturally occurring color.
- h) For waters classified C-3, concentrations of toxic or deleterious substances may not exceed levels that render the waters harmful, detrimental, or injurious to public health. Nor may concentrations of toxic or deleterious substances exceed Tribal Numeric Chart levels.

**Section 1.3.12 General Requirements and Limitations.**

- 1. Reservation surface waters must be free from substances that are or may become injurious to public health, safety, welfare, or any of the designated or existing beneficial uses. Such substances may or will:
  - a) Settle to form objectionable sludge deposits or emulsions beneath the surface of the water or upon adjoining shorelines;

- b) Create floating debris, scum, a visible oil film (or oil be present in concentrations at or in excess of 10 milligrams per liter) or globules of grease or other floating materials;
  - c) Produce odors, colors or other conditions that create a nuisance or render undesirable tastes to fish flesh or make fish inedible;
  - d) Create concentrations or combinations of materials that are toxic or harmful to human, animal, plant, or aquatic life except for pesticide application as described in Section 1.3.13 (4); and
  - e) Create conditions that produce undesirable aquatic life.
2. No pollutants and/or pollution may be discharged which, either alone or in combination with other pollutants and/or pollution, will cause exceedence of surface water quality standards (designated uses, numeric, narrative, and antidegradation).
3. Water, waste, or product holding facilities, leaching pads or tailing ponds utilized in the processing of ore must be located, constructed, operated, and maintained in such a manner and be constructed of materials that prevent the discharge, seepage, drainage, infiltration, or flow that cause, threaten, or allow pollution of surface waters. The Department may require that a monitoring system be installed and operated if the Department determines that pollutants may reach surface waters or present a substantial risk to public health.
- a) Complete plans and specifications for proposed leaching pads, tailing ponds, or water, waste, or product holding facilities utilized in the processing of ore must be submitted to the Department no less than 180 days prior to the proposed commencement of construction. Written Departmental approval must be obtained prior to commencement of construction.
  - b) Leaching pads, tailing ponds, or water, waste, or product holding facilities, operating as of the effective date of this rule must be operated and maintained in such a manner so as to prevent the discharge, seepage, drainage, infiltration or flow that causes, threatens, or allows the pollution of surface waters.
4. Application of pesticides in or adjacent to Reservation surface waters must be in strict compliance with the labeled directions for use of the pesticide and other relevant requirements of the Federal Insecticide, Fungicide, and Rodenticide Act

(FIFRA) and other Federal or Tribal laws that apply. Pesticide application should target noxious species and must not impact the structure or function of indigenous or intentionally introduced aquatic and wildlife communities.

5. No pollutants or pollution may be discharged and no activities may be conducted which, either alone or in combination with other wastes or activities, result in the total dissolved gas pressure relative to the water surface exceeding 110% of saturation.
6. Pollution resulting from storm drainage, storm sewer discharges, and non-point sources, including irrigation practices, road building, construction, logging practices, over-grazing, and other practices must be eliminated or minimized.
7. On all public water-supply watersheds, detailed plans and specifications for the construction and operation of roads will be submitted to the Department for its written approval no less than 60 days prior to the day on which it is desired to commence road construction. Approval must be obtained in writing prior to commencement of such construction.
8. Outstanding Tribal Resource Waters- Prohibitions.
  - (1) Any new or increased point source discharge that would result in a permanent change in water quality is prohibited.

### **Section 1.3.13 Sampling Methods.**

1. Methods of sample collection, preservation, and analysis used to determine compliance with the applicable water quality standards will comply with the latest edition of Standard Methods for the Examination of Water and Wastewater published by the American Public Health Association or be in accordance with tests or procedures that have been found to be equivalent or more applicable by the EPA as set forth in 40 C.F.R. 141.23, 40 C.F.R. 136 or other EPA guidance.
2. Standards for organisms of the coliform group are based on a minimum of five samples obtained during separate 24-hour periods during any consecutive 30-day period analyzed by the most probable number or equivalent membrane filter methods or in accordance with tests or analytical procedures that are found to be either equivalent or more applicable by the EPA. If however, there are fewer than 5 samples/30 days available, the available samples will be used to calculate the geometric mean for determination of compliance with standards.
3. Bioassay tolerance concentrations must be determined using the latest available research results for the materials through the use of bioassay test procedures for simulating actual stream conditions as set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater published by the American

Public Health Association, ASTM Standards Part 31, or in accordance with tests or analytical procedures found to be either equivalent or more applicable by the EPA.

Any bioassay studies must be made using a representative sensitive local species at life stages of economic or ecological importance. However, other species whose relative sensitivity is known may be used when there is difficulty in providing the more sensitive species in sufficient numbers or when such species are unsatisfactory for routine confined bioassays. All bioassay methods and species selections must be approved by the Department.

#### **Section 1.3.14 Biological Standards.**

It is the goal of the Business Committee that all surface waters of the Reservation shall be free from substances in concentrations or combinations that will adversely impact the structure or function of indigenous or intentionally introduced aquatic and wildlife communities. Pesticides must be applied following label directions and other stipulations identified in Section 1.2.13.4. No person may cause the introduction of such substances to surface waters, whether via point source or Nonpoint source. Specifically, the Tribe intends to fully protect federally listed or proposed threatened or endangered species or species of special Tribal interest.

The Tribe strives to maintain the biological integrity of aquatic, aquatic-dependent and associated biological communities in all surface waters. Reservation waters shall be free from substances or disturbances that would adversely alter the structure and function of aquatic, aquatic-dependent, or associated biological communities. Implementation shall be based on comparison of current biological conditions at a particular site to the conditions deemed attainable or expected based on an appropriate reference site or condition.

At this time, the Tribe does not have specific, numeric biological standards or criteria, however, it is the intent of the Tribes to develop such criteria or standards as resources allow.

#### **Section 1.3.15 Radiological Standards.**

No person may cause radioactive materials to be present in surface waters in excess of natural quantities. In addition, specific numeric number standards for radiological substances are contained in the numeric chart for purposes of determining potential impairment.

#### **Section 1.3.16 Use Attainability Analysis (Reserved)**

(NOTE: Implementation procedures for Use Attainability Analysis will be developed in the future are currently unavailable at this time. The Chippewa Cree Tribe Water Resources Department will be responsible for exploring the desirability/potential/possibility assigned the possibilities of adopting such procedures).





## **PART IV ANTIDegradATION POLICY**

### **Section 1.4.1 Antidegradation Policy**

Antidegradation policy, classifications, and implementation will be further developed in the near future. See below for the preliminary elements of this policy.

### **Section 1.4.2 Tiered Classifications of Reservations Surface Waters**

1. Antidegradation implementation methods include the following requirements for all Reservation surface waters:
  - a) Tier 1 water. Existing Instream uses and a level of water quality necessary to fully protect existing Instream uses shall be maintained and protected for Tier 1 waters. All Reservation waters must meet Tier 1 water quality requirements.
  - b) Tier 2 waters. Where the quality of waters exceeds levels necessary to support propagation of fish and wildlife and recreation in and on the water that quality shall be maintained and protected unless the Department and the Council finds that allowing lower water quality is necessary to accommodate important economic or social development in the area in which Tier 2 waters are located. In allowing any degradation or lower water quality, the Department and the Business Committee shall assure that water quality is adequate to protect existing uses fully, assure the highest requirements for all new and existing point sources, and require all cost-effective and reasonable best management practices for point source and Nonpoint source pollution control.
  - c) Tier 3 waters. Where Tribal waters constitute an outstanding national resource, such as waters of exceptional quality, or waters of ecological, recreational, or cultural significance, water quality shall be maintained and protected for Tier 3 waters.

### **Section 1.4.3 Applicability and Limitations of Antidegradation.**

1. The requirements of this Part apply to any human activity that is or degrading or potentially degrading a water body or segment thereof.
2. Tier 1. Existing Instream uses and a level of water quality necessary to protect those uses will be protected and maintained.
3. Tier 2. If the Department or Business Committee determine, based on important economic or social development, that degradation may be allowed, in no event may degradation of Reservation waters interfere with or become harmful, detrimental or injurious to public health or welfare, recreation, safety, cultural, or

spiritual values, fish and wildlife uses, livestock uses, or other existing uses. In allowing degradation to lower water quality, the Department shall assure water quality adequate to protect existing uses fully and shall assure that the most stringent enforceable requirements will be applied to all new and existing point sources and that all cost-effective and reasonable best management practices for Nonpoint source control will be achieved.

4. Degradation of Outstanding Tribal Resource Waters (OTRW) is prohibited. No new or expanded discharges are allowed in OTRW waters, whether or not they would degrade existing water quality. Short term exceptions to this policy may be made by the Department if the activity will result in the cleanup of an existing pollution source and all practicable methods are used to minimize any water quality or habitat effects on the affected waters and to minimize the length of time that the exception will apply.

#### **Section 1.4.4 Antidegradation Implementation (RESERVED)**

Implementation procedures for Antidegradation are continuing to be developed. The following procedures are in effect at this time and will be added to and updated in subsequent revisions. Until Antidegradation Implementation procedures are completed, CCT department staff will work with EPA Region VIII staff to identify and apply appropriate antidegradation implementation procedures.

##### 1. GENERAL IMPLEMENTATION PROCEDURES.

- a) Implementation procedures to ensure identification and protection of Tier 1 waters, existing uses

No written Tribal implementation procedures have been developed at this time. In general, fully compliance with the use, narrative and numeric standards applied to each particular Waterbody segment will be used to judge whether Tier 1 protection is being achieved. Existing uses, if not designated, will be designated when they become known. When bonafide existing uses are determined, but have not yet been designated, they will be accorded the same protection by numeric, narrative, and antidegradation standards as if they had been designated.

- b) Implementation procedures to ensure identification and protection of Tier 2 waters, High Quality Waters.

