

TENTH LEGISLATURE
OF THE
CHEYENNE AND ARAPAHO TRIBES
REGULAR SESSION
MAY 10, 2025
LCR, CONCHO, OK

RESOLUTION: A Bill to create the “Cheyenne and Arapaho Tribe Environmental Quality Act of 2025”.

RESOLUTION NO: 10L-RS-2025-05-005

DATE INTRODUCED: April 7, 2025

SPONSOR: Rector Candy, District A4

CO-SPONSOR: Diane Willis, District A1

SUBJECT: A Bill to create the “Cheyenne and Arapaho Tribe Environmental Quality Act of 2025”.

WHEREAS: The Cheyenne and Arapaho Tribes are duly recognized by the United States Secretary of the Interior as a self-governing, Sovereign Nation, that is a federally recognized Indian Tribe with all rights, privileges, and powers attended thereto as a sovereign government under a constitution approved by the Secretary of Interior; and

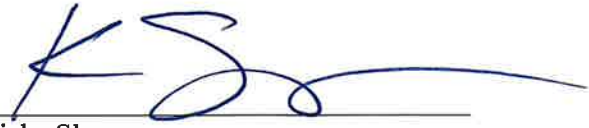
WHEREAS: Article VI, Section 5(a) of the Constitution provides that the Legislative power shall be vested in the Legislature, which includes the powers to make laws and resolutions in accordance with the Constitution which are necessary and proper for the good of the Tribes; and

WHEREAS: Article VI, Section 5(a) of the Constitution grants the Legislature the “power to make all laws and resolutions in accordance with the Constitution which are necessary and proper for the good of the Tribes;” and

WHEREAS: Article VI, Section 5(a) of the Constitution requires “Laws and resolutions which have been enacted shall remain valid until amended or repealed;” and

WHEREAS: Article VI, Section 7(a)(i) of the Constitution requires that [a]ll legislative proposals shall be formally introduced as written Bills; and

NOW THEREFORE BE IT RESOLVED, that the Tenth Legislature of the Cheyenne and Arapaho Tribes hereby enacts and adopts the Cheyenne and Arapaho Tribe Environmental Quality Act of 2025 as attached herewith, and to be codified into law.

A handwritten signature in blue ink, appearing to be 'KS' followed by a long horizontal flourish.

Kendricks Sleeper,
Speaker of the Tenth Legislature
Cheyenne and Arapaho Tribes


A decorative horizontal flourish consisting of a series of loops and swirls.

ATTEST:

I, Jodi White Buffalo, Legislative Clerk, hereby certify that the foregoing is a True and Accurate Copy of the Original Bill No. 10L-RS-2025-05-005 which was acted upon by the Legislature of the Cheyenne and Arapaho Tribes in the Tenth Legislature Regular Session, by a roll call vote on the 10th day of May 2025, by a vote.

VOTE RECORD:

DISTRICT	LEGISLATOR	YES	NO	ABSTAIN	ABSENT
A1	Diane Willis	✓			
A2	Kendricks Sleeper	✓			
A3	Travis Ruiz	✓			
A4	Rector Candy	✓			
C1	Bruce Whiteman, Jr.	✓			
C2	George Woods	✓			
C3	Thomas Trout	✓			
C4	Byron Byrd	✓			
TOTAL		8			
Passes (X) Fails () Tabled () Allowed to Die () No Action ()					


Jodi White Buffalo, Legislative Clerk
Tenth Legislature, Cheyenne and Arapaho Tribes



ATTEST:

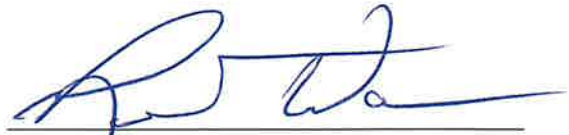
Pursuant to Article VI, Section 7, subsection (a)(iv) of the Tribes Constitution reads in part: "All Bills passed by the Legislature shall be presented to the Governor for signature or veto. All laws shall take effect thirty days after signature by the Governor or veto override by the Legislature unless any Member of the Tribes submits to the Coordinator of the Office of Tribal Council a petition signed by at least one hundred fifty Members of the Tribal Council seeking to repeal the law or resolution at the next Tribal Council meeting. If the Tribal Council fails to repeal such law or resolution at the next Tribal Council where the matter has been properly placed on the agenda for the Tribal Council meeting, such law or resolution shall become effective immediately."

Pursuant to Article VII, Section 4, subsection (g) of the Tribes Constitution reads: "The Governor shall have the power to sign any enactment passed by the Legislature into law or to veto any enactment passed by the Legislature within ten days of passage with a written explanation of any objections; and if the Governor takes no action within ten days, then the enactment shall become law in accordance with this Constitution."

{ ☒ } APPROVED

{ ☐ } VETOED: Attachment ____; Governor's written explanation of any objections.

On the 10th day of May, 2025.



Reggie Wassana, Governor
Cheyenne and Arapaho Tribes



TRANSMITTAL OF DOCUMENTS:

From the Legislative Branch to the Office of Records Management

ATTEST:

Pursuant to Article VI, Section 7, subsection (a)(v), of the Tribes Constitution reads, "The Office of Records Management shall compile all Laws and Resolutions into a comprehensive Code in an orderly manner that shall be published annually."

Office of Records Management Staff, hereby certify that the foregoing is a True and Accurate Original Resolution No. 10L-RS-2025-05-005.

