

## **Part 12. Water Quality Standards for Surface Waters**

### **Section 12.1 Scope of This Part**

### **Section 12.2 Designated Uses**

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- (b) Classification of Reservation Surface Waters.
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**[Authority:** This Part is based on Subtitle B of the Tribal Water Code and the Clean Water Act. Water quality standards provisions are applicable for CWA purposes only after adoption by the Tribal Council and approval by EPA. Other provisions applicable to a waterbody under Tribal law, and not intended to be applicable for CWA purposes, are effective upon adoption by the Tribal Council.]

### **Section 12.1 Scope of This Part**

This Part of the Commission's rules establishes water quality standards for all Reservation surface waters specified in Section 11.2 of the preceding Chapter.

## **Section 12.2 Designated Uses**

The Tribal Water Quality Code directs the Commission to establish designated uses for all water bodies within the Tribe's Reservations. The first step in establishing designated uses is to establish classes of uses. The second step is to apply the classification system by assigning each water body a designated use. The Commission may decide to divide a body of water into segments and assign different use classifications to different segments.

### **(a) Use Classifications.**

**(1) Classes.** The Commission has classified all Reservation surface waters according to the following designated uses:

Class 1. Potable water supply.

Class 2. Protection, propagation and harvesting of fish and wildlife; maintenance of a well-balanced population of fish and wildlife; recreation in and on the water. Class 2 waters are further classified according to the sub-classes listed in paragraph (2) below.

Class 3. Agricultural purposes.

**(2) Sub-Classes.** Class 2 waters are further classified according to the following sub-classes:

Sub-Class 2-A. Cultural and Religious Significance. Protection of specific waterbodies that are important for ceremonial and religious uses (as these terms are defined in Section 11.5 of this Chapter).

Sub-Class 2-B. General Purpose Class 2. Protection, propagation and harvesting of fish and wildlife; maintenance of a well-balanced population of fish and wildlife; recreation in and on the water.

Sub-Class 2-C. Artificial Conveyances; Water Resource Areas, Irrigation Cells and Pasture Runoff Collection and Transportation Systems.

Protection, propagation and harvesting of fish and wildlife that is tolerant of nutrients and other pollutants.

**(3) Inclusive Nature of Designated Use Classes.** Classification of a waterbody for a particular designated use does not mean that the waterbody may not be used for other purposes as well. Water quality classifications are arranged in order of the degree of protection required, with Class 1 generally having the most stringent water quality criteria and Class 3 the least stringent. For any waterbody designated Class 3, the Tribe will be required to conduct a use attainability analysis (UAA) pursuant to 40 CFR § 131.10 (j). Water quality criteria that apply to a class of surface waters are designed to maintain the minimum conditions necessary to assure that a waterbody is suitable for its designated use, and these criteria are generally adequate to maintain the conditions required for designated uses of less stringently regulated classifications. Therefore, designated uses of less stringently regulated classifications are generally deemed to be included in the designated uses of more stringently regulated classifications. For example, a waterbody designated Class 2 may be used as a source of supply for agricultural purposes.

**(b) Classification of Reservation Surface Waters.**

Except as otherwise provided in this section, all Reservation surface waters on the Big Cypress and Brighton Reservations are designated Class 2-B. All canals managed by the South Florida Water Management District are also expressly designated Class 2-B, unless specifically designated Class 2-C below. Exceptions to the general designation of surface waters as Class 2-B follow:

**(1) Class 2-A -- Cultural or Religious Waters.** The following specifically identified waters are designated Class 2-A waters:

Big Cypress Reservation

[No waters have been so designated at this time. When such waters are designated, appropriate baseline conditions shall be established.]

Brighton Reservation

[No waters have been so designated at this time. When such waters are designated, appropriate baseline conditions shall be established.]

**(2) Class 2-C -- Artificial Conveyances and pasture runoff collection**

**and transportation systems.** All wholly artificial (man-made) canals and ditches that convey surface water from lands (including farms, pastures and citrus groves) to canals that are managed by the South Florida Water Management District are designated Class 2-C waters, except for any artificial ditches or canals that are specifically listed below as Class 3. This designation applies whether such canals or ditches discharge directly into the District's canals or whether they discharge into a component of the Tribe's surface water system for that Reservation.

The following artificial conveyances on the Reservation are designated Class 2-C:

Big Cypress Reservation

- Water control system W-1
- Water control system W-2
- Water control system W-3
- Water control system W-4
- Water control system W-5
- Water control system W-6
- Water control system E-1
- Water control system E-2
- Water control system E-3
- Water control system E-4
- Water control system E-5
- Water control system E-6

Brighton Reservation

- A Group
  - Ditch A-1
  - Ditch A-2
  - Ditch A-3
  - Ditch A-4
  - Ditch A-5
  - Ditch A-6
  
- B Group
  - Ditch B-1
  - Ditch B-2
  - Ditch B-3
  - Ditch B-4

- Ditch B-5
- Ditch B-6
- Ditch B-7
- Ditch B-8
- Ditch B-9
- Ditch B-10

- C Group
  - Ditch C-1
  - Ditch C-2

- D Group
  - Ditch D-2
  - Ditch D-3
  - Ditch D-4
  - Ditch D-5
  - Ditch D-6
  - Ditch D-7
  - Ditch D-8
  - Ditch D-9
  - Ditch D-10
  - Ditch D-11 (Tannerhill Meanderline Ditch)

- E Group
  - Ditch E-1
  - Ditch E-2

Mose Canal  
Old Harney Pond Oxbow (from Russ & Sunni's to the Triangle)  
Hwy 721 community drainage ditch

**(3) Class 2-C -- Water Resource Areas and Irrigation Cells.**

Big Cypress Reservation

Water resource areas and irrigation cells (defined in Section 11.5 and components of the Tribe's Water Conservation System Conceptual Plan for the Big Cypress Reservation) are designated Class 2-C. Additionally, isolated wetlands that are not components of the Conceptual Plan are also designated Class 2-C.