No written Tribal Implementation procedures have been developed at this time.

- c) Implementation Procedures to identify, nominate, and ensure protection of Tier 3 waters, Outstanding Tribal Resource Waters (OTRWs).

- 1) Nomination of OTRW's. Surface waters of the Tribes that are of exceptional quality and/or are of exceptional recreational, ecological, or cultural significance may be designated by the Tribes as Outstanding Tribal Resource Waters. Any person wishing to nominate an OTRW for the Tribe's consideration shall follow the petition requirements. The Petition form may be requested from the Department.

- d) Antidegradation Review Process.

- 1) All and new and existing surface water discharge permits shall undergo an Antidegradation review of water quality by the Department at the time of permit issuance or renewal.

No written Tribal Implementation procedures have been developed at this time.

#### **Section 1.4.5 Critical Condition Identification Procedures (Reserved).**

(Note: No Critical Condition Identification Procedures have been developed at this time.)

### **PART V MIXING ZONE POLICY**

#### **Section 1.5.1 Mixing Zone Policy (Reserved)**

(Note: A mixing zone policy is currently being considered by the Chippewa Cree Tribe. The development of such a policy and implementation procedures will follow EPA Region VIII's "Policy Statement: Mixing Zone and Dilution Policies and Procedures" as well as other EPA guidance documents.)

#### **Section 1.5.2 Narrative Toxic Standards (Reserved)**

(Note: Narrative toxic standards for the Chippewa Cree Tribe are currently being considered at this time. If the Tribe decides to develop such criteria, they will no doubt follow EPA guidance documents that are in existence.)

## **PART VI COMPLIANCE WITH STANDARDS**

### **Section 1.6.1 Investigation of Reported or Suspected Non Compliance.**

The Department will forthwith investigate compliance with the standards for surface water quality and other provisions contained in these rules whenever it:

1. Receives notice of a suspected exceedence or whenever it receives a written request from any person to investigate and take action upon any suspected violation of any requirement hereunder;
2. Possesses reliable information, as a result of Department sampling or otherwise, that gives the Department reason to believe that an exceedence of standards has occurred or that a water body or segment thereof has been, or may be, degraded.

### **Section 1.6.2 Preliminary Findings.**

1. If the preliminary findings of an investigation of water quality conditions or threats thereto show that a condition exists that indicates a clear and present danger to human health or to the livelihood of the Reservation residents, the procedures set out in \_\_\_\_\_ will followed. In all other instances, applicable procedures set out herein and in \_\_\_\_\_ shall be followed by the Department to address the particular situation.
2. Whenever preliminary findings indicate that an existing use of a water body or segment thereof is impaired or endangered, the Department will, to the extent practicable, notify each affected user of the impairment or endangerment and of any recommended means to address the situation. The Department will promptly cause a notice of the scope and severity of the impairment, together with any recommended mitigation, to be published or broadcast, or both, by local media with wide access to the Reservation public.

### **Section 1.6.3 Investigation Report and Recommendation.**

In addition to any preliminary findings made and action taken pursuant to these rules, a report of an investigation of an alleged or suspected exceedence of a standard or violation of a requirement of these rules will be submitted promptly by the Chippewa Cree Tribe Water Quality Program to the Water Resources Department for consideration. The report shall include, without limitation:

1. Any physical, chemical, biological, radiological, or thermal evidence of alleged or suspected pollution or exceedence;
2. If the pollution or exceedence appears to have occurred, a description of its nature,

scope and estimated duration.

3. The apparent or possible cause or causes of the pollution or exceedence, including, if the cause is a short term activity eligible for exemption hereunder, whether such an exemption has been requested and what the disposition of the request has been.
4. The effect, if any, that the alleged or suspected pollution or exceedence has had or may have on existing uses and designated uses of the water body or segment thereof; and
5. Recommendation for compliance measures, if any, to be undertaken by the Department and for any future investigation.

#### **Section 1.6.4 Compliance Order-Civil Action-Exemption.**

1. The Department may cause a compliance order to be served, either personally or by certified mail, upon the responsible party for each point source of such unpermitted discharge if it has reason to believe, based upon reliable information:
  - a) That a violation or exceedence of a numeric standard (numeric, narrative, and designated uses) or other limitation or a violation of a requirement of these rules has occurred; and
  - b) That the violation or exceedence is caused by an unpermitted discharge of pollutants from one or more point sources.
2. A compliance order will specify the condition, limitation, standard or numeric standard exceeded, or other requirement violated, set a reasonable time for compliance taking into account the seriousness of the violation and any good faith efforts that have been made to comply with the condition, limitation, standard, numeric standard, or requirement believed to be violated.
3. A compliance order is a final Departmental decision that may be appealed as a contested case. Nothing in this section is intended to limit the Department's ability to commence judicial enforcement proceedings under the Chippewa Cree Tribe's Water Quality Ordinance.

4. If the responsible party refuses or fails to comply with the schedule of compliance set out in the compliance order, the Department may commence a civil action against such operator for appropriate relief. Such relief may include injunctive relief not to exceed \$10,000 a day for each parameter violated and for each day of noncompliance as provided in \_\_\_\_\_ of the Tribe's Water Quality Ordinance. The Department may also seek costs of any pollution reduction or other measures undertaken by the Department to address environmental damages including loss of cultural values associated with natural resources injured by the violation and the Department's investigative and enforcement costs.
5. Subsection (1) of this Rule may not be applied by the Department, after due consideration, if the activity producing the discharge is a one-time, non-repetitious event or an operation of very short duration.

## **PART VII. COMPLIANCE PROCEDURES, REQUIREMENTS, AND ORDERS**

### **Section 1.7.1 Purpose.**

The purpose of this regulation is to establish procedures for compliance with the regulatory and other enforcement provisions of the Tribe's Water Quality Ordinance. To the extent that such provisions require recognition by the U.S. Environmental Protection Agency (EPA) of conformity with Section 402 of the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES), the regulatory provisions for implementation are presently reserved. It is recognized that until such time as Tribal authority to implement the NPDES program within the exterior boundaries of the Reservation is acknowledged, the EPA retains sole authority for program implementation within the exterior boundaries of the Reservation.

### **Section 1.7.2 Definitions.**

The definitions of terms found in the Chippewa Cree Tribe's Water Quality Ordinance and in the Clean Water Act and its implementing regulations shall be applied to this part. To the extent any ambiguity exists, the ordinary and plain meaning of any such term shall be applied.

### **Section 1.7.3 Notice of Unpermitted Discharge by Department.**

Upon receiving notice or other reliable information of an unpermitted discharge or actual or threatened release of any substance threatening Reservation waters or residents, the Department shall follow the procedures and conditions for notification contained in these regulations.

### **Section 1.7.4 Required Notice to Department of Release or Unpermitted Discharge.**

1. Any person whose activities result in a discharge or release of pollutants or other substances that cause, threaten, or allow pollution of Reservation surface waters is required to promptly notify the Department of such release or discharge in sufficient detail to allow the Department to take timely and appropriate action.
2. Two notices to the Department are required:
  - a) An immediate notice as soon as the person or his/her agent or employee whose activities threaten Reservation surface waters or have resulted in a release or unpermitted discharge has knowledge thereof, and
  - b) Within three (3) calendar days of the immediate notice, a subsequent written notice setting forth the best estimate of quantity, nature, duration, and extent of the release or threatened discharge of pollutants.

**Section 1.7.5 Immediate Notice of Unpermitted Discharge - How Given by Responsible Party.**

1. Immediate notice may be given as follows:
  - a) Between the hours of 8 A.M. and 4:30 P.M. on a weekday that is not a Tribal Holiday, notice may be given to a responsible employee of the Chippewa Cree Tribe Water Resources Department by the timeliest of the following methods:
    - 1) Verbally by Telephone: (406) 395-4225.
    - 2) Verbally, in person at the Chippewa Cree Tribe Water Resources Department Building.
    - 3) In writing, by telefax. FAX: (406) 395-4195
  - b) At all other times, notice may be telephoned to the dispatcher of the Chippewa Cree Tribe Law & Order Department telephone: (406) 395-4513.

**Section 1.7.6 Contents of Immediate Notice of Unpermitted Discharge or Release.**

1. The Department will provide a form for the recording of verbal immediate notice by the Department employees and the Tribal Police dispatcher.

2. Information to be provided by immediate notice will include:
  - a) The name, business address, and telephone number of the individual reporting the threatened release or discharge;
  - b) The address and telephone number of the place from which the notice was given;
  - c) Whether the notifying individual is the person whose activities resulted in the threatened release or discharge or an agent or employee of such person;
  - d) If the notifying individual is an agent or employee, the name, address, and telephone number of either:
    - 1) The nearest office of the person whose activities resulted in the threatened release or unpermitted discharge, or
    - 2) the notifying individual's supervisor;
  - e) The date, time and place of the threatened release or discharge and any immediately apparent, personal injury, property damage, or threat to human health arising from the event that produced the threatened release or discharge;
  - f) An initial estimate of the nature and quantity of substances released or discharged and any known toxic, hazardous, or deleterious potential of the substances;
  - g) Whether and which other agencies or emergency services have been or will be notified by the notifying individual; and
  - h) Whether the person whose activities resulted in the threatened release or discharge is known to be mobilizing for cleanup operations.
  - i) Other pertinent information that will help the Department respond to the spill.