Space below is reserved for Stamp:

Received (Date) Office of Record Management



Signature: _____

Cheryl Blind

Print Name: _____

Cheryl Blind

Title: _____

Director

Date: _____

5/12/25

Office of Records Management

Department of Administration, Executive Branch

Cheyenne and Arapaho Tribes

~~~~~

# CHEYENNE AND ARAPAHO TRIBAL CODE (CAC)

## TITLE 10 – HEALTH AND SAFETY

### SECTION 10.700 – CHEYENNE AND ARAPAHO TRIBES ENVIRONMENTAL QUALITY ACT

ENACTED BY LEGISLATURE: May 10, 2025

CITE AS: 10 CAC §10.700

#### SUBJECT

This Act repeals and replaces any and all prior Acts establishing the Cheyenne and Arapaho Tribes Environmental Quality Act.

#### FINDINGS

The Cheyenne and Arapaho Tribes are a federally recognized Indian tribe, organized under a Constitution approved by Tribal membership on April 4, 2006 and approved by the Secretary of the Interior; and

- (a) Article VI, Section 5(a) and (c) in the Constitution provides that “Legislative power shall be vested in the Legislature” and “[t]he Legislature shall have the power to make laws and resolutions in accordance with the Constitution which are necessary and proper for the good of the Tribes...Laws and resolutions which have been enacted shall remain valid until amended or repealed[;]” and
- (b) The Legislature of the Cheyenne and Arapaho Tribes finds that it is necessary and proper to establish a comprehensive framework for environmental protection, including the creation of an Environmental Protection Commission, to promote the health, safety, and welfare of the Tribes and their lands, waters, and people.

## Table of Contents

|                                                                                                  |   |
|--------------------------------------------------------------------------------------------------|---|
| CHAPTER 1: TITLE .....                                                                           | 2 |
| §10.700 Title .....                                                                              | 2 |
| CHAPTER 2: AUTHORITY, DEFINITIONS AND PURPOSE.....                                               | 2 |
| §10.701 Authority .....                                                                          | 2 |
| §10.702 Definitions.....                                                                         | 3 |
| §10.703 Purpose.....                                                                             | 4 |
| CHAPTER 3: DELEGATION OF AUTHORITY .....                                                         | 4 |
| §10.704 Establishment of the Cheyenne and Arapaho Tribes Environmental Protection Commission ... | 4 |
| §10.705 Regulations .....                                                                        | 6 |
| §10.706 Personal jurisdiction.....                                                               | 7 |
| §10.707 Territorial jurisdiction .....                                                           | 7 |
| §10.708 EPA authorization .....                                                                  | 7 |
| §10.709 Applicability .....                                                                      | 7 |
| §10.710 Review of Commission actions.....                                                        | 7 |
| §10.711 Removal of Commissioners .....                                                           | 7 |

|                                                                    |    |
|--------------------------------------------------------------------|----|
| §10.712 Interim Enforcement Authority.....                         | 7  |
| CHAPTER 4. CHEYENNE & ARAPAHO TRIBES ENVIRONMENTAL POLICY.....     | 8  |
| §10.713 Policies and goals.....                                    | 8  |
| §10.714 Implementing regulations .....                             | 9  |
| §10.715 Cooperation of Cheyenne & Arapaho Tribes departments ..... | 9  |
| CHAPTER 5 GENERAL PROVISIONS .....                                 | 10 |
| §10.716 Rules and adoption by reference.....                       | 10 |
| §10.717 Authorities.....                                           | 10 |
| §10.718 Inspections and records.....                               | 11 |
| §10.719 Pollution unlawful.....                                    | 11 |
| §10.720 Administrative proceedings. ....                           | 12 |
| §10.721 Violations and penalties .....                             | 13 |
| §10.722 Environmental Quality Revolving Fund. ....                 | 15 |
| §10.723 Provisions as cumulative.....                              | 15 |
| §10.724 Severability .....                                         | 15 |
| §10.725 Statement of Supersedure.....                              | 15 |
| §10.726 Effective Date .....                                       | 15 |
| §10.727 Applicability to Environmental Acts .....                  | 16 |

The Legislature of the Cheyenne and Arapaho Tribes hereby adopts THE CHEYENNE AND ARAPAHO TRIBES ENVIRONMENTAL QUALITY ACT.

## **CHAPTER 1: TITLE**

### **§10.700 Title**

This Act shall be known and may be cited as the "Cheyenne and Arapaho Tribes Environmental Quality Act ".

## **CHAPTER 2: AUTHORITY, DEFINITIONS AND PURPOSE**

### **§10.701 Authority**

- (a) The Cheyenne and Arapaho Tribes are duly recognized by the United States Secretary of the Interior as a self-governing, Sovereign Nation, that is a federally recognize Indian Tribe with all rights, privileges, and powers attended thereto as a sovereign government, and organized in accordance with Title 25 of the United States Code, Section 450, the “Indian Self-Determination and Education Assistance Act,” and Article XVII of the Tribe’s Constitution and By-Laws and Section 3 of the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967), under an amended Constitution ratified on April, 2006 and approved by the Secretary of Interior on May 17, 2006; and
- (b) Article VI, Section 5, subsection (a) of the Constitution grants that the Legislative power shall be vested in the Legislature; and

- (c) Article VI, Section 5, subsection (a) of the Constitution further grants that the Legislature shall have the power to make laws and resolutions in accordance with the Constitution which are necessary and proper for the good of the Tribes; and
- (d) Article VI, Section 5, subsection (a) of the Constitution further grants that all actions by the Legislature shall be embodied in a written law or resolution; and
- (e) Article VI, Section 5, subsection (a) of the Constitution further grants that laws and resolutions which have been enacted shall remain valid until amended or repealed.