Brighton Reservation

Not Applicable

**(4) Class 3 -- Agricultural Purposes.** The following wholly artificial (man-made) canals, pits or ditches are designated as Class 3 waters:

Big Cypress and Brighton Reservations

- Borrow pits
- Livestock watering ponds
- Field ditches
- Rim ditches
- Spreader swales
- Highway swales

**(c) Change in Classification of Surface Waters.**

(1) Any person who is subject to these rules may seek reclassification of Reservation surface waters by filing a petition with the Commission. The Department may develop a form for use in any such petition. Any petition for reclassification shall be accompanied by the information necessary for the Commission to make the affirmative finding described in paragraph (3) below.

(2) The Commission will consider any petition for reclassification at a regularly scheduled meeting of the Commission. The Commission may decide not to take any action in response to a petition. If it determines that there is merit in a petition,

the Commission may decide to initiate changes to its rules. The Commission may not reclassify water(s) based only on a petition, but, rather, to reclassify water(s) the Commission must comply with the procedural requirements of the Tribal Water Quality Code and the provisions of the Clean Water Act. To initiate such changes, the Commission may direct the Department to incorporate the proposed reclassification in the next triennial review of the Tribe's water quality standards, pursuant to section 12.4 below, or the Commission may ask the Department to prepare proposed amendments to its rules to address only those issues raised in the petition. In any case in which the proposed rule changes affect only one of the Tribe's Reservations, a community meeting need be held on only that Reservation.

(3) In addition to receiving petitions from the affected public, the Commission, at any time, may act on its own initiative, or on the recommendation of the Director, to amend its rules to reclassify certain waters.

(4) Before initiating a rule change to reclassify water(s), the Commission must make a determination that the proposed reclassification: (a) would establish the most beneficial use of the particular water(s); (b) would serve the interests of the Tribe and the affected Reservation community; (c) would be attainable; (d) would ensure attainment and maintenance of the water quality standards of downstream waterbodies, and; (e) in situations where a designated use is being replaced with a use supported by less stringent criteria, adheres to the conditions set forth in 40 CFR § 131.10 (g) and (h). Further, in reclassifying water(s), the Commission will include any existing uses not previously recognized in the list of designated uses.

### **SECTION 12.3 WATER QUALITY CRITERIA**

#### **(a) Narrative Standards for All Reservation Surface Waters.**

All Reservation surface waters, including those within mixing zones, shall be free from substances attributable to wastewater discharges or other pollutant sources that:

- (1) Settle to form objectionable deposits;
- (2) Float as debris, scum, oil, or other matter forming nuisances;
- (3) Produce objectionable color, odor, taste, or turbidity;
- (4) Cause injury to, or are chronically toxic to, or produce adverse

physiological responses in humans, wildlife, plants or fish and other aquatic life; or

- (5) Are unsuitable for aquatic life propagation and maintenance and, where attainable, support balanced indigenous populations of aquatic life.

**(b) Additional Narrative Criteria for Class 2-A Waters.**

In addition to the narrative criteria set forth in paragraph (a) above and the numeric criteria for Class 2-B waters found in Table 12, all Reservation surface waters designated Class 2-A shall be free from activities and substances attributable to wastewater discharges or other pollutant sources that:

- (1) Disturb, injure or in any way jeopardize the continued existence of the unique diverse plant and wildlife used in the religious ceremonies and customs of the Tribe; or
- (2) Impair the biological community as it naturally occurs in the designated area due to physical, chemical or hydrologic changes.

**(c) Numeric Criteria for all Reservation Surface Waters.**

The Commission has determined that the interests of the Tribe would be adequately served by adopting numeric criteria based on criteria that have been adopted by the State of Florida with guidance by EPA. The State of Florida has adopted numeric criteria for 72 pollutant parameters, which are set out in a table in section 62-302.530 of the Florida Administrative Code. The Commission finds that these criteria, which have been approved by EPA, are based on defensible scientific methodologies and are (in most instances) based on federal guidelines. The Department has prepared Table 12 (immediately following this paragraph) which sets out numeric criteria for pollutant parameters based primarily on these criteria. Except as otherwise specifically provided in these rules or in the notes accompanying Table 12, the Commission hereby approves these numeric criteria as applicable to Reservation surface waters for the corresponding classes of designated uses.