**Section 1.7.7 Contents of Subsequent Written Notice of Unpermitted Discharge or Release.**

Subsequent written notice to the Department signed by the person, or authorized Representative thereof, whose activities resulted in the threatened release or discharge, Shall include:

1. Any necessary correction of or addition to the information provided in the immediate notice;



2. The name, address, and telephone number of any agent or employee of the person whose activities resulted in the threatened release or discharge who is authorized by said person to communicate with the Department in matters associated with the event, and, if different, the same identifying information with respect to any officer or agent authorized by law to accept service of process on behalf of the person whose activities resulted in the threatened release or discharge;
3. An initial assessment of the probable water quality and other social or environmental consequences of the threatened release or discharge, including any predictable effect on existing water uses;
4. A description of measures undertaken, planned, or proposed to be undertaken by the person whose activities resulted in the threatened release or discharge to cleanup, prevent, and fully address adverse effects on water quality, including an identification of equipment and manpower to be utilized;
5. An identification of any cooperative agreement or activities to be conducted jointly with other appropriate governmental agencies or with a disaster response team, and whether the person whose activities resulted in the threatened release or discharge is responsible for all or part of the expense incurred by such agency or team;
6. The proposed estimated duration of cleanup, mitigation, or pollution prevention activities to be undertaken to the satisfaction of the Department,
7. To the extent known or reasonably ascertainable, the names, addresses, and telephone numbers of any owners of real or personal property injured or potentially adversely affected by the event producing the threatened release or discharge,
8. Other pertinent information.

**Section 1.7.8 Failure to Notify May Be Basis of Civil Action.**

If a person whose activities result in a threatened release or unpermitted discharge fails to notify the Department of the event, the Department may bring a civil action against the person for failure to notify. If the failure to notify is proved, the Tribal Court may assess a penalty not to exceed \$25,000 per day for each day during which such failure continues, plus any cleanup, investigative, administrative, and other costs incurred by the Department or the Tribes, as applicable.

### **Section 1.7.9 Cleanup Orders, Plans and Operations.**

1. Any person reasonably believed to have violated any effective requirement established under the Tribal Water Quality Ordinance or regulations and standards adopted pursuant thereto, or whose activity results in a release or unpermitted discharge that causes or threatens impairment of existing uses, may be subject to a Departmental order.
2. The Department may consider any measures proposed by a responsible party to abate the violation or cease the discharge and to minimize, prevent or reduce the harmful effects of any unlawful discharge, exceedence, or other threat to Reservation waters.
3. The Department may issue an order requiring the responsible party to immediately comply with the Tribal Water Quality Ordinance, comply with applicable conditions of a Clean Water Act Section 401 certification, abate the discharge and, as appropriate, propose comprehensive measures by which the responsible party, upon Departmental approval, may achieve compliance. Compliance activities may include restoration of an affected area to its predischage or pre-violation state, full satisfaction of all environmental and natural resource injuries and damages, including but not limited to satisfaction for cultural losses experienced as a result of the violation, and compensation to the Tribes for losses and expenses incurred as a result of responding to the discharge or violation and the time by which compliance and satisfaction must be achieved.
4. In the event that a Departmental order is not timely complied with or is inadequately complied with in the considered view of the Department, the Department may undertake the cleanup and restoration of the site or abatement of the violation and may assess the full costs of the same against the responsible party pursuant to applicable provisions of the Tribal Water Quality Ordinance and these rules.
5. If the measures undertaken or proposed to be undertaken by the person whose activities resulted in the release or actual or threatened discharge are deemed adequate, the Department will monitor affected waters to determine the effectiveness of the cleanup or mitigation.
6. If the measures undertaken or proposed to be undertaken are deemed inadequate by the Department, it will so inform the person whose activities resulted in the threatened release or discharge and require additional or different measures to be undertaken. Departmental requirements will be based on reasonably available and cost-effective remedial measures, considering the seriousness of the threatened release or discharge, and may include monitoring for and mitigation or prevention of cumulative effects of the discharge and other measures deemed necessary by the

Department.

7. Within five days of receipt of Departmental requirements in writing, the person whose activities resulted in the threatened release or discharge must promptly submit a plan of operations incorporating Departmental requirements. The responsible party may, in the same period, propose adequate alternative measures acceptable to the Department. However, the responsible party bears the burden of demonstrating the unreasonableness of Departmental requirements as specified herein and , in the event that the responsible party elects to deviate from Departmental requirements, shall be considered to have violated the provisions of this rule and applicable provisions of the Tribal Water Quality Ordinance and shall thus be subject to enforcement action brought pursuant thereto.

**Section 1.7.10 Cleanup Order, Contents.**

1. If the person whose activities resulted in the threatened release or discharge does not timely propose and undertake a cleanup of affected or potentially affected lands and waters which will accomplish all feasible mitigation or remediation of adverse effects of the event, the Department may issue a cleanup order to said person.
2. Such order will include, at a minimum:
  - a) A listing of essential equipment, supplies, and personnel required to undertake cleanup at the site and to satisfy or mitigate or prevent natural resource and environmental damages;
  - b) A requirement that cleanup begin as soon as equipment and supplies can be brought to the site;
  - c) The name and telephone number of the Departmental employee who will monitor the cleanup;
  - d) Departmental requirements, if any, for chemical and biological sampling and analysis of the deleterious effects of the spill or discharge on water quality and for reporting of the same; and
  - e) A notice that if cleanup is not timely commenced and satisfactorily concluded, the Department may undertake the cleanup and restoration of the site and assess the full costs of same against the noncomplying responsible party.
3. The Department may assess the foregoing costs and associated losses against such person in its Order. Such Order constitutes a final agency action and shall be appealable pursuant to the terms of the Tribal Water Quality Ordinance.

### **Section 1.7.11 Noncompliance with Order.**

In the event that a cleanup order is not complied with, the Department may bring a civil action against the responsible party or parties as set out in the Tribal Water Quality Ordinance.

### **Section 1.7.12 Notices of Violation and Cease and Desist Order.**

1. In instances where the Department reasonably believes that a violation of any provision of the Tribal Water Quality Ordinance or any permit, certification or control regulation issued pursuant thereto has occurred, it may issue a written notice of violation to the responsible party. Such notice is not subject to appeal except as set out in applicable sections of the Tribe's Water Quality Ordinance. However, informal consultation with the Department to discuss its terms may be sought by the recipient and is encouraged.
2. Such notice shall include a short and plain statement of the provision (s) alleged to have been violated and the facts supporting such a violation. It may also contain a recommendation for necessary corrective action or such other measures as may be necessary for the responsible party to resolve the violation and a time by which such resolution must occur.
3. The Department is further authorized to issue cease and desist orders as set out in the Tribe's Water Quality Ordinance.
4. Suspension or Revocation of Permit (Reserved).

### **PART VIII NONPOINT SOURCE POLLUTION MANAGEMENT (Reserved).**

1. Until such time as a comprehensive water quality management plan is adopted for the Rocky Boy's Indian Reservation, whenever pollution or exceedence of any standard, numeric standard, lamination, or other requirement of these rules is found by the Department to be caused by a person or persons resulting in or contributing to Nonpoint source pollution, the Department may enter into an agreement with such person for the purpose of preventing, mitigating, or reducing such pollution.
2. Such agreement shall provide, without limitation, for such activities to be conducted in accordance with:
  - a) Reasonable cost-effective best management practices appropriately designed to prevent, reduce, or mitigate the introduction of pollutants into

affected or potentially affected surface waters, and

- b) A schedule of compliance, not to exceed three years in duration, for attainment of the relevant standard.
3. An agreement entered pursuant to the rules will be incorporated by reference into initial Comprehensive Water Quality Management Plan and will, thereby, become a part of the same.
4. In negotiating reasonable cost-effective best management practices or schedules of compliance pursuant to this Rule, the Department may consult with or request technical assistance from agencies of other governments with responsibilities for, or expertise in, the protection of water quality and, if funds are available, may employ qualified consultants to provide research, advice, or other services as deemed necessary or desirable by the Department.
5. If a person whose activities or operations contribute to Nonpoint source pollution is a) a Tribal agency or b) a lessor or contractor conducting activities upon lands beneficially owned by the Tribes, the Department shall recommend to the Tribal Council imposition of reasonable cost-effective best management practices, a schedule of compliance, and such other measures as it deems appropriate for adoption by Resolution of the Business Committee. Upon adoption of such a Resolution affecting the operating practices of a Tribal Agency or enterprise, the requirements of the Resolution will take effect pursuant to the terms of the Resolution. The conditions of said Resolution affecting the operating practices of a lessor or contractor conducting activities on Tribal lands will be incorporated as early as possible into the relevant instrument and enforced as a material condition thereof.

## **PART IX 401 CERTIFICATION**

### **Section 1.9.1 - Introduction.**

Section 401 of the Federal Water Pollution Control Act (Clean Water Act or CWA) requires that applicants for a federal license or permit relating to any activity which may result in any discharge into navigable waters (i.e., waters of the United States) that shall obtain a certification from the responsible governmental authority that such discharge will comply with the applicable provisions of sections 301, 302, 303, 306 and 307 of the Clean Water Act.

The Chippewa Cree Tribe, acting through its Water Resources Department, shall apply to the U.S. Environmental Protection Agency to implement the CWA 401 Program and to take all action necessary to meet the relevant requirements to properly administer such a program.

### **Section 1.9.2 - Purpose.**

The purpose of this regulation is to establish procedures for application, public notice, and hearing in relation to the processing of applications for certification required by section 401 of the CWA.

### **Section 1.9.3 - Definitions.**

1. “Applicant” for purposes of CWA 401 certification means any person who applies for a license or permit issued by an agency of the federal government to conduct an activity that may result in a discharge of a pollutant to Reservation surface waters or wetlands.
2. “Certification” means a letter of approval, denial or approval with conditions of an application for certifications issued by the Chippewa Cree Tribe Water Resources Department.
3. The definitions of other terms used in these regulations shall be consistent with those used in the Tribe’s Water Quality Ordinance and the federal Clean Water Act and its implementing regulations. In the case of ambiguity, words will be given their ordinary meaning.