### **§10.702 Definitions**

The following words or terms shall have the following meaning when used in the Act unless the context clearly indicates otherwise:

**"Administrator"** means the person designated as administrator of the CA EPC"

**"Affected Party"** means the Cheyenne and Arapaho Tribes or any department thereof. It shall also include any person or entity applying for or holding a permit or subject to regulation under this chapter and any citizen of the Cheyenne and Arapaho Tribes, if such person, entity or citizen is directly and substantially impacted by an action or decision of the CA EPC and can demonstrate standing. The CA EPC may adopt rules which include other classes of persons or entities within the meaning of "affected party".

**"CA EPC"**, "Chyenne and Arapaho Commission" and "EPC" means the Environmental Protection Commission of the Cheyenne and Arapaho Tribes.

**"Environmental Code" or "Environmental Quality Code"** means the collection of all environmental laws of the Cheyenne and Arapaho Tribes enacted under Title 10 beginning with §10.700 et seq., including but not limited to the Clean Air Act 10 CAC §10.800 et seq. and Clean Water Act §10.800 et seq., and any future acts under Title 10 that establish the Environmental Protection Commission as having authority under the act.

**"Environment"** includes the air, land, wildlife, cultural and archaeological resources, and waters of the Tribes.

**"Jurisdiction"** means jurisdiction of the Cheyenne and Arapaho Tribes over lands of the Cheyenne and Arapaho Tribes and over such other lands, air and water as may be allowed by law.

**"Lands of the Cheyenne and Arapaho Tribes"** means tribal lands and those lands under the jurisdiction of the Cheyenne and Arapaho Tribes, including but not limited to the territory legally described in the Constitution of the Cheyenne and Arapaho Tribes and treaties of the United States and the Cheyenne and Arapaho Tribes. For purposes of this Chapter, the term "lands" shall include the earth, air and waters associated with such lands.

**"Tribe"** means the Cheyenne and Arapaho Tribes.

**"Nonpoint source"** means the contamination of the environment with a pollutant for which the specific point of origin may not be well defined.

**"Person"** means any individual, trust, joint stock company, corporation, government, partnership, association, organization, agency or any other legal entity, or an agent, employee, representative, assignee or successor thereof.

**"Pollutant"** includes but is not limited to dredged spoil, solid waste, incinerator residue, medical waste, sewage, garbage, sewage sludge, munitions, chemicals, chemical wastes,



biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agribusiness waste;

**"Pollution"** means the presence in the environment of any substance, contaminant or pollutant, or any other alteration of the physical, chemical or biological properties of the environment or the release of any liquid, gaseous or solid substance into the environment in quantities which are or will likely create a nuisance or which render or will likely render the environment harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, or to property;

**"Waters of the Tribe"** means all streams, lakes, ponds, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon the Cheyenne and Arapaho Tribes or any portion thereof, and shall include under all circumstances waters which are contained within the boundaries of, flow through or border upon this Tribe or any portion thereof.

**"Waste"** means any liquid, gaseous or solid or semi-solid substance, or thermal component, whether domestic, municipal, commercial, agricultural or industrial in origin, which may pollute or contaminate or tend to pollute or contaminate, any air, land or waters of the Tribe.

### **§10.703 Purpose**

The purpose of this Act is to establish the Environmental Protection Commission and clarify the authority of the Environmental Protection Commission.

## **CHAPTER 3: DELEGATION OF AUTHORITY**

### **§10.704 Establishment of the Cheyenne and Arapaho Tribes Environmental Protection Commission**

#### **(a) Establishment**

The Cheyenne and Arapaho Tribes hereby creates the Cheyenne and Arapaho Tribes Environmental Protection Commission (CA EPC).

#### **(b) Governing body: Appointment; Terms; Vacancies**

The CA EPC shall be governed by a Board of Commissioners (Board), which shall be composed of three (3) Commissioners, all of whom shall be citizens of the Cheyenne and Arapaho Tribes. The Commissioners shall be nominated by the Governor of the Cheyenne and Arapaho Tribes and confirmed by the Legislature of the Cheyenne and Arapaho Tribes. Each Commissioner shall serve for a term of four (4) years, provided that, in order to stagger the term of office, one of the original Commissioners shall be appointed for a term of two (2) years, one for a term of three (3) years, and one for a term of four (4) years. Any vacancy on the Board, howsoever caused, will be filled by nomination by the Governor of the Cheyenne and Arapaho Tribes with confirmation by the Legislature of the Cheyenne and Arapaho Tribes, provided that the replacement serves only the amount of time remaining in the term of the original appointee.

#### **(c) Chairperson; Quorum; Meetings**

The Commissioners shall elect a Chairperson from among themselves. The business of the Board will be conducted at meetings of the Board duly called and noticed and at which a quorum is present. A quorum shall consist of two (2) Commissioners. Any substantive action of the CA EPC must be approved by the affirmative votes of at least two Commissioners and must be recorded in writing.

**(d) Authority of the Cheyenne and Arapaho Tribes Environmental Protection Commission**

The Commission is hereby authorized to:

1. review and propose changes in this chapter to the Legislature of the Cheyenne and Arapaho Tribes including maintaining the law of Cheyenne and Arapaho Tribes to meet or exceed federal regulations;
2. negotiate cooperative agreements with federal, state, local and tribal authorities on matters dealing with environmental management with the approval of the Governor and Legislature of the Cheyenne and Arapaho Tribes;
3. consult with representatives of science, industry, agriculture, labor environmental protection and consumer organizations, and other groups, as CA EPC deems advisable;
4. utilize the information, facilities, personnel, and other resources of federal, state and local agencies including, but not limited to, the Department of Interior, the Environmental Protection Agency, the Department of Human Services, state or county emergency response departments and CA departments as long as it is not in conflict with funding authorization;