**TABLE 12**  
**Criteria for all Reservation Surface Waters on the**  
**Big Cypress and Brighton Reservations**

PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
1. Alkalinity	mg/L as CaCO <sub>3</sub>	N	N	Shall not be depressed below 20		Shall not be depressed below 20		≤600
2. Aluminum	μg/L	N	N			≤87	≤87	
3. Ammonia (un-ionized)	mg/L as NH <sub>3</sub>	N	N	See EPA tables of ambient water quality criteria document for Ammonia, EPA822- R-99-014		See EPA tables of ambient water quality criteria document for Ammonia, EPA 822-R-99-014		
4. Antimony	μg/L	Y	N	5.6		640	640	
5.a. Arsenic (total)	μg/L	Y	Y	≤10		≤10	≤10	≤10
5.b. Arsenic	μg/L measured	Y	Y			150	150	

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
(trivalent)	as total recoverable Arsenic							
6. Bacteriological Quality (Fecal Coliform Bacteria)	Number per 100 ml (Most Probable Number (MPN) or Membrane Filter (MF))	N	N	MPN or MF counts shall not exceed a monthly average of 200, nor exceed 400 in 10% of the samples, nor exceed 800 on any one day. Monthly averages shall be expressed as geometric means based on a minimum of 5 samples taken over a 30 day period.		MPN or MF counts shall not exceed a monthly average of 200, nor exceed 400 in 10% of the samples, nor exceed 800 on any one day. Monthly averages shall be expressed as geometric means based on a minimum of 5 samples taken over a 30 day period.		
7. Benzene	µg/L	Y	Y	2.2		51 annual avg.	51 annual	

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
							avg.	
8. Biological Integrity	Percent reduction of Shannon-Weaver Diversity Index	N	N	The Index for benthic macroinvertebrates shall not be reduced to less than 75% of background levels as measured using organisms retained by a U.S. Standard No. 30 sieve and collected and composited from a minimum of three Hester-Dendy type artificial substrate samplers of 0.10 to 0.15 m <sup>2</sup> area each, incubated for a		The Index for benthic macroinvertebrates shall not be reduced to less than 75% of background levels as measured using organisms retained by a U.S. Standard No. 30 sieve and collected and composited from a minimum of three Hester-Dendy type artificial substrate samplers of 0.10 to 0.15 m <sup>2</sup> area each, incubated for a period of four weeks.		

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					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
				period of four weeks.				
9. BOD (Biochemical Oxygen Demand)	N/A	N	N	Shall not be increased to exceed values which would cause dissolved oxygen to be depressed below the limit established for each class and, in no case, shall it be great enough to produce nuisance conditions.		Shall not be increased to exceed values which would cause dissolved oxygen to be depressed below the limit established for each class and, in no case, shall it be great enough to produce nuisance conditions.		
10. Boron	mg/L	N	N				0.75	
11. Cadmium See Note (5)	µg/L	Y	N	$\exp(0.7409[\ln H]-4.719)$ .	$\exp(0.7409[\ln H]-4.719)$ ..	$\exp(0.7409[\ln H]-4.719)$ ..	$\exp(0.7409[\ln H]-4.719)$ ..	

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					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
12. Carbon tetrachloride	µg/L	Y	Y	0.23 annual avg; 3.0 max		1.6 annual avg.	1.6 annual avg.	
13. Chlorides	mg/L	N	N	250		≤230	≤230	
14. Chlorine (total residual)	mg/L	N	N	0.01		0.01	0.01	
15. a. Chromium (trivalent) See Note (5)	µg/L measured as total recoverable Chromium	Y	N	$\text{Cr(III)}\exp(0.819 [\ln\text{H}] + 0.6848)$ .		$\text{Cr(III)}\exp(0.819 [\ln\text{H}] + 0.6848)$ .	$\text{Cr(III)}\exp(0.819 [\ln\text{H}] + 0.6848)$ .	$\text{Cr(III)}\exp(0.819 [\ln\text{H}] + 0.6848)$ .
15. b. Chromium (hexavalent)	µg/L	Y	N	11		11	≤11	11
16. Color, etc. (see also Minimum)	Color, odor, and taste producing	N	N	Free from color, odor, and taste producing		Free from color, odor, and taste	Free from color, odor, and taste	Only such amounts as will not

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					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
Criteria, Odor, Phenols, etc.)	substances and other deleterious substances, including other chemical compounds attributable to domestic wastes, industrial wastes and other wastes.			substances and other deleterious substances, including other chemical compounds attributable to domestic wastes, industrial wastes and other wastes.		producing substances and other deleterious substances, including other chemical compounds attributable to domestic wastes, industrial wastes and other wastes.	producing substances and other deleterious substances, including other chemical compounds attributable to domestic wastes, industrial wastes and other wastes.	render the waters unsuitable for agricultural irrigation, livestock watering, industrial cooling, industrial process water supply purposes, or fish survival.
17.	Micromhos	N	N	Shall not be		Shall not be increased more		

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					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
Conductance, Specific (at 25 degrees Celsius)	/cm			increased more than 50% above background or to 1275, whichever is greater.		than 50% above background or to 1275 whichever is greater.	Shall not be increased more than 50% above background or to 1275, whichever is greater	
18. Copper See Note (5)	µg/L	Y	N	$Cu \exp(0.8545[\ln H]-1.702)$ .		$Cu \exp(0.8545[\ln H]-1.702)$ .	$Cu \exp(0.8545[\ln H]-1.702)$	
19. Cyanide	µg/L	Y	N	5.2		5.2	5.2	
20. Detergents	mg/L	N	N	0.5		0.5	0.5	
21. 1,1- Dichloroethyle ne (1,1- Di-	µg/L	Y	Y	330 annual avg.		7100 annual avg.	7100 annual avg.	