### **Section 1.9.4 - Authority to Act.**

A certification, certification with conditions, or denial of certifications with conditions or alternatives shall be issued in letter form, but must be assigned a docket number and retained as a part of the Department’s official records. Such letters may be signed by a duly authorized agency official which, for purposes of this rule, includes the head of the department of Natural Resources or persons duly authorized to act for him/her in his/her absence.

### **Section 1.9.5 Application**

1. No discharge of pollutants or construction of any facility that may precipitate a discharge of pollutants to Reservation surface waters, including wetlands, may commence without first obtaining a written certification of such discharge as described herein.
2. Application for certification may be made upon a form supplied by the Department or in any manner that adequately and accurately describes the applicant’s name and address; a description of the proposed point source or activity; its volume, biological, chemical, physical and radiological characteristics; a description of the existing environmental conditions at the site of the proposed discharge; its location

and duration and extent of the proposed discharge. The applicant shall supply the Department with the size of the area potentially affected; the location or locations at which the discharge may enter Reservation waters; any environmental impact assessment, information, maps, and/or photographs provided to any licensing or permitting agency; the date or dates of the proposed activity's inception and termination; a description of methods proposed to monitor the quality and characteristics of the discharge and operation of the facility from which the discharge will originate; and a description of the functions and operation of the activity and any practices proposed to minimize or treat pollutants or effluent that may be discharged to Reservation waters.

3. In cases where a CWA 402 permit application has been made to the U.S. Environmental Protection Agency or a CWA 404 permit application has been made to the U.S. Army Corps of Engineers, or in cases where an applicant has applied for approval for a project pursuant to the Tribe's Water Quality Ordinance, the applicant may submit a complete copy of that permit application to the Department in lieu of subsection (2) above, but may be requested by the Department to supply such additional information as may be reasonably required to afford it sufficient information to make a certification decision in conformity with the Clean Water Act.
4. Upon receipt of an application for certification, the department shall make a record of the date of its receipt. If upon examination the application is found to be defective or incomplete, it will be returned promptly to the applicant for correction or completion, and the date and reasons for the turn shall be marked on a copy of the application and made of record in Department files. The applicant shall be notified of the deficiencies by certified mail within 30 days of receipt by the Department of the application. The applicant shall have another 30 days from notification of the incomplete application to supply complete information to the Department or face rejection of the application. If no response or a grossly inadequate response is received by the Department, the application shall be deemed to have been withdrawn by the applicant. In addition, an untimely response may not be considered by the Department, although any applicant may reapply for certification at any time.
5. Within thirty (30) days of submission of a complete application and supporting scientific and technical information to the Department for review by the Water Quality Program, the Department may either grant, deny or grant with conditions the application for 401 certification. Response from the Water Quality Program to the submitted application may

### **Section 1.9.6 Public Notice and Public Hearings**



Public notice of an application shall be performed in relation to all applications, as follows:

1. By mailing notice of the application for certification to persons and organizations who have requested the same and to all others deemed appropriate.
2. When determined by the Department as necessary to protect the public interest, publication of notice as set out in the Tribal Water Quality Ordinance. However, certification action shall not be construed to constitute rulemaking proceedings for any other purpose. The publication shall be made on a form approved by the Department, as appropriate, and the applicant shall arrange for publication and bear the cost of such publication and provide an affidavit of publication to the Department.
3. Any person desiring to present views on an application in relation to water pollution control considerations shall do so by providing the same in writing to the Department, whichever is identified in the last published notice, or such longer period of time as the Department may determine. In cases where the Department has elected to seek public comment on an application, no application may be deemed complete until the public comment period and hearing, if any, has been completed.
4. If the Department determines there is sufficient public interest in any application, a public hearing for the information submission of informal oral or written testimony may be held. When this determination is made before notice of application as set out at (1), the notice shall include the time and place of the hearing. Otherwise, a separate notice of public hearing shall be made and such notice shall be distributed and published in the manner provided above, at the sole expense of the applicant. In addition, it shall be the applicant's responsibility to obtain Departmental approval of all notices referenced herein and to arrange for publication of the same.



## Appendix A. Chippewa Cree Tribe Water Quality Standards Designated Use Table

**Table 1. Waterbody Designated Uses.**

Segments are designated only for portions located within the exterior boundaries of the Chippewa Cree Reservation.

Watershed	Segment	Classification	Type *	Aquatic Life	Outstanding Tribal Resource Waters	Recreation  Geometric mean / Single sample maximum	Agriculture	Wild-life	Wet-lands	Cultural	Industrial	Drinking water
<b>Box Elder Creek</b>	Headwater's to Sundance Creek	A-1	P	Cold	X	Primary Contact (32 /126cfu)	X	X	X	X		
	Sundance Creek to Bonneau Reservoir (mainstem, below Agency to Bonneau Reservoir)	B-1	P	Cold		Primary Contact (126/235 cfu)	X	X	X	X		
	Parker Canyon Creek	A-1	P	Cold	X	Primary Contact (32/126 cfu)	X	X	X	X		
	Sundance Creek	A-1	P	Cold		Primary Contact (32/126 cfu)	X	X	X	X		
	Day Child Creek	A-1	E	Cold		Primary Contact (32/126 cfu)	X	X	X	X		
	Saint Pierre Coulee	B-2	I	Cold-marginal salmonid		Primary Contact (126/235 cfu)	X	X	X	X		
	Wolf Creek	A-1	I	Cold		Primary Contact (32/126 cfu)	X	X	X	X		
	Big Knife Coulee	A-1	P	Cold		Primary Contact (32/126 cfu)	X	X	X	X		
	Bonneau Reservoir	B-1	P	Cold		Primary Contact (126/235 cfu)	X	X	X	X		
	DS Bonneau Dam to Brown's Irrigation Diversion	B-1	P	Cold		Primary contact (126/235 cfu)	X	X	X	X		
	DS Brown's Irrigation	B-2	P	Cold-		Primary	X	X	X	X		

	Diversion to Reservation Line			marginal salmonid		contact (126/235 cfu)						
	Brown's Reservoir	B- 2	P	Cold		Primary contact (126/235 cfu)	X	X	X	X		
<b>Watershed</b>	<b>Segment</b>	<b>Classification</b>	<b>Type</b>	<b>Aquatic Life</b>	<b>Outstanding Tribal Resource Waters</b>	<b>Recreation</b> Geometric mean / Single sample maximum	<b>Agri-culture</b>	<b>Wild-life</b>	<b>Wet-lands</b>	<b>Cultural</b>	<b>Indust-rial</b>	<b>Drink-ing water</b>
<b>Beaver Creek</b>	West Fork Beaver Creek- Reservation Line to confluence with EF Beaver Creek	A-1	P	Cold	X	Primary contact (32/126 cfu)	X	X	X	X		
	Otayachinas Creek (JM 1 Creek, trib to WF Beaver Cr, below green water tank)	A-1	P	Cold	X	Primary contact (32/126 cfu)	X	X	X	X		
	Eagle Creek (trib to WF Beaver Cr)	A-1	P	Cold	X	Primary Contact (32 /126 cfu)	X	X	X	X		
	Amisk Pond	A-1	P	Cold		Primary Contact (32 /126 cfu)	X	X	X	X		
	East Fork Beaver Creek	A-1	P	Cold	X	Primary Contact (32/126 cfu)	X	X	X	X		
	East Fork Reservoir	A-1	P	Cold		Primary contact (32/126 cfu)	X	X	X	X		
	Beaver Creek to Reservation Line	A-1	P	Cold	X	Primary Contact (32/126 cfu)	X	X	X	X		
	Elk Creek	A-1	P	Cold	X	Primary contact (32/126 cfu)	X	X	X	X		
	Cabin Creek	A-1	P	Cold	X	Primary Contact	X	X	X	X		

						(32/126 cfu)						
	Miner's Gulch	A-1	P	Cold	X	Primary Contact (32/126 cfu)	X	X	X	X		
	Revie Creek	A-1	I	Cold		Primary contact (32/126 cfu)	X	X	X			
	Shambo Creek	A-1	I	Cold		Primary Contact (32/126 cfu)	X	X	X			

Watershed	Segment	Classification	Type	Aquatic Life	Outstanding Tribal Resource Waters	Recreation Geometric mean / Single sample maximum	Agri-culture	Wild-life	Wet-lands	Cultural	Indust-rial	Drink-ing water
<b>Big Sandy Creek (Upper)</b>	Upper Big Sandy Creek Headwaters to SW Reservation line	A-1	P	Cold	X	Primary Contact (32/126 cfu)	X	X	X	X		
	JM 2 Creek (trib to Big Sandy, water pipe)	A-1	P	Cold	X	Primary Contact (32/126 cfu)	X	X	X	X		
	Ranger Creek (Upper Big Sandy Creek headwaters)	A-1	P	Cold	X	Primary Contact (32/126 cfu)	X	X	X	X		
	Black Creek	A-1	P	Cold		Primary Contact (32/126 cfu)	X	X	X	X		
	Mahigan Creek	A-1	P	Cold		Primary Contact (32 /126 cfu)	X	X	X	X		
	Green Creek	A-1	P	Cold		Primary Contact (32/126 cfu)	X	X	X	X		
	Lost Canyon Creek	A-1	P	Cold		Primary Contact (32/126 cfu)	X	X	X	X		
	Timber Creek	A-1	P	Cold		Primary Contact	X	X	X	X		