5. develop enforcement authority within the Cheyenne and Arapaho and/or enter cooperative agreements for enforcement of this chapter with federal or state authorities with approval of the Governor and Legislature of the Cheyenne and Arapaho;
6. pursue loans and grants from the federal government and from other sources as may be available to the Cheyenne and Arapaho Tribes for the planning, construction, and operation of environmental, education, emergency response, environmental resource management and environmental protection activities;
7. direct the Tribe and approval of plans and specifications for and to inspect construction, remediation, operation, and closing of waste disposal sites, oil and gas facilities, and other environmentally sensitive sites operations, or designate a qualified agent to do so;
8. direct investigations and inspections which the CA EPC deems necessary to ensure compliance with this chapter;
9. direct inspections of closed or abandoned waste disposal sites, oil and gas well sites, and other regulated sites to determine compliance rules and regulations for proper protective measures;
10. contract for inspection and planning services with private tribal firms, departments or businesses of the Cheyenne and Arapaho Tribes, or federal agencies in accordance with Cheyenne and Arapaho law and approval;
11. seek an injunction against any person in violation of this chapter in the Courts of the Cheyenne and Arapaho Tribes, or state or federal court if necessary or in the best interest of the Cheyenne and Arapaho Tribes;
12. propose the creation of environmental advisory committees to the Governor;
13. enforce the laws of the Cheyenne and Arapaho Tribes regarding the environment, including but not limited to the issuance. modification or revocation of permits, establish enforcement procedures and hold hearings. issue appropriate orders or directives, and promulgate rules applicable to activities and persons subject the jurisdiction of the

Cheyenne and Arapaho Tribes as they may deem appropriate to protect environmental resources and public health and welfare;

14. Promulgate rules, and issue appropriate orders and directives implementing the provisions of this Act which shall be followed by the Departments of the Cheyenne and Arapaho Tribes.

**(e) Revision of chapter**

This chapter will be reviewed and where necessary revised, as deemed necessary by the CA EPC and/or the Legislature.

**(f) Complaint reception**

The CA EPC shall establish and publicize the manner in which individuals or groups may submit complaints, grievances, and requests for information as long as in compliance with Cheyenne and Arapaho Tribes Administrative Procedure Act, if applicable.

**(g) Annual report**

The CA EPC shall transmit to the Governor and the Legislature of the Cheyenne and Arapaho Tribes, after the end of each fiscal year, a comprehensive report on all activities of the commission during the preceding fiscal year.

Each report shall include:

1. a statement of specific and detailed objectives for the activities authorized by this section;
2. statements of the CA EPCs conclusions as to the effectiveness of such activities and programs in meeting the stated objectives of such activities and the purposes of this Act measured through the end of such fiscal year;
3. a summary of outstanding environmental problems and opportunities before the Cheyenne and Arapaho Tribes, in order of priority;
4. a plan for the current fiscal year.

**§10.705 Regulations**

**(a) Adoption of rules and regulations**

The CA EPC is hereby authorized and directed to promulgate and publish any and all rules and regulations which it deems necessary to carry out, implement and enforce the goals, purposes and provisions of this chapter. Said rules and regulations may include, without limitation, standards, tests, methods and procedures to be followed in permitting, permit renewal, inspection, permit revocation or suspension proceedings, and other enforcement actions pursuant to this chapter, the establishment of fines and/or penalties which may be imposed by the CA EPC for violations of this chapter, including the revocation and/or suspension of any permit issued here under the regulations authorized by this section, orders of the CA EPC, and/or the conditions of any permit issued hereunder; and the rules and procedures to be followed in any hearings conducted before the CA EPC. The rules and regulations adopted pursuant to this section may be amended, modified or replaced from time to time in the discretion of the CA EPC, subject to the provisions of subsection B of this section.

**(b) Consistency with chapter; Approval by Legislature**

The rules and regulations, and any amendments, modifications or replacements thereof, shall be consistent with the goals, purposes and provisions of this chapter and the Constitution of the Cheyenne and Arapaho Tribes. Provided, however, that prior to becoming effective, such rules

and regulations, and any amendments, modifications or replacements thereof, shall be first submitted to and approved in writing by the Legislature and Governor of the Cheyenne and Arapaho Tribes.

#### **§10.706 Personal jurisdiction**

For purposes of enforcing the provisions of the Cheyenne and Arapaho Tribes Environmental Act the Cheyenne and Arapaho Tribes shall have jurisdiction over all persons who by their actions violate the provisions of the Cheyenne and Arapaho Tribes Environmental Act.

#### **§10.707 Territorial jurisdiction**

For purpose of enforcing the provisions of the Cheyenne and Arapaho Tribes Environmental Act, the Cheyenne and Arapaho Tribes shall have jurisdiction in the territorial boundaries of the Cheyenne and Arapaho Tribes and other places determined to be Indian Country within the Cheyenne and Arapaho Tribes jurisdiction.

The CA EPC shall have jurisdiction to regulate and enforce the provisions of this Chapter with respect to any activity conducted on Treatment as a state (TAS) boundaries approved by the EPA, trust land or in Indian Country within the Cheyenne and Arapaho Tribes to the fullest extent allowed by law.

#### **§10.708 EPA authorization**

##### **(a) Cheyenne and Arapaho Tribes authorization by EPA**

The CA EPC, with the approval of the Governor, shall establish Tribal Implementation Programs (Tribal Authorization) to the extent allowed by federal law and may where appropriate, establish programs for which there is no corresponding federal law or program.

#### **§10.709 Applicability**

This chapter shall apply to all causes within the jurisdiction of the Cheyenne and Arapaho Tribes.