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					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
chloroethene)								
22. Dichloromethane (methylene chloride)	µg/L	Y	Y	4.65 annual avg.		590 annual avg.	590 annual avg.	
23. 2,4-Dinitrotoluene	µg/L	N	Y	0.11 annual avg.		3.4 annual avg.	3.4 annual avg.	
24. Dioxin (2,3,7,8 - TCDD)	µg/L	Y	Y	5E-09		5.1E-09	4 5.1E-09	4 5.1E-09
25. Dissolved Oxygen (DO)	mg/L	N	N	Shall not be less than 5.0. DO values can be lower if caused by natural conditions. Normal daily and seasonal		Shall not average less than 5.0 in a 24-hour period. DO values can be	Shall not average less than 5.0 in a 24-hour period. DO values	Shall not average less than 5.0 in a 24-hour period. DO values

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					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
				fluctuations above these levels shall be maintained.		lower if caused by natural conditions. Normal daily and seasonal fluctuations above these levels shall be maintained.	can be lower if caused by natural conditions. Normal daily and seasonal fluctuations above these levels shall be maintained.	can be lower if caused by natural conditions. Normal daily and seasonal fluctuations above these levels shall be maintained.
26. Dissolved Solids	mg/L	N	N	500 as a monthly avg.; 1,000 max.				
27. Fluorides	mg/L	N	N	1.5		10.0	10.0	10.0
28. "Free								

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					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
Froms" (see minimum criteria in section 12.3 of this Part)								
29. Halomethanes	µg/L	Y	Y					
30. a. Bromoform	µg/L	Y	Y	4.3		140	140	
30. b. Chlorodibromo methane	µg/L	Y	Y	0.41		13	13	
30. c. Chloroform	µg/L	Y	Y	5.7		470	470	
30. d. Dichlorobro-	µg/L	Y	Y	0.55		17	17	

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momethane								
30. e. Methyl Bromide	µg/L	Y	Y	47		1500	1500	
30. f. Dichlorodi- fluoromethane	µg/L	N	Y	6,900		570,000	570,000	
31. Hexachloro- butadiene	µg/L	Y	Y	.44		18	18	
32. Imbalance (see Nutrients)								
33. Lead See Note (5)	µg/L	Y	N	Pbexp(1.273[lnH]- 4.705).		Pbexp(1.273[lnH]- 4.705).	Pbexp(1.27 3[lnH]- 4.705).	Pbexp(1.27 3[lnH]- 4.705).

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
34. Mercury	µg/L	Y	N	0.012		0.012	0.012	0.2
35. Nickel See Note (5)	µg/L	Y	N	$Ni \exp(0.846[\ln H] + 0.0584)$ .		$Ni \exp(0.846[\ln H] + 0.0584)$ .	$Ni \exp(0.846[\ln H] + 0.0584)$ .	$\exp(0.846[\ln H] + 0.0584)$
36. Nitrate	mg/L	N	N	10		Shall not be found in concentrations which cause an imbalance in natural populations of aquatic flora or fauna.		
37. Nuisance Species	N/A	N	N	Substances in concentrations which result in the dominance of nuisance species: none shall be present.		Substances in concentrations which result in the dominance of nuisance species: none shall be present.		

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
38. (a) Nutrients	N/A	N	N	The discharge of nutrients shall continue to be limited as needed to prevent violations of other standards contained in this chapter or other applicable Water Quality Standards imposed by law.		The discharge of nutrients shall continue to be limited as needed to prevent violations of other standards contained in this chapter or other applicable Water Quality Standards imposed by law.		
38. (b) Nutrients	N/A	N	N	In no case shall nutrient concentrations of a body of water be altered so as to cause an imbalance in natural populations		In no case shall nutrient concentrations of a body of water be altered so as to cause an imbalance in natural populations of aquatic flora or fauna.		

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
				of aquatic flora or fauna.				
39. (a) Oils and Greases	mg/L	N	N	Dissolved or emulsified oils and greases shall not exceed 5.0		Dissolved or emulsified oils and greases shall not exceed 5.0	Dissolved or emulsified oils and greases shall not exceed 5.0	Dissolved or emulsified oils and greases shall not exceed 5.0
39. (b) Oils and Greases	mg/L	N	N	No undissolved oil, or visible oil defined as iridescence, shall be present so as to cause taste or odor, or otherwise interfere with the beneficial use of Reservation		No undissolved oil, or visible oil defined as iridescence, shall be present so as to cause taste or odor, or otherwise interfere with the beneficial use of Reservation waters.		

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
				waters.				
40. Pesticides and Herbicides								
40.a. 2,4,5-T Trichlorophen oxyacetic acid	µg/L	Y	Y	10				
40.b. 2,4-D Dichloropheno xyacetic acid	µg/L	Y	Y	100		None	None	
40.c. Aldrin	µg/L	Y	Y	0.0000049 annual avg.; 3.0 max		0.00005 annual avg; 3.0 max	0.00005 annual avg; 3.0 max	
40.d. Atrazine	µg/L	N	N	≤25		≤1.0	≤1.0	
40.e. Beta-	µg/L	Y	Y	0.0091annual avg.		0.017 annual	0.017	

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
hexachlorocycl o-hexane (b- BHC)						avg.	annual avg.	
40.f. Bromacil	µg/L	Y	Y	100 annual avg.		100 annual avg.	100 annual avg.	
40.g. Chlordane	µg/L	Y	Y	0.0008 annual avg. 0.0043 max.		0.00081 annual avg. 0.0043 max.	0.00081 annual avg. 0.0043 max.	
40.h. Chlorpyrifos	µg/L	N	N	.041		.041	.041	
40.i. Dichlorodiphe nyltrichloro- ethane (DDT)	µg/L	Y	Y	0.00022 annual avg.; 0.001 max.		0.00022 annual avg. 0.001 max.	0.00022 annual avg. 0.001 max.	
40.j. Demeton	µg/L	N	N	0.1		0.1	0.1	