						(32/126cfu)						
	Centennial Creek	A-1	P	Cold		Primary Contact (32/126 cfu)	X	X	X	X		
	Muddy Creek	A-1	P	Cold		Primary Contact (32/126 cfu)	X	X	X	X		
	Peel Creek	A-1	I	Cold		Primary Contact (32/126 cfu)	X	X	X			
<b>Big Sandy Creek (Lower)</b>	Lower Big Sandy mainstem	B-3	P	Warm		Primary Contact (126/235 cfu)	X	X	X	X		
	Gorman Creek	B-2	P/I	Cold-marginal salmonid		Primary contact (126/235 cfu)	X	X	X	X		
	North Fork Gorman Creek	B-2	P/I	Cold-marginal salmonid		Primary contact (126/235 cfu)	X	X	X	X		
	South Fork Gorman Creek	B-2	P/I	Cold-marginal salmonid		Primary contact (126/235 cfu)	X	X	X	X		
	Camp Creek upstream Williamson Range Reservoir	B-2	I	Cold-marginal salmonid		Primary contact (126/235 cfu)	X	X	X	X		
	Camp Creek downstream Williamson Range Reservoir	B-3	E	Warm		Primary contact (126/235 cfu)	X	X	X	X		
	Williamson Range Reservoir	B-1	P	Cold		Primary contact (126/235 cfu)	X	X	X	X		
	Duck Creek-Headwaters to Reservation boundary	B-1	P	Cold		Primary contact (126/235 cfu)	X	X	X	X		
	Duck Creek – lower portion on Reservation	B-2	P	Cold-marginal salmonid		Primary contact (126/235 cfu)	X	X	X	X		
	Dry Fork Creek	B-2	I	Cold-marginal salmonid		Primary contact (126/235 cfu)	X	X	X	X		

	Dry Fork Reservoir	B-2	I	Cold-marginal salmonid		Primary contact (126/235 cfu)	X	X	X	X		
	Sand Coulee	B-3	I	Warm		Primary Contact (126/235 cfu)	X	X	X	X		
	Dry Fork Coulee	B-3	I	Warm		Primary Contact (126/235 cfu)	X	X	X	X		
	Schwartz Coulee	B-3	I	Warm		Primary Contact (126/235 cfu)	X	X	X	X		
	Gravel Coulee	B-3	I	Warm		Primary Contact (126/235 cfu)	X	X	X	X		
	Keifer Coulee	B-3	I	Warm		Primary Contact (126/235 cfu)	X	X	X	X		
	Towe Ponds	B-3	P	Warm		Primary Contact (126/235 cfu)	X	X	X	X		

\*Type of waterbody: P = Perennial; I = Intermittent; E = Ephemeral

**Use Classifications:**

**A-1** - must be maintained suitable for drinking, culinary, and food processing purposes after conventional treatment for removal of naturally present impurities. Water quality is to be suitable for bathing, swimming and recreation, wildlife (included but not limited to birds, mammals, amphibians, and reptiles); the growth and propagation of salmonid fishes and associated aquatic life, and agricultural and industrial water supply purposes. In addition, certain confidential areas of “A-1” water bodies are reserved for cultural use. This classification allows for the highest level of protection. E.coli bacteria levels permitted at 32 colony forming units/100mls (geometric mean) in order to provide highest level of protection for ceremonial and cultural uses.

**B-1**- same as A-1 but allows higher level of E.coli bacteria (126 colony forming units/100mls, geometric mean), still within safe level for primary contact (i.e. swimming, kayaking, canoeing, and any other activity where contact and immersion in the water are likely).

**B-2**- same as B-1 but with marginal propagation of salmonids.

**B-3** - same as B-2, but allows warmer temperatures and growth and propagation of non-salmonid fish (ie. cool water/temperate species).

**Waterbody Designated Use Definitions and Assessment**

Use Classification	Definition	Assessment/Application
Aquatic Life and Fishery Cold or Warm	Aquatic life means any plants or animals which live at least part of their life cycle in water (i.e. phytoplankton (algae), zooplankton, invertebrates (insects and shellfish), and vertebrates (amphibians, turtles, and fish).	Aquatic life use includes water quality, habitat conditions, spawning and nursery areas, and food sources necessary to sustain populations of aquatic species including game and non game fish.
Outstanding Tribal Resource Waters (OTRW)	Waters that because of their quality, location, and significance constitute an outstanding Tribal resource, recognized as possessing special ecological, cultural, aesthetic, educational, recreational, or scientific qualities.	The water quality, physical and biological integrity which existed for the water at the time of designation will be maintained and protected. Surface waters in which no further water quality degradation by point or non point source discharges will be allowed. Non point sources of pollution shall be controlled through implementation of appropriate best management practices.
Recreation	Primary contact recreation means activities in or on the water where it could be expected to result in the ingestion of, or immersion in, water, such as swimming, water skiing, kayaking, ceremonial and cultural uses, or other activities where ingestion or immersion in the water is likely.	Primary Contact Recreational use protection involves maintaining a level of water quality which is safe for human contact that may involve direct ingestion of water, vapor, or ice.  E. coli bacteria are used as indicators of fecal contamination and potential exposure to pathogenic bacteria and viruses. EPA has calculated the potential risk of illness from ingesting water during primary contact recreation (swimming, kayaking, water skiing, etc.) based on colony counts of E. coli bacteria. EPA guidance recommends a risk level associated with 8 illnesses per 1000 swimmers (a 1-2% risk that swimmers will suffer from gastrointestinal illness from swimming in recreational waters). Tribal water quality criteria for Class B-1, Class B-2, and Class B-3 (E. coli geometric mean of 126 cfu), represent a risk of 8 to 10 illnesses per 1000 swimmers. Class A-1 levels are established for even lower risk levels, at 32 cfu/100 mls (geometric mean) in order to protect for ceremonial/cultural uses in these more pristine watersheds.
Agriculture	Agricultural activities refer to livestock grazing water use and crop production irrigation uses.	Water quality shall be maintained that is safe for livestock watering and irrigation of crops.
Wildlife	Wildlife includes but is not limited to, birds, mammals, amphibians and reptiles.	Water quality shall be maintained that is safe for contact and consumption by wildlife, including but not limited to birds, mammals, amphibians and reptiles.
Wetlands	Wetlands means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including lotic, riparian, and lentic, pothole, and isolated areas. Wetlands generally include but are not limited to stream riparian corridors, swamps, marshes, bogs, potholes, springs, fens	Water quality shall be maintained that protects the ecological functioning and biology of wetlands, including plant communities, soil character and structure, microorganisms, and wildlife species.



	and similar areas whether or not a nexus to navigable waters as defined in the Federal Clean Water Act has been determined. Wetlands are recognized as “Waters of the Tribe.”	
Cultural	“Cultural uses” means waters may be used for cultural, ceremonial, and religious uses to support and maintain the way of life and traditional activities practiced on the Rocky Boy Reservation. These activities include, but are not limited to cultural, spiritual, and medicinal practices which include the preservation and utilization of riparian habitat, as well as associated wetland species, significant to the cultural values of the Chippewa Cree Tribe. These practices may include full contact and incidental contact with surface waters.	Water quality shall be maintained that is safe for full contact and incidental contact with surface waters (i.e. primary contact levels of E. coli bacteria).
Industrial	Industrial means waters that may be used for industrial purposes.	Water quality shall be maintained that is suitable for industrial uses.
Drinking Water	Drinking water means waters that may be used for public water supply.	Water quality shall be maintained that is safe for drinking, culinary, and food processing purposes after simple disinfection.





## Appendix B: Numeric Charts: Priority and Non -Priority Pollutants

Priority Pollutant	CAS No.	Freshwater-Aquatic Life		Human Health for Consumption of:	
		ACUTE (CMC) (ug/L)	CHRONIC (CCC) (ug/L)	Water + organism (ug/L)	Organism only (ug/L)
1. Antimony	7440360			5.6	640
2. Arsenic	7440382	340 A	150 A	0.018 B,L	0.14 B,L
3. Beryllium	7440417			F	F
4. Cadmium	7440439	2.0 C	.25 C	F	F
5a. Chromium III	16065831	570 C	74 C	F	F
5b. Chromium VI	18540299	16	11	F	F
6. Copper	7440508	13 C,N	9.0 C,N	1,300	
7. Lead	7439921	65 C	2.5 C	F	F
8a. Mercury	7439976	1.4 O	0.77 O	0.05	0.051
8b. Mercury Methylmercury	22967926				
9. Nickel	7440020	470 C	52 C	610	4,600
10. Selenium	7782492	G	5.0	170	4200
11. Silver	7440224	3.2	0.12		
12. Thallium	7440280			0.24	0.47
13. Zinc	7440666	120 C	120 C	7400	26000
14. Cyanide	57125	22 K	5.2 K	140	140
15. Asbestos	1332214			7 million fibers/L	
16. 2,3,7,8-TCDD Dioxin	1746016			5.0E-9 B	5.1E-9 B
17. Acrolein	107028			190	290
18. Acrylonitrile	107131			0.051 B	0.25 B
19. Benzene	71432			2.2 B	51 B
20. Bromoform	75252			4.3 B	140 B

Priority Pollutant	CAS No.	Freshwater-Aquatic Life		Human Health for Consumption of:	
		ACUTE (CMC) (ug/L)	CHRONIC (CCC) (ug/L)	Water + organism (ug/L)	Organism only (ug/L)
21. Carbon Tetrachloride	56235			0.23 B	1.6 B
22. Chlorobenzene	108907			130	1600
23. Chlorodibromomethane	124481			0.40 B	13 B
24. Chloroethane	75003				
25. 2-Chloroethylvinyl Ether	110758				
26. Chloroform	67663			5.7 B	470 B
27. Dichlorobromomethane	75274			0.55 B	17 B
28. 1,1-Dichloroethane	75343				
29. 1,2-Dichloroethane	107062			0.38 B	37 B
30. 1,1-Dichloroethylene	75354			330 B	7,100 B
31. 1,2-Dichloropropane	78875			0.50 B	15 B
32. 1,3-Dichloropropene	542756			0.34	21
33. Ethylbenzene	100414			530	2100
34. Methyl Bromide	74839			47	1500
35. Methyl Chloride	74873			F	F
36. Methylene Chloride	75092			4.6 B	590 B
37. 1,1,2,2-Tetrachloroethane	79345			0.17 B	4.0 B
38. Tetrachloroethylene	127184			0.69 B	3.3 B
39. Toluene	108883			1300	15000
40. 1,2 -Trans-Dichloroethylene	156605			140	10000