#### **§10.710 Review of Commission actions**

Any affected party may seek review in the Tribal Court of the Cheyenne and Arapaho Tribes of any final order or decision of the CA EPC. The CA EPC may establish procedures and requirements for filing motions to reconsider, administrative appeals and other administrative remedies, and may designate some procedures as prerequisites to filing an appeal in Tribal Court.

An affected party may file a written appeal from any final order or decision of the CA EPC in the Tribal Court of the Cheyenne and Arapaho Tribes within 15 days after the date of notice of such order or decision. The notice shall inform the affected party that he or she has the right:

1. to inspect the documents relative to the order and
2. to appeal the order or decision pursuant to this section

#### **§10.711 Removal of Commissioners**

Commissioners shall only be removed for cause and shall be entitled to the grievance process for commissioners as provided in the Tribes' Personnel Policies. A petition for removal for cause may be brought by a vote of the majority of Legislature, or the Governor.

#### **§10.712 Interim Enforcement Authority**

In the absence of commissioners being appointed Environmental Protection Commission, the director or acting director of the executive branch department in which the Environmental Protection Commission is held, shall have interim authority to carry out enforcement functions necessary to protect health, safety, and the environment. This authority includes the issuance of

notices of violation, compliance orders, and proposed administrative penalties, but shall not include the imposition of final penalties or issuance of binding administrative orders.

All actions taken pursuant to this section shall be subject to ratification by the Commission upon appointment, and any enforcement action initiated under this section shall be reviewed and confirmed by the Commission before becoming final.

## **CHAPTER 4. CHEYENNE & ARAPAHO TRIBES ENVIRONMENTAL POLICY**

### **§10.713 Policies and goals**

- (a)** The Legislature of the Cheyenne & Arapaho Tribes, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, declares that it is the continuing policy of the Cheyenne & Arapaho Tribes, in cooperation with federal, state and local governments, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which human beings and nature can exist in productive harmony, and fulfill the social, economic and other requirements of present and future generations.
- (b)** In order to carry out the policy set forth in this chapter, it shall be the continuing responsibility of the Cheyenne & Arapaho Tribes to use all practicable means, consistent with other essential considerations of Cheyenne & Arapaho law, policy, and customs, to improve and coordinate plans, functions, programs, and resources to the end that the Cheyenne & Arapaho Tribes may:

  - 1. fulfill the responsibility of each generation of human beings as trustees of the environment for succeeding generations;
  - 2. assure for all human beings safe, healthful, productive and aesthetically and culturally pleasing surroundings;
  - 3. attain the widest range of beneficial uses of the environment without degradation of Cheyenne & Arapaho Tribes natural resources;
  - 4. preserve important historic, cultural and natural aspects of Cheyenne & Arapaho Tribes heritage;
  - 5. analyze potential environmental effects of proposed actions and their alternatives and promote public understanding and scrutiny; and
  - 6. enhance the quality of renewable resources and achieve their maximum value yield through recycling and other methods of conservation;
  - 7. provide civil and criminal remedies and sanctions in favor of Cheyenne & Arapaho Tribes against any persons who violates this chapter, or any regulations adopted hereunder and, to the maximum extent possible, enforce these remedies and sanctions against such persons;
  - 8. prohibit the improper storage, transport, generation. burial or disposal of any solid liquid or gaseous waste, or nuclear, hazardous or toxic refuse, by-product, waste or material. or any other chemical or polluting material or agent, within the jurisdiction of the Cheyenne & Arapaho Tribes, or that could affect lands, air, water, natural resources or people of the Cheyenne & Arapaho Tribes;
  - 9. provide for regulation and taxation of interests, actions and omissions that adversely affect the environment of the Cheyenne & Arapaho Tribes.

10. utilize whenever possible, means of development, job creation, construction and resource use that are environmentally friendly and reflective of tribal culture and history.

#### **§10.714 Implementing regulations**

The CA EPC is authorized and directed to promulgate rules and regulations, which shall be adopted by the Legislature or otherwise promulgated in compliance with the CA Administrative Procedures Act, implementing the policies and goals of this chapter.

#### **§10.715 Cooperation of Cheyenne & Arapaho Tribes departments**

The Legislature of the Cheyenne & Arapaho Tribes authorizes and directs that, to the fullest extent possible:

- (a) The policies, regulations and laws of the Cheyenne & Arapaho Tribes shall be interpreted and administered in accordance with the policies, procedures, and regulations adopted pursuant to this Act; and
- (b) all departments of the Cheyenne & Arapaho Tribes undertaking activities regulated by this chapter shall:
  1. utilize a systematic, interdisciplinary approach and ensure the integrated use of natural and social sciences in planning and in decision making which may have an impact on the environment, natural resources and public health;
  2. identify and develop methods and procedures which will ensure that presently unquantified environmental and cultural amenities and values will be given appropriate consideration in decision making along with economic and technical considerations consistent with the regulations adopted under this chapter, and
  3. include in all recommendations, reports and proposals for the legislative actions, projects and programs identified in the regulations adopted under this chapter or identified by resolution or order of the CA EPC, a statement by the responsible official on:
    - a. environmental impacts of the proposed action and reasonable alternatives,
    - b. any adverse effects on lands, resources, culture, water, air or other aspects of the environment of the Cheyenne & Arapaho Tribes which cannot be avoided should the proposal be implemented,
    - c. alternatives to the proposed action, and a comparison of the impacts and benefits of the proposal in comparison to the alternatives,