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
40.k. Dieldrin	µg/L	Y	Y	.0.000052 annual avg.; 0.056 max		0.000052 annual avg.; 0.056 max.	0.000052 annual avg.; 0.056 max	
40.l. Diuron	µg/L	Y	Y	2.0 annual avg.		2.0 annual avg.	2.0 annual avg.	
40.m. Endosulfan	µg/L	Y	N	0.056		0.056	0.056	
40.n. Endrin	µg/L	Y				0.036	0.036	
40.o. Ethion	µg/L	Y	N	60 annual avg.		60 annual avg.	60 annual avg.	
40.p. Guthion	µg/L	N	N	0.01		0.01	0.01	
40.q. Heptachlor	µg/L	Y	Y	0.000079 annual avg.		0.000079 annual avg; 0.0038 max	0.000079 annual avg; 0.0038 max	

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
40.r. Lindane (a-benzene hexachloride)	µg/L	Y	N	0.0026 annual avg.		0.0049 annual avg.	0.0049 annual avg.	
40.s. Lindane (b-benzene hexachloride)	µg/L	Y	N	0.0091 annual avg.		0.017 annual avg.	0.017 annual avg.	
40.t. Lindane (g-benzene hexachloride)	µg/L	Y	N	0.98 annual avg.		1.8 annual avg.	1.8 annual avg.	
40.u. Malathion	µg/L	N	N	0.1		0.1	0.1	
40.v. Methoxychlor	µg/L	N	N	0.03		0.03	0.03	
40.w. Mirex	µg/L	N	N	0.001		0.001	0.001	

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
40.x. Parathion	µg/L	N	N	0.013		0.013	0.013	
40.y. Toxaphene	µg/L	Y	Y	0.002		0.002	0.002	
41. pH	Standard Units	N	N	Shall not vary more than one unit above or below natural background provided that the pH is not lowered to less than 6 units or raised above 8.5 units. If natural background is less than 6 units, the pH shall not vary below natural background or vary		Shall not vary more than one unit above or below natural background provided that the pH is not lowered to less than 6 units or raised above 8.5 units. If natural background is less than 6 units, the pH shall not vary below natural background or vary more than one unit above natural background. If natural background is higher than 8.5 units, the pH shall not vary above natural background or vary more than one unit below background.		

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
				more than one unit above natural background. If natural background is higher than 8.5 units, the pH shall not vary above natural background or vary more than one unit below background.				
41 a. Phenolic compounds: Total		Y	N	Phenolic compounds other than those produced by the natural decay of plant material, listed or unlisted, shall not taint the flesh of				Phenolic compounds other than those produced by the natural decay of plant material, listed or unlisted, shall not taint the flesh of edible fish or shellfish or produce objectionable taste or odor in a drinking water supply.

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
				edible fish or shellfish or produce objectionable taste or odor in a drinking water supply.				
41. b. Phenolic compounds: Total	µg/L	Y	N	1. The total of all chlorinated phenols, and chlorinated cresols, except as set forth in (c) 1. to (c) 8. below, shall not exceed 1.0 unless higher values are shown not to be chronically toxic. Such higher values shall be approved in writing by the				1. The total of all chlorinated phenols, and chlorinated cresols, except as set forth in (c) 1. To (c) 8. below, shall not exceed 1.0 unless higher values are shown not to be chronically toxic. Such higher values shall be approved in writing by the Commission. 2. The compounds listed in (c)1. to (c) 8. below shall not exceed the limits specified for each compound.

Notes: (1) **"\*PP"** means priority pollutant; (2) **"\*\*C"** means Carcinogen; (3) **"Annual avg"** means the maximum concentration at average annual flow conditions measured and represented as a 12 month moving average; (4) **"Max"** means the maximum not to be exceeded at any time; (5) **"In H"** means the natural logarithm of total hardness expressed as milligrams/L of CaCO<sup>3</sup>. For metals criteria involving equations with hardness, the hardness shall be set at 25 mg/L if actual hardness is <25 mg/L and set at 400 mg/L if actual hardness is >400 mg/L; (6) Criteria are protective of human health not of aquatic life.

PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
				Commission. 2. The compounds listed in (c)1. to (c) 8. below shall not exceed the limits specified for each compound.				
41. c.1. Phenolic compound: 2- chlorophenol	µg/L	Y	N	81		150 See Note (6)	150 See Note (6)	150 See Note (6)
41. c.2. Phenolic compound: 2,4- dichlorophenol	µg/L	Y	N	77 See Note (6)		290 See Note (6)	290 See Note (6)	290 See Note (6)

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
41. c.3 Phenolic compound: 2,4- dimethylpheno l	µg/L	Y	N	380 See Note (6)		850 See Note (6)	850 See Note (6)	850 See Note (6)
41. c.4 Phenolic compound: 2- methyl-4,6- dinitrophenol	µg/L	Y	N	13 See Note (6)		280 See Note (6)	280 See Note (6)	280 See Note (6)
41. c.5 Phenolic compound: pentachloro- phenol	µg/L	Y	N	30 max; 0.27 annual avg; e(1.005[pH]-5.29)		30 max; 3 annual avg; e(1.005[pH]- 5.29)	30 max; 3 annual avg; e(1.005[pH] -5.29)	30 max; 3 annual avg; e(1.005[pH] -5.29)

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
41. c.6 Phenolic compound: 2,4,6- trichlorophenol	µg/L	Y	N	1.4 annual avg.		2.4 annual avg.	2.4 annual avg.	2.4 annual avg.
41. c.7 Phenolic compound: 2,4- dinitrophenol	mg/L	Y	N	0.0697 See Note (6)		5.3 See Note (6)	5.3 See Note (6)	5.3 See Note (6)
41. c.8 Phenolic compound: Phenol	mg/L	Y	N	0.3		0.3	0.3	0.3
43. Phthalate Esters	µg/L	Y	N					