Priority Pollutant	CAS No.	Freshwater-Aquatic Life		Human Health for Consumption of:	
		ACUTE (CMC) (ug/L)	CHRONIC (CCC) (ug/L)	Water + organism (ug/L)	Organism only (ug/L)
21. Carbon Tetrachloride	56235			0.23 B	1.6 B
22. Chlorobenzene	108907			130	1600
23. Chlorodibromomethane	124481			0.40 B	13 B
24. Chloroethane	75003				
25. 2-Chloroethylvinyl Ether	110758				
26. Chloroform	67663			5.7 B	470 B
27. Dichlorobromomethane	75274			0.55 B	17 B
28. 1,1-Dichloroethane	75343				
29. 1,2-Dichloroethane	107062			0.38 B	37 B
30. 1,1-Dichloroethylene	75354			330 B	7,100 B
31. 1,2-Dichloropropane	78875			0.50 B	15 B
32. 1,3-Dichloropropene	542756			0.34	21
33. Ethylbenzene	100414			530	2100
34. Methyl Bromide	74839			47	1500
35. Methyl Chloride	74873			F	F
36. Methylene Chloride	75092			4.6 B	590 B
37. 1,1,1,2,2-Tetrachloroethane	79345			0.17 B	4.0 B
38. Tetrachloroethylene	127184			0.69 B	3.3 B
39. Toluene	108883			1300	15000
40. 1,2 –Trans-Dichloroethylene	156605			140	10000

Priority Pollutant	CAS No.	Freshwater-Aquatic Life		Human Health for Consumption of:	
		ACUTE (CMC) (ug/L)	CHRONIC (CCC) (ug/L)	Water + organism (ug/L)	Organism only (ug/L)
41. 1,1,1-Trichloroethane	71556			F	F
42. 1,1,2-Trichloroethane	79005			0.59 B	16 B
43. Trichloroethylene	79016			2.5 B	30 B
44. Vinyl Chloride	75014			0.025 B	2.4 B
45. 2-Chlorophenol	95578			81	150
46. 2,4-Dichlorophenol	120832			77	290
47. 2,4-Dimethylphenol	105679			380	850
48. 2-Methyl-4,6-Dinitrophenol	534521			13	280
49. 2,4-Dinitrophenol	51285			69	5300
50. 2-Nitrophenol	88755				
51. 4-Nitrophenol	100027				
52. 3-Methyl-4-Chlorophenol	59507				
53. Pentachlorophenol	87865	19 D	15 D	0.27 B	3.0 B
54. Phenol	108952			21,000	1700000
55. 2,4,6-Trichlorophenol	88062			1.4 B	2.4 B
56. Acenaphthene	83329			670	990
57. Acenaphthylene	208968				
58. Anthracene	120127			8300	40000
59. Benzidine	92875			0.000086 B	0.00020 B
60. Benzo(a)Anthracene	56553			0.0038 B	0.018 B

Priority Pollutant	CAS No.	Freshwater-Aquatic Life		Human Health for Consumption of:	
		ACUTE (CMC) (ug/L)	CHRONIC (CCC) (ug/L)	Water + organism (ug/L)	Organism only (ug/L)
61. Benzo(a)Pyrene	50328			0.0038 B	0.018 B
62. Benzo(b)Fluoranthene	205992			0.0038 B	0.018 B
63. Benzo(ghi)Perylene	191242				
64. Benzo(k)Fluoranthene	207089			0.0038 B	0.018 B
65. Bis(2-Chloroethoxy)Methane	111911				
66. Bis(2-Chloroethyl)Ether	111444			0.030 B	0.53 B
67. Bis(2-Chloroisopropyl)Ether	39638329			1,400	65000
68. Bis(2-Ethylhexyl)Phthalate x	117817			1.2 B	2.2 B
69. 4-Bromophenyl Phenyl Ether	101553				
70. Butylbenzyl Phthalate w	85687			1500	1900
71. 2-Chloronaphthalene	91587			1000	1600
72. 4-Chlorophenyl Phenyl Ether	7005723				
73. Chrysene	218019			0.0038 B	0.018 B
74. Dibenzo(a,h)Anthracene	53703			0.0038 B	0.018
75. 1,2-Dichlorobenzene	95501			420	1300
76. 1,3-Dichlorobenzene	541731			320	960
77. 1,4-Dichlorobenzene	106467			63	190
78. 3,3-Dichlorobenzidine	91941			0.021 B	0.028 B
79. Diethyl Phthalate w	84662			17000	44000
80. Dimethyl Phthalate w	131113			270000	1100000

Priority Pollutant	CAS No.	Freshwater-Aquatic Life		Human Health for Consumption of:	
		ACUTE (CMC) (ug/L)	CHRONIC (CCC) (ug/L)	Water + organism (ug/L)	Organism only (ug/L)
81. Di-n-Butyl Phthalate w	84742			2000	4500
82. 2,4-Dinitrotoluene	121142			0.11 B	3.4 B
83. 2,6-Dinitrotoluene	606202				
84. Di-n-Octyl Phthalate	117840				
85. 1,2-Diphenylhydrazine	122667			0.036 B	0.20 B
86. Fluoranthene	206440			130	140
87. Fluorene	86737			1100	5300
88. Hexachlorobenzene	118741			0.00028 B	0.00029 B
89. Hexachlorobutadiene	87683			0.44 B	18 B
90. Hexachlorocyclopentadiene	77474		240	40	1100
91. Hexachloroethane	67721			1.4 B	3.3 B
92. Ideno 1,2,3-cdPyrene	193395			0.0038 B	0.018 B
93. Isophorone	78591			35 B	960 B
94. Naphthalene	91203				
95. Nitrobenzene	98953			17	690
96. N-Nitrosodimethylamine	62759			0.00069 B	3.0 B
97. N-Nitrosodi-n-Propylamine	621647			0.0050 B	0.51 B
98. N-Nitrosodiphenylamine	86306			3.3 B	6.0 B
99. Phenanthrene	85018				
100. Pyrene	129000			830	4000

Priority Pollutant	CAS No.	Freshwater-Aquatic Life		Human Health for Consumption of:	
		ACUTE (CMC) (ug/L)	CHRONIC (CCC) (ug/L)	Water + organism (ug/L)	Organism only (ug/L)
101. 1,2,4-Trichlorobenzene	120821			35	70
102. Aldrin	309002	3.0 E		0.000049 B	0.000050 B
103. alpha-BHC	319846			0.0026 B	0.0049 B
104. beta-BHC	319857			0.0091 B	0.017 B
105. gamma-BHC (Lindane)	58899	0.95		0.98 B	1.8 B
106. delta-BHC	319868				
107. Chlordane	57749	2.4 E	0.0043 E	0.00080	0.00081
108. 4,4-DDT	50293	1.1 E	0.001 E	0.00022 B	0.00022 B
109. 4,4-DDE	72559			0.00022 B	0.00022 B
110. 4,4-DDD	72548			0.00031 B	0.00031 B
111. Dieldrin	60571	0.24	0.056 I	0.000052 B	0.000054 B
112. alpha-Endosulfan	959988	0.22 E,M	0.056 E,M	62	89
113. beta-Endosulfan	33213659	0.22 E,M	0.056 E,M	62	89
114. Endosulfan Sulfate	1031078			62	89
115. Endrin	72208	0.86	0.036 I	0.059	0.060
116. Endrin Aldehyde	7421934			0.29	0.30
117. Heptachlor	76448	0.52 E	0.0038 E	0.000079 B	0.000079 B
118. Heptachlor Epoxide	1024573	0.52 E	0.0038 E	0.000039 B	0.000039 B
119. Polychlorinated Biphenyls PCB's			0.014 H	0.000064 B, J	0.000064 B, J
120. Toxaphene	8001352	0.73	0.0002	0.00028 B	0.00028 B

## Priority Footnotes:

- A. Applies to total arsenic.
- B. Based on carcinogenicity of  $10^{-6}$  risk.
- C. Freshwater Aquatic Life Standards for these metals are expressed as a function of total hardness (mg/L,  $\text{CaCO}_3$ ). The values displayed in the chart correspond to a total hardness of 100 mg/L. The hardness relationship is as follows:

	Acute = $\exp \{ma [\ln (\text{hardness})] + ba\}$		Chronic = $\exp \{mc [\ln (\text{hardness})] + bc\}$	
	ma	ba	mc	bc
Cadmium	1.0166	-3.924	0.7409	-4.719
Copper	0.9422	-1.700	0.8545	-1.702
Chromium (III)	0.8190	3.7256	0.8190	0.6848
Lead	1.273	-1.460	1.273	-4.705
Nickel	0.8460	2.255	0.8460	0.0584
Silver	1.72	a -6.59	-----	-----
Zinc	0.8473	0.884	0.8473	0.884

- D. Freshwater Aquatic Life values for pentachlorophenol are expressed as a function of pH, and are calculated as follows: Acute CMC= $\exp [1.005 (\text{pH}) - 4.869]$  WQS; Chronic CCC= $\exp [1.005 (\text{pH}) - 5.134]$ . Values displayed in table correspond to a pH of 7.8.
- E. If assessment is to be done using an averaging period, the values given should be divided by 2.
- F. EPA has not calculated a human health criterion for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the Tribes' existing narrative criteria for toxics.
- G. The  $\text{CMC} = 1 / [(f1/\text{CMC1}) + (f2/\text{CMC2})]$  where f1 and f2 are the fractions of total selenium that are treated as selenite and selenate, respectively, and CMC1 and CMC2 are 185.9 mg/l and 12.82 mg/l, respectively.
- H. PCB's are a class of chemicals which include all aroclors.
- I. The derivation of the chronic (CCC) standard for this pollutant did not consider exposure through the diet, which is probably important for aquatic life occupying upper trophic levels.
- J. This standard applies to total PCBs.
- K. This water quality standard is expressed as mg free cyanide (as CN)/L.
- L. This water quality standard refers to the inorganic form only.
- M. This standard was derived from data for endosulfan and is most appropriately applied to the sum of alpha-endosulfan and beta-endosulfan.
- N. Under conditions of high dissolved organic carbon, copper is substantially less toxic and the Tribe will consider use of the Water Effect-Ratio.
- O. This standard is applied to total mercury. If a substantial portion of the mercury in the water column is methylmercury, this standard will probably be under protective. Even though inorganic mercury is converted to methylmercury and methylmercury bioaccumulates to a great extent, this standard does not account for uptake via the food chain.