    - d. the relationship between local short-term use of the environment and the maintenance and enhancement of long-term productivity, sustainable communities and a cohesive distinct tribal culture, and
    - e. any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

The responsible department shall submit pertinent information to the CA environmental offices and contract with those offices for preparation of such statement or obtain authorization of the CA EPC or Governor to prepare the statement themselves or utilize outside consulting services. Prior to finalizing any statement, the preparer should may consult with and obtain the comments of any Cheyenne & Arapaho Tribes, federal, or state or local agency which has jurisdiction by law or special expertise with respect to

any environmental impact involved. Copies of such statement and the comments and views from appropriate Indian tribes, or nations, and federal, state, and/or local agencies, which are authorized to develop and enforce environmental standards or may be directly impacted by the proposed action, shall be made available to the CA EPC.

4. study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;
5. make available to other Indian tribes and nations, states, and federal agencies and offices advice and information useful in restoring, maintaining, and enhancing the quality of their environment;
6. initiate and utilize ecological and cultural information in the planning and development of projects affecting tribal resources or the environment.

## **CHAPTER 5 GENERAL PROVISIONS**

### **§10.716 Rules and adoption by reference.**

- (a) The Commission shall have the authority to promulgate rules, adopt requirements by reference, propose the establishment of implementation programs, require permits or licenses, and take appropriate enforcement actions as necessary to prevent pollution and ensure that the following minimum requirements are met in Indian Country:
  1. Federal standards and requirements under Section 112 of the Federal Clean Air Act for hazardous air pollutants and for the prevention and mitigation of accidental releases of regulated substances under Section 112(r) of the Federal Clean Air Act;
  2. Federally approved water quality standards of adjacent states and Nations;
  3. Drinking water standards established by federal law;
  4. Requirements under the Resource Conservation and Recovery Act. Toxic Substances Control Act, federal Clean Water Act. Endangered Species Act. National Environmental Policy Act and other federal environmental laws.
- (b) The Commission may promulgate rules that incorporate by reference and/or modify appropriate environmental requirements established by the federal government or neighboring states or nations. The Commission may adopt requirements in addition to or more stringent than, those under federal law or laws of adjoining states.
- (c) Requirements adopted by the Commission shall be enforceable through licenses, permit conditions, administrative proceedings or Court actions without a showing of actual harm or intent.

### **§10.717 Authorities.**

The Commission may establish programs, with approval of the Governor, and may implement and enforce such programs and requirements that cover any potential or actual source of pollution and any activity, including but not limited to:

1. Point source discharges. land application of wastes or chemicals. Surface impoundments and other facilities for treatment, storage or disposal of wastewater, animal wastes or sludge;
2. Groundwater, wells, underground injection control. underground and aboveground storage tanks and pipelines;

3. Drinking water. water use, dams and hydrologic modifications;
4. Stormwater. nonpoint source pollution and best management practices;
5. Water quality. water quality standards and certifications. wetlands. protection of instream flow and water planning;
6. Air quality, source controls and emission standards, and noxious odors or gases;
7. Storage, facility siting. treatment. disposal and transportation of hazardous waste, solid waste. pesticides. toxic substances and other pollutants;
8. Dredge and fill, mining, oil and gas extraction and forestry practices;
9. Environmental assessments, reviews and impact statements;
10. Inspections, sampling, compliance, enforcement and administrative hearings;
11. Indoor air quality, asbestos, lead-based paint, radon and required disclosures and remediation of habitable structures contaminated or rendered dangerous by manufacturing of illegal drugs, other chemicals or harmful materials;
12. Protection of or regulation of fish and wildlife; and
13. Any program or activity conducted in cooperation with or funded by federal, state, local or tribal governments.

#### **§10.718 Inspections and records**

- (a) Any duly authorized representative of the Commission shall have the power to enter at reasonable times upon any private or public property for the purpose of sampling, inspecting and investigating conditions relating to pollution, damage to natural resources, compliance with rules, orders and laws of the Cheyenne and Arapaho Tribes, or the possible pollution of any air, land, resources or waters of the Cheyenne and Arapaho Tribes or the environment or relating to any other environmental or permitting responsibility authorized by law.
- (b) The Commission may require the establishment and maintenance of records and production of reports relating to any regulated activity. Copies of such records shall be submitted to the Commission upon request. Any authorized representative of the Commission shall be allowed access at reasonable times to examine such reports or records.
- (c) The Commission may apply to and obtain from the district court, an order authorizing an administrative warrant to enforce access to premises for sampling, investigation, inquiry and inspection, related to requirements of this Act, pollution complaints, Commission-issued orders or permits, and any rules promulgated by the Commission. Failure to obey an administrative warrant of the district court may be punished by the district court as a contempt of court.

#### **§10.719 Pollution unlawful**

- (a) It shall be unlawful for any person to cause pollution of any air, water, land or resources of the Cheyenne and Arapaho Tribes, or to place or cause to be placed any wastes or pollutants in a location where they are likely to cause pollution of any air, water, land or resources of the Cheyenne and Arapaho Tribes. Any such action is hereby declared to be a public nuisance.