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
43. a. Bis(2-Ethylhexyl) Phthalate	µg/L	Y	N	1.2 See Note (6)		2.2 See Note (6)	2.2 See Note (6)	
43. b. Butylbenzyl Phthalate	µg/L	Y	N	1500 See Note (6)		1900 See Note (6)	1900 See Note (6)	
43. c. Diethyl Phthalate	µg/L	Y	N	17000 See Note (6)		44000 See Note (6)	44000 See Note (6)	
43. d. Dimethyl Phthalate	µg/L	Y	N	270000 See Note (6)		1100000 See Note (6)	1100000 See Note (6)	
43. e. Dibutyl Phthalate	µg/L	Y	N	2000 See Note (6)		4500 See Note (6)	4500 See Note (6)	
44. Polychlori-	µg/L	Y	Y	0.000064 annual		0.000064	0.000064	

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
nated Biphenols (PCBs)				avg.; 0.014 max		annual avg; 0.014 max	annual avg; 0.014 max	
45. Polycyclic Aromatic Hydrocarbons (PAHs)	µg/L	Y	Y					
45. a. Anthracene	µg/L	Y	Y	8300 See Note (6)		40000 See Note (6)	40000 See Note (6)	
45. b. Benzo(a)Anthr acene	µg/L	Y	Y	0.0038 See Note (6)		0.018 See Note (6)	0.018 See Note (6)	
45. c. Benzo(a)Pyre ne	µg/L	Y	Y	0.0038 See Note (6)		0.018 See Note (6)	0.018 See Note (6)	

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
45. d. Chrysene	µg/L	Y	Y	0.0038 See Note (6)		0.018 See Note (6)	0.018 See Note (6)	
45. e. Dibenzo(a,h)A ntracene	µg/L	Y	Y	0.0038 See Note (6)		0.018 See Note (6)	0.018 See Note (6)	
45. f. Fluoranthene	µg/L	Y	Y	130 See Note (6)		140 See Note (6)	140 See Note (6)	
45. g. Fluorene	µg/L	Y	Y	1100 See Note (6)		5300 See Note (6)	5300 See Note (6)	
45. h. Indeno(1,2,3- cd) Pyrene	µg/L	Y	Y	0.0038 See Note (6)		0.018 See Note (6)	0.018 See Note (6)	

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
45. i. Pyrene	µg/L	Y	Y	830 See Note (6)		4000 See Note (6)	4000 See Note (6)	
45. j. Acenaphthene	µg/L	Y	Y	1,200		27,000	27,000	
45. k. Benzo(k)Fluor anthene	µg/L	Y	Y	0.0038		0.018	0.018	
45. l. 3,4 Benzo(b)Fluor anthene	µg/l	Y	Y	0.0038		0.018	0.018	
46. Radioactive substances	Picocuries/L	N	Y	15		15	15	15

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
(Gross alpha particle activity including radium 226, but excluding radon and uranium)								
47. Selenium	µg/L	Y	N	5.0		5.0	5.0	
48. Silver See Note (5) (applies within mixing zones)	µg/L	Y	N	$\exp(1.72[\ln H]-6.59)$		$\exp(1.72[\ln H]-6.59)$ .	$\exp(1.72[\ln H]-6.59)$ .	$\exp(1.72[\ln H]-6.59)$ .
49. Substances in concentrations which injure, are chronically	N/A	N	N	NONE SHALL BE PRESENT		NONE SHALL BE PRESENT		

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					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
toxic to, or produce adverse physiological or behavioral response in humans, plants, or animals.								
50. 1,1,2,2- Tetra- chloroethane	µg/L	Y	Y	0.17 annual avg.		4 annual avg.	4 annual avg.	
51. Tetrachloroeth ylene (1,1,2,2-) tetrachloroeth	µg/L	Y	Y	0.69 annual avg.  3.0 max.		3.3 annual avg.	3.3 annual avg.	

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
ene								
52. Thallium	µg/L	Y	N	0.24		0.47	0.47	
53. Thermal Criteria	F.	N	N	Heated water discharges shall not increase the temperature of the Receiving Body of Water (RBW) so as to cause substantial damage or harm to the aquatic life or vegetation therein or interfere with the beneficial uses assigned to the RBW. Heated water sources proposed for		Heated water discharges shall not increase the temperature of the Receiving Body of Water (RBW) so as to cause substantial damage or harm to the aquatic life or vegetation therein or interfere with the beneficial uses assigned to the RBW. Heated water sources proposed for future discharges into an RBW shall not be more than 5 degrees F. higher than the existing temperature of any		

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
				future discharges into an RBW shall not be more than 5 degrees F. higher than the existing temperature of any receiving water at a location which is unaffected by manmade thermal discharges and is of typical depth and exposure to winds and currents.		receiving water at a location which is unaffected by manmade thermal discharges and is of typical depth and exposure to winds and currents.		
54. Total Dissolved Gases	Percent of the saturation value for gases at the existing	N	N	110% of saturation value		110% of saturation value	110% of saturation value	

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A  See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
	atmospheric and hydrostatic pressures.							
55. Transparency	Depth of the compensation point for photosynthetic activity	N	N	Shall not be reduced by more than 10% as compared to natural background value.		Shall not be reduced by more than 10% as compared to natural background value.		
56. Trichloro- ethylene (Trichloro- ethane)	µg/L	Y	N	2.5 annual average		30 annual avg.	30 annual avg.	
57. Turbidity	Nephelometric Turbidity Units (NTU)	N	N	29 above natural background conditions		29 above natural background conditions	29 above natural background conditions	29 above natural background conditions