## Chippewa Cree Tribe Numeric Chart: Non-Priority Pollutants

Non-Priority Pollutant	CAS No.	Freshwater-Aquatic Life		Human Health for Consumption of:	
		ACUTE (CMC) (ug/L)	CHRONIC (CCC) (ug/L)	Water + organism (ug/L)	Organism only (ug/L)
1. Alkalinity			20,000		
2. Aluminum pH 6.5-9.0	7429905	750 A	87 A,B		
3. Ammonia	7664417	See Ammonia Table			
4. Aesthetic Qualities**					
5. Bacteria	See Classification-Recreation use				
6. Barium	7440393			1,000	
7. Boron					
8. Chloride	16887006	860,000	230,000		
9. Chlorine	7782505	19	11		
10. Chlorophenoxy Herbicide 2,4,-TP	93721			10	
11. Chlorophenoxy Herbicide 2,4-D	94757			100	
12. Chloropyrifos	2921882	0.083	0.041		
13. Color**					
14. Demeton	8065483		0.1		
15. Ether, Bis Chloromethyl	542881			0.0001	0.00029
16. Gases, Total Dissolved**					
17. Guthion	86500		0.01		
18. Hardness					
19. Hexachlorocyclo-hexane-Technical	319868			0.0123	0.0414
20. Iron	7439896		1,000	300	
21. Malathion	121755		0.1		
22. Manganese	7439965			50	100
23. Methoxychlor	72435		0.03	100	

Non-Priority Pollutant	CAS No.	Freshwater-Aquatic Life		Human Health for Consumption of:	
		ACUTE (CMC) (ug/L)	CHRONIC (CCC) (ug/L)	Water + organism (ug/L)	Organism only (ug/L)
24. Mirex	2385855		0.001		
25. Nitrates	14797558			10,000	
26. Nitrosamines				0.0008	1.24
27. Dinitrophenols	25550587			69	5300
28. Nitrosodibutylamine, N	924163			0.0063	0.22
29. Nitrosodiethylamine, N	55185			0.0008	1.24
30. Nitrosopyrrolidine, N	930552			0.016	34
31. Oil and Grease**					
32. Oxygen, Dissolved	7782447	See Oxygen Table			
33. Parathion	56382	0.065	0.013		
34. Pentachlorobenzene	608935			1.4	1.5
35. pH		6.5-9.0	6.5-9.0	5.0-9.0	
36. Phosphorus Total**	7723140				
37. Phosphate Phosphorus**					
38. Solids Dissolved (TDS) and Salinity**				250,000	
39. Solid Suspended (TSS) &/or Turbidity**					
40. Sulfide-Hydrogen Sulfide	7783064		2		
41. Tainting Substances**					
42. Temperature	See Classification-Aquatic Life				
43. Tetrachlorobenzene, 1,2,4,5-	95943			0.97	1.1
44. Tributyltin TBT		0.46	0.063		
45. Trichlorophenol, 2,4,5-	95954			1800	3600
46. Clean Sediment**					
47. Contaminated Sediment**					

**Non Priority Pollutant Footnotes:**

\*\* See Narrative Standards.

A. This value is expressed in terms of total recoverable metal in the water column.

B. The use of Water-Effect Ratios might be appropriate at pH values greater than 7.0 and moderate to high hardness.

Supporting data indicated that aluminum is substantially less toxic

At higher pH and hardness, but the effects of pH and hardness are not well quantified at this

Time.

**Freshwater Aquatic Life standards for Dissolved Oxygen are as follows:**

	Standards for Waters Classified A-1, B-1, B-2, C-1 and C-2		Standards for Water Classified B-3 and C-3	
	Early Life Stages <b>1,2</b>	Other Life Stages	Early Life Stages, <b>2</b>	Other Life Stages
30 Day Mean	N/A, <b>3</b>	6.5	N/A	5.5
7 Day mean	9.5 (6.5)	N/A	6.0	N/A
7 Day Mean Minimum	N/A	5.0	N/A	4.0
1 Day Minimum, <b>4</b>	8.0 (5.0)	4.0	5.0	3.0

1. These are water column concentrations to achieve the required inter-gravel dissolved oxygen concentrations shown in parentheses. For Species that have early life stages exposed directly to the water column, the figures in parentheses apply.
2. Includes all embryonic and larval stages and all juvenile forms to 30-days following hatching.
3. N/A (Not Applicable)
4. All minima should be considered as instantaneous concentrations at all times.

**AQUATIC LIFE STANDARDS FOR AMMONIA \***

<b>pH Dependent values of the CMC (Acute Criterion)</b>		
<b>pH</b>	<b>Salmonids Present mg N/L</b>	<b>Salmonids Absent mg N/L</b>
6.5	32.6	48.8
6.6	31.3	46.8
6.7	29.8	44.6
6.8	28.1	42.0
6.9	26.2	39.1
7.0	24.1	36.1
7.1	22.0	32.8
7.2	19.7	29.5
7.3	17.5	26.2
7.4	16.4	23.0
7.5	13.3	19.9
7.6	11.4	17.0
7.7	9.65	14.4
7.8	8.11	12.1
7.9	6.77	10.1
8.0	5.62	8.40
8.1	4.64	6.95
8.2	3.83	5.72
8.3	3.15	4.71
8.4	2.59	3.88
8.5	2.14	3.20
8.6	1.77	2.65
8.7	1.47	2.20
8.8	1.23	1.84
8.9	1.04	1.56

9.0	0.885	1.32
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\*All Standards are expressed as total ammonia as N.

**AQUATIC LIFE STANDARDS FOR AMMONIA\***

**Temperature and pH-Dependent Values of the CCC (Chronic Criterion) for Fish Early Life Stages Present**  
*(\*NOTE: All standards are expressed as total ammonia as N)*

CCC (chronic) for Fish Early Life Stages Present, mg N/L, Total										
pH	0 degrees C	14 degrees C	16 degrees C	18 degrees C	20 degrees C	22 degrees C	24 degrees C	26 Degrees C	28 Degree s C	30 Degrees C
6.5	6.67	6.67	6.06	5.33	4.68	4.12	3.62	3.18	2.80	2.46
6.6	6.57	6.57	5.97	5.25	4.61	4.05	3.56	3.13	2.75	2.42
6.7	6.44	6.44	5.86	5.15	4.52	3.98	3.50	3.07	2.70	2.37
6.8	6.29	6.29	5.72	5.03	4.42	3.89	3.42	3	2.64	2.32
6.9	6.12	6.12	5.56	4.89	4.30	3.78	3.32	2.92	2.56	2.25
7.0	5.91	5.91	5.37	4.72	4.15	3.65	3.21	2.82	2.48	2.18
7.1	5.67	5.67	5.15	4.53	3.98	3.50	3.08	2.70	2.38	2.09
7.2	5.39	5.39	4.90	4.31	3.78	3.33	2.92	2.57	2.26	1.99
7.3	5.08	5.08	4.61	4.06	3.57	3.13	2.75	2.42	2.13	1.87
7.4	4.73	4.73	4.30	3.78	3.32	2.92	2.57	2.26	1.98	1.74
7.5	4.36	4.36	3.97	3.49	3.06	2.69	2.37	2.08	1.83	1.61
7.6	3.98	3.98	3.61	3.18	2.79	2.45	2.16	1.90	1.64	1.47
7.7	3.58	3.58	3.25	2.86	2.51	2.21	1.94	1.71	1.50	1.2
7.8	3.18	3.18	2.89	2.54	2.2	1.96	1.73	1.52	1.33	1.17
7.9	2.80	2.80	2.54	2.24	1.96	1.73	1.52	1.33	1.17	1.03
8.0	2.43	2.43	2.21	1.94	1.71	1.50	1.32	1.16	1.02	0.897
8.1	2.10	2.10	1.91	1.68	1.47	1.29	1.14	1.00	0.879	0.773
8.2	1.79	1.79	1.63	1.43	1.26	1.11	0.973	0.855	0.752	0.661
8.3	1.52	1.52	1.39	1.22	1.07	0.941	0.827	0.727	0.639	0.562
8.4	1.29	1.29	1.17	1.03	0.906	0.796	0.700	0.615	0.541	0.475
8.5	1.09	1.09	0.990	0.870	0.765	0.672	0.591	0.520	0.457	0.401
8.6	0.920	0.920	0.836	0.735	0.646	0.568	0.499	0.439	0.386	0.287
8.7	0.778	0.778	0.707	0.622	0.547	0.480	0.422	0.371	0.326	0.287
8.8	0.661	0.661	0.601	0.528	0.464	0.408	0.359	0.315	0.277	0.244
8.9	0.565	0.565	0.513	0.451	0.397	0.349	0.306	0.269	0.237	0.208

9.0	0.486	0.486	0.442	0.389	0.342	0.300	0.264	0.232	0.204	0.179
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**AQUATIC LIFE STANDARDS FOR AMMONIA‡**

**Temperature and pH-Dependent Values of the CCC (Chronic Criterion) for Fish Early Life Stages**

**Absent**

(‡All standards are expressed as total ammonia as N.)