- (b) If the Commission finds that any of the air, land, resources or waters of the Cheyenne and Arapaho Tribes, have been or are being polluted, they may issue an order requiring such pollution to cease within a reasonable time, and/or requiring such manner of treatment or of



disposition of the sewage or other polluting material as may in their judgment be necessary to prevent further pollution.

- (c) It shall be the duty of the person to whom such order is directed to fully comply with such order. Said order may be issued ex-parte in an emergency, or otherwise in compliance with the administrative procedures set forth in this Act.

#### **§10.720 Administrative proceedings.**

- (a) If upon inspection or investigation, or whenever the Commission determines that there are reasonable grounds to believe that any person is in violation of this Act, or any rule promulgated thereunder or of any order, permit or license issued pursuant thereto, the Commission may give written notice to the alleged violator of the specific violation and of the alleged violator's duty to correct such violation immediately or within a set time period or both and that the failure to do so will result in the issuance of a compliance order.
- (b) In addition to any other remedies provided by law, the Commission may, after service of the notice of violation, issue a proposed compliance order to such person. A proposed compliance order shall become a final order unless, no later than fifteen (15) days after the order is served, any respondent named therein requests an administrative enforcement hearing.
1. The proposed compliance order may, pursuant to subsection K of this section:
    - a) assess an administrative penalty for past violations of this Act, rules promulgated thereunder, or the terms and conditions of permits or licenses issued pursuant thereto, and
    - b) propose the assessment of an administrative penalty for each day the respondent fails to comply with the compliance order.
  2. Such proposed order may specify compliance requirements and schedules, mandate corrective action, assess damages for injuries to natural resources of the Cheyenne and Arapaho Tribes and/or require mitigation of damage that has occurred.
- (c) Failure to comply with a final compliance order, in part or in whole, may result in the issuance of an assessment order assessing an administrative penalty as authorized by law, or a supplementary order imposing additional requirements, or both. Any proposed order issued pursuant to this subsection shall become final unless, no later than seven (7) days after its service, any respondent named therein requests an administrative enforcement hearing.
- (d) Notwithstanding the provisions of subsection (a) and (b) of this section, the Commission, after notice and opportunity for an administrative hearing, may revoke, modify or suspend the holder's permit or license in part or in whole for cause, including but not limited to the holder's:
1. Flagrant or consistent violations of this Act and/or rules promulgated thereunder, or of final orders, permits or licenses issued pursuant thereto;
  2. Reckless disregard for the protection of the public and the environment as demonstrated by noncompliance with environmental laws and rules resulting in endangerment of human health or the environment; or
  3. Actions causing, continuing, or contributing to the release or threatened release of pollutants or contaminants to the environment.

- (e) Whenever the Commission finds that an emergency exists requiring immediate action to protect the public health or welfare or the environment, the Commission or their designee may without notice or hearing issue an order. effective upon issuance, requiring that such action be taken as deemed necessary to meet the emergency. Any person to whom such an order is directed shall comply therewith immediately but may request an administrative enforcement hearing thereon within fifteen (15) days after the order is served. A hearing shall be held as promptly as possible after receipt of a request. A hearing may be held at any time the Commission, in their discretion. may deem appropriate. On the basis of the hearing record, the Commission may sustain. modify or rescind such order.
- (f) Except as otherwise expressly provided by law, any notice of violation, order, or other instrument issued by or pursuant to authority of the Commission may be served on any person affected thereby personally, by publication, or by mailing a copy of the notice, order, or other instrument by certified mail return-receipt requested directed to such person at his last-known post office address as shown by the files or records of the Cheyenne and Arapaho Tribes. Proof of service shall be made as in the case of service of a summons or by publication in a civil action as provided for in the Cheyenne and Arapaho Tribes Civil Procedure Code.
- (g) Every certificate or affidavit of service made and filed shall be prima facie evidence of the facts therein stated. A certified copy thereof shall have like force and effect.
- (h) Any order issued by the Commission shall become final upon service.
- (i) Any party aggrieved by a final order may petition the Commission for rehearing, reopening or reconsideration within ten (10) days from the date of the entry of the final order. Any party aggrieved by a final order may petition for a judicial review thereof.
- (j) Unless specified otherwise in this Act or an act under the Environmental Code, any penalty assessed or proposed in an order shall not exceed Five Thousand Dollars (\$5,000.00) per day of noncompliance.
- (k) The determination of the amount of an administrative penalty shall include but not be limited too; the consideration of such factors as the nature, circumstances and gravity of the violation or violations, the economic benefit, if any, resulting to the respondent from the violation, the history of such violations and respondent's degree of culpability and good faith compliance efforts. For purposes of this section, each day, or part of a day, upon which such violation occurs shall constitute a separate violation.
- (l) Any order issued pursuant to this section may require that corrective action be taken. If corrective action must be taken on adjoining property, the owner of such adjoining property shall not give up any right to recover damages from the responsible party by allowing corrective action to occur.
- (m)The Commission may delegate the authority to issue orders or take other appropriate actions under this Article to the Administrator.