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PARAMETER	UNITS	*PP	**C	Class I: Potable Water Supply	Class II: Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife			Class III: Agricultural Purposes
					SUB- CLASS 2-A See Section 12.3 (a) & (b) of this Part.	SUB- CLASS 2-B	SUB- CLASS 2-C	
58. Zinc See Note (5)	µg/L	Y	N	Zn exp(0.8473[lnH] +0.884).		Zn exp(0.8473[ln H] +0.884).	Zn exp(0.8473[ lnH] +0.884).	Zn exp(0.8473 [lnH] + 0.884).

Notes: (1) "**\*PP**" means priority pollutant; (2) "**\*\*C**" means Carcinogen; (3) "**Annual avg**" means the maximum concentration at average annual flow conditions measured and represented as a 12 month moving average; (4) "**Max**" means the maximum not to be exceeded at any time; (5) "**In H**" means the natural logarithm of total hardness expressed as milligrams/L of CaCO<sup>3</sup>. For metals criteria involving equations with hardness, the hardness shall be set at 25 mg/L if actual hardness is <25 mg/L and set at 400 mg/L if actual hardness is >400 mg/L; (6) Criteria are protective of human health not of aquatic life.

#### **Section 12.4 Review and Revision of Standards**

The Department shall carry out a continuing planning process for water quality management, in accordance with the Tribal Water Quality Code, and shall make recommendations to the Commission for appropriate revisions to its rules. At least once every three years the Commission shall consider adopting revisions to its water quality standards and other provisions of its rules, following the procedural requirements set out in the Tribal Water Quality Code. All officially adopted revisions to tribal water quality standards shall be submitted to EPA for review and approval as required under 40 CFR Sections 131.20 and 131.21. Any person who is interested in receiving notices related to the review and revision of the Commission's rules should inform the Director of his or her interest (providing name and address), and, by so doing, they will be included in the "interested persons" list maintained by the Department.

#### **Section 12.5 Antidegradation Policy**

The Commission and the Department will carry out their responsibilities in accordance with the antidegradation policy set forth in section 131.12 of EPA's regulations. The Commission and the Department shall ensure that existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected. Where high quality waters constitute an outstanding National resource, such as waters of exceptional environmental, cultural or recreational significance, that water quality shall be maintained and protected. Where the quality of waters is better than necessary to support the propagation of fish, shellfish and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the Commission and the Department finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the Department's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the Commission and the Department shall assure adequate water quality to protect existing uses fully.

#### **Section 12.6 Methods and Procedures**

(a) Sample collections and preservation used to determine water quality and to maintain the standards set forth in the Water Quality Standards shall be performed in accordance with procedures prescribed by the latest EPA authoritative analytical reference, including but not limited to the latest editions of any of the following authorities: (1) American Public Health Association, 10 Standard Methods for the Examination of Water and Wastewater; (2) "Methods for Chemical Analysis of Water and Wastes"; or (3) "EPA Guidelines Establishing Test Procedures for the Analysis of Pollutants."

**(b) Sampling Procedures:**

1. Streams; Stream monitoring stations below waste discharges shall be located a sufficient distance downstream to ensure adequate vertical and lateral mixing.

2. Reservoirs and impoundments: Sampling stations in reservoirs shall be located at least 250 feet from a waste discharge, and otherwise, where the attainment of a water quality standard is to be assessed. Water quality measurements shall be taken at intervals in the water at a sampling station. For toxic substances and nutrients, the entire water column shall be monitored. For dissolved oxygen in stratified lakes, measurements shall be made in the epilimnion. In nonstratified lakes, measurements will be made at intervals throughout the entire water column.

(c) All methods of analysis used in measuring the water quality of surface water for purposes of determining compliance with these standards shall be in accordance with procedures prescribed in the current Title 40 Code of Federal Regulations Part 136.

(d) **Bacteriological Surveys:** The monthly geometric mean is used in assessing attainment of standards when a minimum of five samples is collected in a 30-day period. When less than 5 samples are collected in a 30-day period, no single sample shall exceed the applicable upper limit for bacterial density set forth in Table 12.

## Section 12.7 Mixing Zone Policy

(a) **Mixing zones permissible.** A permit issued by the EPA pursuant to section 402 of the Clean Water Act for a point source discharge into Reservation surface waters may include mixing zones, *provided* that any such mixing zone is consistent with the policy stated in this section.

(b) **General policy.** This policy establishes how mixing and dilution of point source discharges with receiving waters will be addressed in developing chemical-specific and whole effluent toxicity discharge limitations. Depending upon site-specific mixing patterns and environmental concerns, some pollutants/criteria may be allowed to be exceeded in a mixing zone while others may not. In all cases, mixing zone and dilution allowances shall be limited as necessary to protect the integrity of the receiving water ecosystem and designated waterbody uses. This policy shall be implemented consistent with guidance issued by the EPA.

(c) **Mixing zones.** Where dilution is available at critical conditions and the discharge does not mix at a near instantaneous and complete rate, an appropriate mixing zone may be designated if:

- (1) meeting water quality standards at the end-of-the-pipe is not practicable;
- (2) allowing a mixing zone will not pose unacceptable risks to designated or existing uses;
- (3) narrative criteria will be achieved within the mixing zone;
- (4) the size of mixing zones for streams, rivers and canals does not exceed one-half the cross-sectional area or a length 10 times the stream width at critical low flow, whichever is more limiting; and
- (5) the size of mixing zones for lakes does not exceed 5% of lake surface area or 200 feet in radius, whichever is more limiting.