CCC (chronic) for Fish Early Life Stages Absent, mg N/L, Total										
pH	0 degrees C	14 degrees C	16 degrees C	18 degrees C	20 degrees C	22 degrees C	24 degrees C	26 Degrees C	28 Degrees C	30 Degrees C
6.5	10.8	10.1	9.51	8.92	8.36	7.84	7.35	6.89	6.46	6.06
6.6	10.7	9.99	9.37	8.79	8.24	7.72	7.24	6.79	6.36	5.97
6.7	10.5	9.81	9.20	8.62	8.08	7.58	7.11	6.66	6.25	5.86
6.8	10.2	9.58	8.98	8.42	7.90	7.40	6.94	6.51	6.10	5.72
6.9	9.93	9.31	8.73	8.19	7.68	7.20	6.75	6.33	5.93	5.56
7.0	9.60	9.00	8.43	9.91	7.41	6.95	6.52	6.11	5.73	5.37
7.1	9.20	8.63	8.09	7.58	7.11	6.67	6.25	5.86	5.49	5.15
7.2	8.75	8.29	7.69	7.21	6.76	6.34	5.94	5.57	5.22	4.90
7.3	8.24	7.73	7.25	6.79	6.37	5.97	5.60	5.25	4.92	4.61
7.4	7.69	7.21	6.76	6.33	5.94	5.57	5.22	4.89	4.59	4.30
7.5	7.09	6.64	6.23	5.84	5.48	5.13	4.81	4.51	4.23	3.97
7.6	6.46	6.05	5.67	5.32	4.99	4.68	4.38	4.11	3.85	3.61
7.7	5.81	5.45	5.11	4.79	4.49	4.21	3.95	3.70	3.47	3.25
7.8	5.17	4.84	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89
7.9	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89	2.71	2.54
8.0	3.95	3.70	3.47	3.26	3.05	2.88	2.68	2.52	2.36	2.21
8.1	3.41	3.19	2.99	2.81	2.63	2.47	2.31	2.17	2.03	1.91
8.2	2.91	2.73	2.56	2.40	2.25	2.11	1.98	1.85	1.74	1.63
8.3	2.47	2.32	2.18	2.04	2.25	2.11	1.98	1.86	1.74	1.63
8.4	2.09	1.96	1.84	1.73	1.62	1.52	1.42	1.33	1.25	1.17
8.5	1.77	1.66	1.55	1.46	1.37	1.28	1.20	1.13	1.06	0.990
8.6	1.49	1.40	1.31	1.23	1.15	1.08	1.01	0.951	0.892	0.836
8.7	1.26	1.18	1.11	1.04	0.976	0.915	0.858	0.805	0.754	0.707
8.8	1.07	1.01	0.944	0.885	0.829	0.778	0.729	0.684	0.641	0.601

8.9	0.917	0.860	0.806	0.756	0.709	0.664	0.623	0.584	0.548	0.513
9.0	0.790	0.740	0.694	0.651	0.610	0.572	0.536	0.503	0.471	0.442

\*At 15 degrees Celsius and above, the criterion for fish ELS absent is the same as the criterion for fish ELS present.

**GENERAL NOTES:**

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1. Priority and Non-Priority Pollutants are based on EPA’s categories and include parameters determined to be to toxic(toxin), carcinogenic (carcinogenic), or harmful. Harmful parameters include nutrients, biological agents, and those parameters that cause taste and/or order affects or physical effects.
2. Carcinogens: chemicals classified by EPA as carcinogens for an oral route of exposure; Standards are based upon the incremental risk of causing one additional instance of cancer in one million persons. Includes those parameters in classifications A (Human Carcinogen), B1 or B2 (Probable Human Carcinogen), and C (Possible Human Carcinogen).
3. Chronic standards, based on 30 day average concentration, shall not exceed these values. Chronic standards will be evaluated on the basis of all samples taken with in any consecutive 30-day period. It is recommended that a minimum of 3 representative samples be provided.
4. Radionuclide photon-emitters consisting of either beta or gamma emitters and are classified as carcinogenic. Their associated Standard is based upon a 4 mrem ede/yr exposure. This exposure is based upon daily ingestion of 2 liters of water. The emitters covered under this standard are:
  - a) Cesium, radioactive
  - b) Iodine, radioactive
  - c) Strontium -89 and -90, radioactive
  - d) Tritium
  - e) Gamma Photon emitters
5. For surface waters the applicable Water Quality Standard is the more restrictive of either the Aquatic Life Standard or the Human Health Standards.
6. Levels of individual petrochemicals in the water column should not exceed 0.010 of the lowest continuous flow 96-hr LC50 to several important fresh water species, each having a demonstrated high susceptibility to oils and petrochemicals.
7. The ingestion of aquatic organisms is based on the assumption of 6.5 grams of aquatic organisms per day. Where it is shown that consumption is more than 6.5 grams per day, these values must be proportionately lowered. For example, if average consumption equals 13 grams per day then the appropriate standard should be divided by 2.

**Chippewa Cree Tribe Numeric Surface Water Maximum Contaminant Level (MCL)  
Standards Adopted to Protect the Water Supply Designated Use  
(All concentrations expressed as ug/L, except where noted).**

<b>Chemical Name</b>	<b>CASRN</b>	<b>SDWA MCL (1)</b>	<b>Potential Health Effects from Ingestion of Water (2)</b>
<b><u>PRIORITY POLLUTANTS</u></b>			
Chlorobenzene	108-90-7	100	Liver, kidneys
1,2,4-Trichlorobenzene	120-82-1	70	Adrenal glands
1,1,1-Trichloroethane	71-55-6	200	Liver, nervous system, circulatory system
1,2-Dichlorobenzene	96-50-1	600	Liver, Kidneys, circulatory system
1,4-Dichlorobenzene	106-46-7	75	Anemia, liver, kidneys, spleen, blood
1,2-trans,Dichloroethylene	156-60-5	100	Liver
Ethylbenzene	100-41-4	700	Liver, kidneys
Hexachlorocyclopentadiene	77-47-4	50	Kidneys, stomach
Toluene	108-88-3	1000	Nervous system, kidneys, liver
Antimony	7440-36-0	6	Blood cholesterol, blood sugar
Beryllium	7440-41-7	4	Intestinal lesions
Cadmium	7440-43-9	5	Kidneys
Chromium (total)	7440-47-3	100	
Cyanide	57-12-5	200	Thyroid
Lead	7439-92-1	TT(3)	Physical/mental development(children), kidney, high blood pressure (adults)
Nickel	7440-02-0	100	Heart, liver (4)
Selenium	7782-49-2	50	Hair, fingernail, numbness, circulatory system
<b><u>NON-PRIORITY POLLUTANTS</u></b>			
Alchlor	15972-60-8	2	Eye, liver, kidneys, spleen, anemia, cancer
Atrazine	1912-24-9	3	Cardiovascular system, reproductive system
Carbofuran	1563-66-2	40	Blood, nervous system, reproductive system
2,4-D	94-75-7	70	Kidneys, liver, adrenal glands



Dalapon	76-99-0	200	Kidneys
<b>Chemical Name</b>	<b>CASRN</b>	<b>SDWA MCL (1)</b>	<b>Potential Health Effects from Ingestion of Water (2)</b>
Di(2-ethylhexyl)adipate	103-23-1	400	Reproductive system
Dibromochloropropane	96-12-8	0.2	Reproductive system, cancer
Dichloroethylene (cis-1,2-)	156-59-2	70	Liver
Dinoseb	88-86-7	7	Reproductive system
Diquate	86-00-7	20	Cataracts
Endothall	145-73-3	100	Stomach, intestines
Ethylene dibromide (EDB)	106-93-4	0.05	Liver, stomach, reproductive system, kidneys, cancer
Glyphosate	1071-83-6	700	Kidneys, reproductive system
Methoxychlor	72-43-5	40	Reproductive system
Oxamyl (vydate)	23135-22-0	200	Nervous system
Picloram	1918-03-1	500	Liver
Simazine	122-34-9	4	Blood
Styrene	100-42-5	100	Liver, kidneys circulatory system
Xylenes	1330-20-7	10,000	Nervous system
Fluoride	7782-41-4	4,000	Bone, teeth
Nitrite	147-97-65-0	1,000	Methmoglobinemia
<b><u>RADIOLOGICAL</u></b> <b><u>(in pCi/L, except where noted)</u></b>			
Alpha emitters	Multiple	15	Cancer
Beta/Proton emitters	12587-47-2	4 mrem/y	Cancer
Combined Radium 226 & 228	13982-63-6 15262-20-1	5	Cancer

**NOTES:**

- (1) This column shows current published CWA §304(a) human health criteria based on MCL, in most cases assuming consumption of 2 liters of water. Values for carcinogens are calculated at a  $10^{-6}$  incremental

risk level.

- (2) The potential health effects are based on consumption of water containing pollutant concentrations that exceed the MCL, in most cases, over many years. The listed effects are consistent with those that drinking water systems must disclose to the public, on an annual basis, where MCL's have been exceeded during the year covered by the report. See 63 Federal Register 44512-44536, 40 CFR Parts 141 and 142, National Primary Drinking Water Regulation: Consumer Confidence Reports, Final Rule, August 19, 1998.
- (3) For lead, the MCA requires a Treatment Technology (TT); however, the action level is 0.015 mg/L.
- (4) Potential health effects for nickel are taken from 'Is Your Drinking Water Safe?', EPA 810-F-94-002 May 1994.

ACRONYMS:

CASRN: Chemical Abstracts service Registry Number

MCL: Maximum Contaminant Levels

SDWA: Safe Drinking Water Act