#### **§10.721 Violations and penalties**

- (a) Except as otherwise specifically provided by law, any person who violates any of the provisions of, or who fails to perform any duty imposed by, the Cheyenne and Arapaho Tribes Environmental Code or who violates any order, permit or license, or rule promulgated by the Commission pursuant to this Act or and act under the Environmental Code:
  1. Shall be guilty of a crime and upon conviction thereof may be punished by a fine of not less than Two Hundred Dollars (\$200.00) for each violation and not more than Five Thousand

Dollars (\$5,000.00) for each violation or by imprisonment for not more than one year or by both such fines and imprisonment. Each day a violation continues may be considered a separate crime;

2. May be punished in civil proceedings in district court by assessment of a civil penalty of not more than Five Thousand Dollars (\$5,000.00) for each violation. and for each day that the violation continues:
  3. May be assessed an administrative penalty not to exceed Five Thousand Dollars (\$5,000.00) per day of noncompliance: and
  4. May be subject to injunctive relief granted by a district court. A district court may grant injunctive relief to prevent a violation of, or to compel a compliance with, any of the provisions of this Act or any rule promulgated thereunder, or order, license or permit issued pursuant to this Act.
- (b)** Nothing in this part shall preclude the Commission from seeking penalties in district court in the maximum amount allowed by law. The assessment of penalties in an administrative enforcement proceeding shall not prevent the subsequent assessment by a court of the maximum civil or criminal penalties for violations of this Act.
- (c)** Any person assessed an administrative or civil penalty shall be required to pay, in addition to such penalty amount and interest thereon, attorneys' fees and costs associated with the collection of such penalties.
- (d)** For purposes of this section, each day or part of a day upon which such violation occurs shall constitute a separate violation.
- (e)** The Commission may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of this Act, any rule promulgated thereunder, or any order, license or permit issued pursuant thereto. No bond shall be required of the Commission for such suits.
- (f)** The Commission may bring an action in a court of competent jurisdiction for injunctive relief to redress or restrain a violation by any person of this Act, any rule promulgated thereunder. or any order, license, or permit issued pursuant thereto, for recovery of any administrative or civil penalty assessed pursuant to this Act, and for recovery of natural resource damages, costs of mitigation and corrective action.
1. The court shall have jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, punitive damages, assessment of natural resource damages, costs of corrective action and mitigation, and costs of any measures necessary to protect public health, safety and welfare or the environment.
  2. In any judicial action in which the Commission seeks injunctive relief and alleges by verified petition that:
    - a. the defendant's actions or omissions constitute a violation of the Act or a rule, order, license or permit, and
    - b. the actions or omissions present an imminent and substantial endangerment to health or the environment if allowed to continue during the pendency of the action, the Commission shall be entitled to obtain a temporary order or injunction to prohibit such acts or omissions to the extent they present an imminent and substantial endangerment to health or the environment. Such

temporary order or injunction shall remain in effect during the pendency of the judicial action until superseded or until such time as the court finds that the criteria of subparagraphs a and b of this paragraph no longer exist. If a temporary order or injunction has been issued without prior hearing, the court shall schedule a hearing within twenty (20) days after issuance of the temporary order to determine whether the temporary order should be lifted, and a preliminary injunction should issue.

- (g) Except as otherwise provided by law, administrative and civil penalties, costs and natural resource damages recovered pursuant to the Environmental Code shall be paid into the Environmental Quality Revolving Fund established by this Act. Allowable expenditures from the fund shall include operational and program costs of the Commission and Environmental Programs, reimbursement of costs and fees related to the enforcement action, emergency response and projects that enhance the environment or benefit the Cheyenne and Arapaho Tribes' natural resources.
- (h) In determining the amount of a civil penalty, the court shall consider such factors as the nature, circumstances and gravity of the violation or violations, the economic benefit, if any, resulting to the defendant from the violation, the history of such violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the defendant, the defendant's degree of culpability, and such other matters as justice may require.
- (i) In addition to or in lieu of any administrative enforcement proceedings available to the Commission, the Commission may take or request civil action or request criminal prosecution, or both, as provided by law for any violation of this Act, Rules promulgated thereunder, or orders issued, or conditions of permits, licenses, certificates or other authorizations prescribed pursuant thereto.

#### **§10.722 Environmental Quality Revolving Fund.**

The Environmental Programs Revolving Fund is hereby created and shall consist of all monies collected by the Commission as authorized by this Act. All funds deposited into the Revolving Fund shall be subject to appropriation by the Legislature and shall be allocated and expended as authorized by law.

#### **§10.723 Provisions as cumulative**

The provisions of this act shall be cumulative to existing law.

#### **§10.724 Severability**

The provisions of this act are severable and if any part of the provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

#### **§10.725 Statement of Supersedure**

This Act shall supersede any law in place before it, which conflict with its intent and purpose.

#### **§10.726 Effective Date**

This Act shall be effective 30 days after signature by the Governor or as otherwise provided for in the Constitution.

**§10.727 Applicability to Environmental Acts**

All environmental Acts codified under Title 10, including but not limited to the Clean Air Act and Clean Water Act, shall be enforced in accordance with the enforcement procedures, penalties, jurisdiction, and administrative review process established under this Environmental Quality Act unless expressly provided otherwise.