(d) **Dilution allowances.** Where the discharge is to a river, stream or canal, dilution is available at critical conditions, and available information is sufficient to

reasonably conclude that the discharge exhibits near instantaneous and complete mixing, an appropriate dilution allowance may be provided for purposes of establishing discharge limitations. As a maximum, the following low flows may be used:

Stream Flows

Aquatic life

chronic	4-day, 3-year flow (biologically based)
acute	1-day, 3-year flow (biologically based)

Human health

carcinogens	harmonic mean flow
non-carcinogens	4-day, 3-year flow (biologically based) or 1-day, 3-year flow (biologically based)

aquatic life,  
propagation  
and maintenance 12 month moving average

Effluent Flows

Aquatic life, chronic Mean daily flow  
Aquatic life, acute Maximum daily flow  
Human Health (all) Mean daily flow

(e) **Prohibition.** Where dilution flow is not available at critical conditions, the discharge limits will be based on achieving water quality criteria at the end-of-the-pipe.

(f) **Commission veto.** If the Commission objects in writing to the inclusion of a mixing zone in any permit issued by the EPA for a point source discharge to Reservation surface waters, the permit shall not include a mixing zone.

**Section 12.8 Variance Policy**

(a) **General Policy.** In an appropriate case the Commission is authorized to grant a variance for a particular discharger. Granting a variance may be appropriate in any case in which one or more of the grounds specified in paragraph (d) below applies and the Commission determines that the water quality standard for the body of water ultimately can be attained. The procedure for granting a variance is essentially the same process as for adopting or revising water quality standards. If the Commission decides to grant a variance in a particular case, the terms of the variance will be specified as an appendix to this section of the Commission's Rules.

(b) **Effect of a Variance; Expiration.** The effect of a variance is to make it legally permissible for that discharger to fail to comply with otherwise applicable water quality criteria for one or more pollutant constituents. The discharger who is granted a variance for one or more pollutant constituents is required to comply with all applicable water quality criteria for all pollutant constituents not expressly included in the variance. A variance is limited to a particular discharger; all other dischargers are subject to all

applicable water quality criteria. In any case in which the Commission decides to grant a variance, the Commission will specify a date on which the variance will expire, which may be set to coincide with the next scheduled triennial review of the Commission's Water Quality Standards Rules. The time period for a variance shall not exceed three (3) years, although a variance may be rejustified upon expiration.

**(c) Procedure.** A petition or application for a variance shall be in accordance with these rules. The Petitioner or Applicant shall address the factors listed in paragraphs (1) through (7) below in a request to the Commission, which shall review the petition within a reasonable period of time to determine if it is complete. If the Commission determines the petition or application to be incomplete, the Petitioner shall be afforded an opportunity to supply additional information before the Commission evaluates the merits of the request. The following must be included within the request:

- (1) The criterion or criteria from which a variance is sought.
- (2) The facts which show that a variance should be granted because of one of the reasons specified in Section 12.8 (d), below.
- (3) The period of time for which the variance is sought, including the reasons and facts in support of the time period.
- (4) The requirements which the Petitioner or Applicant can meet, including the date or time when the requirements will be met.
- (5) The steps or measures the Petitioner or Applicant is taking to meet the requirements from which the variance is sought.
- (6) The social, economic and environmental impacts on the Applicant and residents of the area if the variance is granted.
- (7) The social, economic and environmental impacts on the Applicant and residents of the area if the variance is denied.



The Commission shall publish Notice of Intent in the Seminole Tribune or other news media as the Tribal Chairman may direct and posting in accordance with Paragraph 3.5.5.1 of Subtitle A. In addition, Notice of Intent shall be provided to all individuals listed on the "Interested Persons" list as described in Section 12.3.2 of the Tribal Water Code. The Commission shall not grant a variance or petition for variance until a minimum of thirty (30) days following the publication of notice to provide an opportunity for public comment. A Public Hearing need not be held unless specifically requested during the public comment period. With the exception of the Public Hearing requirement (if not requested) the same procedures set forth in Section 12.3.2 of the Tribal Water Code for the development of rules shall be followed in granting a variance, including adoption by the Tribal Council and EPA review and approval.

**(d) Grounds for Granting a Variance.** The Commission may grant a variance if one or more of the following grounds exists:

- (1) Naturally occurring pollutant concentrations prevent the attainment of one or more water quality criterion;
- (2) Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of one or more water quality criterion, unless these conditions may be compensated for by the discharge of sufficient volume of the effluent discharges to enable the criterion (or criteria) to be met, without violating tribal water conservation requirements;
- (3) Human caused conditions or sources of pollution prevent the attainment of one or more criterion and such conditions cannot be remedied or would cause more environmental damage to correct than to leave in place;
- (4) Dams, diversions or other types of hydrologic modifications preclude the attainment of one or more criterion, and it is not feasible to

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restore the waterbody to its original condition or to operate such modification in a way that would result in the attainment of the criterion (or criteria);

- (5) Physical conditions related to the natural features of the waterbody, such as the lack of a proper substrate, cover, flow, depth, pools, and the like, unrelated to water quality, preclude the attainment of aquatic life protection criteria; or
- (6) Controls more stringent than those required by sections 301(b) and 306 of the Act would result in substantial and widespread economic and social impact.